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## THE RECORDS MANAGEMENT SYSTEM OF LAND COURT IS IN A DIRE STATE: WHAT ARE THE ISSUES?

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### Key Points

- The Land Court division within the Magisterial Services is headed by the Deputy Chief Magistrate.
- The Land Court existing records management system is fully decentralised, and is operating entirely in the district and provincial Land Court offices.
- The records management system is in a dire state: archiving and storage of case files fail to meet minimum standards; there are no dedicated storage facilities; and the electronic records management system is not fully developed.
- The key to improving the Land Court records is to centralise the case file management system using an electronic system, while meeting the key file management criteria of compliance, reliability and integrity.

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## THE RECORDS MANAGEMENT SYSTEM OF LAND COURT IS IN A DIRE STATE: WHAT ARE THE ISSUES?

By Thomas Wangi

The management of Land Court records in Papua New Guinea (PNG) is in a dire state. As a result, the proper operation of the Land Court has been compromised. Land Court officials are navigating through the dark, unaware of even the most rudimentary information such as the scale of case backlogs. Archiving and storage of Land Court files is failing to meet even the most minimum standards anywhere in the country and facilities do not exist to provide safe long-term storage.

The aim of the study into Land Court records was to investigate the existing records management system of the Land Court and to find a way forward for records management. The system was analysed around a theoretical framework to help bring clarity to the weaknesses and their causes. It has been found that the problems lie in a system of decentralisation of records management to the provincial and district levels. As a result, monitoring and evaluation does not happen and the system is prone to a high degree of fragility.

It has been found that the records management system will only improve once the system is redesigned in a way that makes it possible to implement within the confines of the budget; and the only way is to centralise the system. The first step is to embrace the electronic system that is already functional for the other jurisdictions of Magisterial Services. With the electronic system, all records and registries would automatically be centralised. There would be no need to maintain any manual records in the districts and provinces other than information in the case files required by the magistrates. Moreover, under a centralised system, a monitoring and evaluation system could be set up at low cost.

### The existing records management system

The current records management system of the Land Court in PNG is fully decentralised, operating entirely at the provincial or district Magisterial Services offices. This means that case files and registry books are maintained, stored and archived at the provincial or district Land Court offices.

In almost all locations, responsibility for the registration, recording and storage of case files falls upon a Magisterial Services registrar rather than a dedicated Land Court registrar, although there are plans to change this under the establishment of Provincial Land Disputes Committees.

The process of data management begins when a clerk allocates a Local Land Court registration number for a matter brought before the Court, enters details of the matter into a registry book, and opens a Local Land Court case file. All materials relevant to the case will then be kept in the case file. Upon completion of the case, the status in the registry book is updated and the case file is archived. In the event that the matter goes to the Provincial Land Court on appeal, a new case file is opened in the Provincial Land Court with a new case file number.

Separate registry books are kept for Provincial Land Court cases and Local Land Court cases. For both courts, the registry book is simple with each case designated a row and basic information is entered, including: the case number; parties to the dispute; the name and location of the land under dispute; the category of dispute; and the status of the case. The case files are arranged in alphabetical order. Beyond this, no further details appear to be recorded anywhere apart from any documents placed into the case files.

Based on information available in the 2016 Annual Report of the Land Court Division, there exist significant shortcomings in the implementation of records management. The decentralised nature of court administration means that the quality of records management varies significantly from one place to another, and depends on how well the individuals at each location perform. It has been found that there is widespread failure to operate in compliance with record management processes. In some cases, the registry book has not been maintained. An audit in Lae District Court in 2017 confirmed major endemic problems such as missing files.

The root of the problem is that monitoring and evaluation of records management at the Port Moresby office is very difficult. As a result, verification that court officers act in compliance with registration and record keeping procedures does not normally happen. The Lae Audit, for example, was a rare event that has not been replicated and is unlikely to be

replicated in most other Land Court offices. At the same time, decentralisation has created a high degree of fragility in the system due to the overreliance on individuals at the district and provincial offices. In turn, this places even more emphasis on the need for monitoring and evaluation to maintain standards, yet monitoring and evaluation is almost non-existent. The failure of records management is therefore clear to understand.

### Major issues affecting the records management system

The management of court records underpins the operation of the Land Court. Unfortunately, the state of records management has been poor, and as a result, the proper operation of the Land Court has been severely compromised (Magisterial Services, 2016). The backlog of cases runs into the thousands and cases can take years to be heard, and the exact number of cases waiting to be heard is not known because of the poor state of records management. This is not something new, but an endemic problem that has run for decades, and there is no sign that things are getting any better.

- *Decentralisation of case file management system:* The core of the problems that the Land Court faces in its records management is the fragmentation of registrar responsibilities at the district or provincial level. This is a design issue where it is not effective to operate the decentralised system within the confines of the resources, including financial and human resources. Decentralisation means that responsibility for operating the records management system normally falls upon one or two individuals. If an individual fails to execute their job properly, whether through absence, excessive workload, incompetence, lack of training, or bad intentions, then the system falls over. If an individual resigns, then the officers take with them the on-ground knowledge and capability of the job. The burden of monitoring and evaluation of the decentralised system is very extensive. As a result, the decentralised record keeping system is highly fragile.
- *Archiving and storage of case files fail to meet minimum standards:* At present, archiving and storage of Land Court files is failing to meet even the most minimum standards anywhere in the country. The decentralisation of the management of Land Court case files has meant that archiving and storage occurs in the district or provincial offices and is normally combined with the management of case files from other jurisdictions of Magisterial Services. Facilities do not exist to provide safe long-term storage, even in Port Moresby. Correct stationery for long term storage is also a problem. As

a result, there are widespread incidences of missing or damaged files and even of missing registry books. The major problems revealed in the recent Lae audit confirm that this is not just a problem at small district offices.

- *Lack of dedicated land court storage facilities:* The dedicated storage facilities for Land Court files do not exist in all provinces, therefore the Land Court stores case files in shared facilities with other jurisdictions of the Magisterial Services. Some facilities are containers while others are storage rooms, with limited capacity to hold files of all jurisdictions together. The integrity of the files was not only impacted by tampering, but also by damage from termites and other insects.. The storage containers have very poor ventilation, affecting the quality of the files, and some files have faded, making them impossible to read. Human resource constraints have also affected the management of the filing system. The monitoring and evaluation is operated manually and as a result becomes very ineffective and expensive in all provinces.
- *The electronic records management system is not fully developed:* Magisterial Services have moved onto a software based system for maintaining case registry records. In addition to the basic information found in registry books, the electronic system allows further details found in case files to be uploaded and recorded, although it is not yet at a stage where supporting documents can be scanned and linked to case files. Although the electronic recording and registration system at Magisterial Services appears competent and in good order, there are challenges associated with funding for ongoing internet access, maintenance and upgrades. The technology team have extended the Magisterial Services software system to registering and recording case information for the Land Court.
- *Lack of coordination with Department of Lands and Physical Planning:* The Department of Lands and Physical Planning (DLPP) has administrative responsibility over customary land, including the registration of Incorporated Land Groups (ILGs). This being the case, it would make sense for there to be in place a formal link between the Land Court and the DLPP. If there is an impact of a Land Court decision on any aspect of customary land registration, including ILG registration, then the records at DLPP would need to be adjusted accordingly. The Land Court Project of 2011-2015 included a strategy to develop the records management system so that it interfaces with the customary land records held at DLPP (Land Court

Project Office, 2016). However, this strategy was never implemented and there appears to be no plans to follow this up in the Land Court Project of 2016-2020 (Land Court Project Office, 2016).

### The path forward for effective file management

Unfortunately, to date very little progress has been made. The records management system is in a poor state, compiling even the most basic information for management does not happen, the electronic system is yet to be fully operational, and storage and archiving is totally inadequate. Blame can largely be laid on the lack of resources allocated to the tasks. But much of the failure to make progress may be understood by the insurmountable challenges faced in bringing order to a heavily decentralised system in a country where connectivity has always been difficult. Under the current conditions of fiscal constraint, there seems no chance that this will change into the near future. It is clear from the analysis that the records management system must be centralised if it is to function with compliance, reliability and integrity whilst working within resource constraints.

- *Centralise file management system:* The centralised records management system would be considerably more efficient. There would be less work for staff in the district and provincial offices as they would not need to maintain a register and they would not need to operate archive functions. The information technology team would monitor data entry in the provincial and district offices, meaning the critical mass at the central office could connect back to the individual staff on the ground. All hard copies of case files should be kept in one central location, in Port Moresby. The monitoring and evaluation task would therefore be effectively functional, while meeting the key file management criteria of compliance, reliability and integrity.
- *Improve archiving and storage practices to meet minimum standard:* Because the nature of land tenure is such that it continues into the indefinite future, it is an administrative requirement that Land Court matters, unlike matters in most other jurisdictions, be kept on record indefinitely. As such, upon completion of a matter, Land Court case files and registry books are required to be archived and stored safely under conditions consistent with the requirement that they are to be maintained in perpetuity. This means that the archiving system must be reliable and stand the test of time, and the storage facilities need to comply with minimum standards for long term storage, including

protection from the elements, fire and pests. Reliable long-term storage also means that facilities and systems need to be in place that provide security against theft, tampering or misplacement.

- *Improve capacity of the electronic system to include Land Court:* A core benefit of the centralised electronic records system used by Magisterial Services is the capability to compile data and report to management. Compiling data such as cases pending, cases completed, cases by district, cases by type of dispute, and so on, is relatively straightforward with the electronic system. This information is fundamental for managers to make informed decisions on such things as the need to allocate resources and formulate circuit schedules, and is key to good monitoring and evaluation processes. The centralised electronic system should fully integrate with Land Court to effectively manage case files.
- *Build dedicated Land Court storage facilities:* There need to be dedicated storage facilities for land court files in all provinces capable of storing files in perpetuity. Such facilities do not exist in all provinces, so the facilities will need to be built if the Land Court requirements of maintaining records in perpetuity are to be met. Once the facilities are built, a small team of staff will need to be allocated to manage the facilities. The team would need to adopt a proper process of inventory management with procedures for such things as file retrieval and storage. Monitoring and evaluation would mean regular auditing of archived files, a straightforward and inexpensive process since all files are archived in one place under one archiving system managed by one team.
- *Engage with Department of Lands and Physical Planning:* The Magisterial Services, in collaboration with DLPP, should implement the strategy in the Land Court Project of 2016-2020 to develop the records management system so that it interfaces with the customary land records held at DLPP. It is the responsibility of the DLPP to develop any interface as it is their function to maintain customary land and ILG registries (Land Court Project Office, 2016).

### Conclusion

The records management system of the Land Court is in a dire state, due entirely to its poor design. As a result, the ability of the Land Court to function effectively has been severely compromised. The case audit of land court files in Lae District Court exposed the dire state; minimum records management system is not met, files are manually managed,

there is poor storage facility, and a single officer managed all files.

The key action to improve the records management system of Land Court is to centralise case file management system, especially in the Port Moresby office. This would make the task of monitoring and evaluation functional, while meeting the key file management criteria of compliance, reliability and integrity. This comes with a building of dedicated storage facility and fully functional electronic system. Another policy option is to meet minimum file storage standards.

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