

Book Review: Compensation for Resource Development in Papua New Guinea

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Rent seeking by the gate-keepers of inter-generational wealth or extortion analogous to the practices of hold up merchants along the Okuk Highway? The context for this publication is the widespread discontent with resource compensation agreements in PNG; on the one hand, developers complain that compensation claims are escalating without any regard to the risks borne by mining ventures while, on the other hand, recipients of compensation pay-outs continue to feel aggrieved. This book presents a number of explanations for this dilemma and offers some strategies for reducing the current levels of discontent experienced by all parties to compensation agreements. However, it does not go so far as to advocate a clear policy that could, for example, be 'legislated upon'.

In addition to the question of 'how much compensation' the book raises important questions about the purposes of compensation, the distribution of compensation payments and the role of government as an intermediary between landowners and developers. Throughout the study there is an underlying dichotomy between those writers who think compensation procedures can and should be improved and others who are fundamentally more sceptical about whether compensation disputes, in the current context, can be resolved at all.

A strong feature of this book is that the contributors come from a variety of relevant disciplines. This ensures a range of insights about the purposes of compensation and reasons for the current discontent with levels of payments. For example, one potential source of confusion about the role of compensation in natural resource agreements lies in the widespread existence of indigenous forms of compensation in different PNG communities. Chapters two–four of this book provide ethnographic studies of the roles of compensation within some indigenous communities so that **"...a contextual understanding to contentious situations provides an underlying dimension, often overlooked, which enables those adjudicating any dispute to gain a fuller appreciation of the forces at work"** (Toft at 22).

It is well known that compensation figures prominently in the dispute resolution processes of many PNG communities. However, in communities such as the Gende, that place great emphasis on **"achieving a balance of exchange in all their relationships"** (Zimmer-Tamakoshi; 66), the payment of compensation does more than help to restore the peace. It also helps to safeguard feelings of personhood and individual worth that are the basis of their society. Systems of compensation are therefore **"moral systems, engaging the hearts and energies of their players and producing impressive and sometimes spectacularly frightening behaviour"** (Zimmer-Tamoski; 81). Having tendered this contextual

understanding of compensation in Gende society, Zimmer-Tamoski argues that it is possible to **"both develop PNG and satisfy local landowners' claims"** but only if:

Anyone wishing to negotiate land deals with the Gende must consider the wider social and ethical meanings of land ownership and exchange for the Gende and be prepared to join the game as socially responsible players... what is being negotiated is not a simple business contract but a social commitment (82).

The moral and quite fundamental underpinnings of compensation disputes, brought out by the ethnographic studies, are echoed in Kirsch's chapter analysing indigenous views about the environmental impact of mining along the Ok Tedi River. Kirsch describes how the Yonggom, for example, liken the environmental impact of the mine, irrational and dangerous, to sorcery:

The Yonggom fear that the natural environment has been affected at its most fundamental level so that even the air, the rain and the sun are now harmful. They believe the pollution from the mine has brought about the collapse of their environment (151).

Neither scientific nor economic approaches to environmental change (and compensation for its damage) are entirely compatible with the Yonggom perspective. On the contrary, landowners frame their complaints in moral rather than economic terms. For them, the company has failed to take responsibility for its actions. Applying this more holistic indigenous view of environmental problems, Kirsch argues that developers must do more to take into account the **"moral dimensions"** of their projects.

Continuing with a discussion of what level of compensation is appropriate, chapters four-seven focus on the payment of compensation in natural resource agreements negotiated to date and more generally on the social behaviour of the developers involved.

In chapters four and five, the PNG government comes under attack for its failure to offer any effective assistance to landowners in their dealings with the forestry industry. Tony Power draws a striking contrast between the close and reasonably competent supervision of mining projects and governmental supervision of the forestry industry that is **"seriously deficient from almost every point of view"** (91). Of course the circumstances of the latter are very different –mining industry participants are large multinational companies making a massive long term investment in the country. Forestry industry participants, on the other hand, are often smaller companies with less investment at stake and with no interest in long term productivity. They have no incentive to behave like responsible partners in development and so breaches of permit conditions are common.

There has been little progress in the forestry sector since the Barnett Report despite the enactment of a new Forestry Act (1992) and the introduction of a Forest Policy (1991) sponsored by the World Bank. The impact of the former is limited because its provisions only apply to new licence agreements. The impact of the Forest Policy is limited because it deals almost solely with large-scale forestry. Meanwhile, in a desperate attempt to recoup some profit from the exploitation of the nation's forests, the government has increased surveillance of log exports and now demands a high export tax. Landowners, however, get a raw deal: **"Their forest and their environment are degraded and they do not get anything like a fair return ... at the very least the State is failing in its fiduciary responsibilities"** (91). Power goes so far as to suggest that the heavy export tax, in the absence of adequate compensation for landowners could be construed as an unconstitutional form of unjust deprivation (91).

With respect to landowner compensation, Power argues that escalating compensation payments are not the norm. On the contrary there is **"overwhelming evidence that resource owners or landowners or landholders in PNG, for a variety of reasons are not getting the returns that they should be"** (93). One reason for this is that a small minority of local leaders readily accept developers' terms that are favourable to themselves but at the expense of the majority of other landowners who remain ignorant and excluded. Both Power and Holzknacht argue that ultimately the PNG national government must strengthen its role as an intermediary between developers and landowners. Government officers should, for example, provide regular unbiased information and advice to customary resource owners (Holzknacht at 103).

Power and Holzknacht raise questions about the inequitable distribution of compensation payments but the issue is most thoroughly explored in chapter seven. Here Burton argues that the real question is not about how much compensation should be paid but about its distribution. Using a case study of compensation

payments associated with the mine at Porgera he argues that payments have not been adequately targeted at the specific individuals who bear the greatest losses. In particular, measures have not been put in place to safeguard the politically weaker sections of society. This has allowed structural inequalities to increase. Developers must address these fundamental equity problems by designing better distribution systems that safeguard the interests of the poor and disadvantaged. It is too early to say whether recent attempts to encourage resource owners to organise into incorporated land groups will facilitate the more equitable distribution of compensation payments.

Whereas the writers in the early chapters of the book make a variety of recommendations for improving compensation practices, a fundamentally more pessimistic assessment of compensation problems is detectable in later chapters. These later writers remain sceptical that grievances about compensation payments can be overcome. They argue that societies affected by large-scale natural resource projects have been effectively trashed. There is no appropriate method for assessing economic, environmental and social disruptions on the scale experienced by isolated, largely subsistence societies and there is no amount of money that could ever adequately 'compensate' for the destruction of their former way of life.

Fundamentally these writers are addressing the question 'what purpose(s) does compensation serve?'. Viewing the issue from this angle, Western and indigenous views about compensation payments seem irreconcilable. Jackson, for example, points to a fundamental problem in any discussion about the quantum of compensation: finding a set of equivalent values. Subsistence or semi subsistence societies are, by definition, dominated by use values yet the commercial world deals only in exchange values. For this reason Jackson argues there never can be an appropriate level of 'compensation' if the term is simplistically believed to mean 'bringing matters back into a balance'. If compensation is to serve any useful purpose at all it can only be in helping to establish a new balance that will replace the old order:

Under such circumstances anything resembling the pre-mining balance cannot possibly be achieved by any form of compensation. Even if operations were closed instantly and restoration work then thoroughly undertaken, the shock of new knowledge to prior socio-political systems could never be removed. In such circumstances therefore, if compensation is taken to mean restoring a previous balance, then it is hardly conceivable that it could occur. Even if it means creating a new balance then such a balance must entail trauma, for the pre-existing system, in many areas will have been rendered invalid by the incoming operations and it will always take years or generations for that socio-political adjustment to be made. (108)

Escalating compensation claims are not motivated solely by greed; they are indicative of the confusion about what compensation can and cannot achieve; about the divisiveness of development; about the clash between the protagonists and the antagonists of development. Until a new order is established compensation payments may only accentuate these problems and compensation claims will almost certainly give vent to them. In a challenging final chapter, Filer argues that only when the new order, cash economy is established will landowners cease to make 'extortionate' compensation claims - analogous to the extortion of the Okuk highway hijackers. Only then will landowners see compensation not as part of their battle to assert custom over development but as the only feasible, however inadequate means of 'compensating' for the loss of utilitarian rights to land.

This book is sponsored by the Law Reform Commission of PNG with assistance from the Papua New Guinea Chamber of Mining and Petroleum. As should be clear from this brief summary of some of its chapters, the book does not provide a single recipe for improving compensation practices in PNG although there are some recommendations that elicit widespread support among the various authors - for example, the need to continue negotiations with local landowners throughout the life of a project. Instead this book provides a cross section of views about compensation practices including analyses of the most critical issues pertaining to it. In its analyses of the purposes, the amount and the distribution of compensation payments this book makes a valuable contribution by bringing to light sources of confusion and misunderstanding. This is a valuable achievement and one that is relevant to many societies in the South Pacific that are currently grappling with compensation issues.