

The

# SABL landgrab



Papua New Guinea's ongoing human rights scandal



## **War on Want fights against the root causes of poverty and human rights violation, as part of the worldwide movement for global justice.**

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- working in partnership with grassroots social movements, trade unions and workers' organisations to empower people to fight for their rights
- running hard-hitting popular campaigns against the root causes of poverty and human rights violation
- mobilising support and building alliances for political action in support of human rights, especially workers's rights
- raising public awareness of the root causes of poverty, inequality and injustice, and empowering people to take action for change

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## **ACT NOW! is a community advocacy organisation based in Papua New Guinea.**

Our vision is for a 'gutpela sindaun blong olgeta' (a just and equitable society) that embraces Papua New Guinea's rich and diverse biological and cultural heritage and is based on the principles of sharing, communal land ownership and environmental stewardship. Our mission is to ensure that local people have a strong voice in demanding a just and equitable society. We do this by running public campaigns on issues of national importance; commissioning research that underpins the case for change; creating new and innovative awareness and education materials; and empowering people by informing them of the causes of injustice and inequality and making sure their voices are heard through the media and direct lobbying.

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# Preface



Special Agricultural Business Leases (SABL) are still being used by foreign companies to unlawfully occupy land in Papua New Guinea (PNG). This is despite the leases being declared unlawful and universally discredited. This is happening with the connivance and support of PNG's government, public servants and police. The foreign companies have been able to abuse the law to illegally lease land and grab forest resources from customary landowners – without their legally required consent, and often without any prior warning.

As a result of this state-sanctioned land grab, thousands of people, most living in remote rural communities, have seen their traditional subsistence lifestyles and environment destroyed, and are suffering a wide-range of serious and ongoing human rights abuses.

In many cases the leases have been used as a cover for large-scale logging of PNG's dense tropical rainforest, the third largest in the world<sup>1</sup> and, in some instances, conversion to palm-oil plantations. As a result of logging under SABL leases, PNG is now the world's largest exporter of tropical logs.<sup>2</sup>

This is all despite PNG's progressive Constitution and its measures specifically designed to boost self-reliance, fend off unwanted foreign economic and cultural influences, and protect the country's spectacular biodiversity.

PNG is not alone though in falling prey to resource hungry foreign commodity traders and manufacturers hunting cheap timber resources. The illegal conversion of forests to agricultural uses has been one of the key drivers of deforestation worldwide, leading to the conversion of 20 million hectares (ha) of forest between 2000 and 2012, for example.<sup>3</sup>

China's manufacturing heartland is a principle global destination for harvested logs. China now accounts for half of global illegal timber imports<sup>4</sup> and is the main destination for logs from PNG's forests.<sup>5</sup> In 2014, 30% of PNG's 3.8 million cubic metres (m<sup>3</sup>) of round log exports came from SABL areas.<sup>6</sup> A lack of due diligence, by manufacturers in China and companies importing wood products from China in the European Union (EU) and the United States (US), frequently means that PNG's illegal timber is still finding its way into shops in the EU and the US (often as plywood veneer and as flooring), even though illegal timber imports are banned in both.<sup>7</sup>

Palm oil – the intended focus of many SABLs – is similarly a key driver of deforestation, with sustained growth in global demand over several decades, now fuelled by increasing incomes, urbanisation and changing diets, particularly in India and China. In 2014, these two countries, together with the EU, accounted for 62% of global imports, and between 2000 and 2014 imports more than doubled in the EU and India, and tripled in China.<sup>8</sup> Palm and palm kernel oils constituted 85% of all agri-food imports from PNG into the EU in 2017.<sup>9</sup>

Thus international trade is fuelling a relentless attack on customary landowners' forests in PNG, and the discredited but ever present SABL process is holding the door open. This is devastating for the local population, 86% of whom are almost exclusively employed in semi-subsistence agriculture and small, local trading networks.<sup>10</sup> The more than 5 million hectares taken for SABLs represents over 10% of the country's total landmass, meaning that the leases potentially directly impact more than 700,000 people.<sup>11</sup>

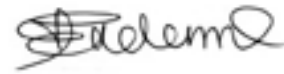
As long as the illegal SABLs continue to exist, forest clearance within them continues to be authorised, and further areas are planted with oil palm, the SABL process will continue to cause irreparable harm to the human rights of PNG's indigenous peoples, to the continued use, enjoyment and ownership of their lands and resources, and to their access to judicial remedies.

As well as breaching the International Convention on the Elimination of Racial Discrimination, the United Nations Declaration on the Rights of Indigenous People, and the International Covenant on Economic, Social, and Cultural Rights, the leases breach many of the fundamental human rights protected in the Universal Declaration of Human Rights.

This report highlights the devastating impact of SABL land grabs on the people of PNG. It also shines a spotlight on the ongoing resistance, led by communities and War on Want's partner, ACT NOW! and provides comprehensive recommendations calling for immediate action, not only by the PNG government but also various United Nations bodies and other national governments.



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<b>1. National laws and policies relating to human rights and SABLs</b>	<b>04</b>
Papua New Guinea's Progressive Constitution	05
Tinkering with the law for resource exploitation	05
<b>2. Who holds power with respect to SABLs and land acquisitions?</b>	<b>07</b>
Corruption, power and its effects on land deals	07
Where the power lies...	08
Tackling endemic corruption	09
<b>3. The Commission of Inquiry and its findings</b>	<b>10</b>
<b>4. SABLs impact on human rights</b>	<b>13</b>
State sanctioned violence in the theft of land	14
Lies, false representation, fear and repression	18
Dividing and conquering the people	19
SABLs: Development for whom?	20
SABLs violating human rights	21
<b>5. Empty promises from the PNG government?</b>	<b>22</b>
<b>6. Using the courts to resist the SABLs</b>	<b>24</b>
<b>7. SABLs and the international human rights framework</b>	<b>28</b>
<b>8. Recommendations</b>	<b>35</b>
Notes	37



# 1 National laws and policies relating to

04

The SABL land grab: Papua New Guinea's ongoing human rights scandal



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At independence in 1975, Papua New Guinea (PNG) created a progressive policy and legislative framework intended to foster and protect that independence and protect citizens' human rights, in part by recognising customary land ownership. However, implementation has been hindered by corruption, weak law enforcement, and external pressures from the global commodities trade. This is especially evident in the case of SABLs – Special Agricultural Business Leases – a process originally designed to foster customary landowners' involvement in economic development which has been abused to facilitate foreign companies' access to PNG's natural resources, with devastating impacts on customary landowners' human rights.

## Papua New Guinea's progressive Constitution

The Constitution includes all human rights established under the Universal Declaration of Human Rights, including the rights of citizens to participate in the development of their country and not to be unjustly deprived of property, as well as provisions ensuring the preservation of the environment for the collective benefit of all including future generations. It also focuses heavily on promoting national sovereignty and self-reliance, with provisions setting out the need to avoid dependence on any form of foreign assistance, and control foreign investment capital and major enterprises engaged in the exploitation of natural resources.<sup>12</sup>

The Constitution also grants PNG's citizens legal ownership of the land they have traditionally lived on and used for thousands of years, in a form of collective and inalienable title, meaning that it is owned communally and cannot be sold. However, it can be leased.

Customary land is used for farming, food production, hunting and to source building materials, medicines, household items, cultural decorations and is of great spiritual importance to the landowners, who own 97% of PNG's territory (the State owns the other 3%). Companies seeking to access PNG's resources are required to secure the full consent of landowners.

## Tinkering with the law for resource exploitation

Pressure to free up land for resource exploitation has been accompanied by a succession of policy measures intended to facilitate this, from 1984 onwards.<sup>13</sup> The **1996 Land Act** introduced Special Agricultural Business Leases as one methodology, introducing a leasing process, specifically for those communities wanting to use their land for agriculture. This law has a number of provisions intended to control the way in which this is done, including a prohibition on the leasing of customary land to foreigners. A Custodian of Trust Land is also mandated to protect the interests of customary landowners in such deals.

One of the key concerns relating to SABLs is that although they are supposed to be related to agricultural development, they are often used as a pretext for obtaining timber. The clearance of forests within a SABL is dealt with under the **Forestry Act 1991** and its subsequent amendments, such as the 2007 amendment which created a loophole that enabled logging companies to access timber resources much quicker and more easily. Use of SABLs to access timber resources really took off after this change, even though many SABL lease holders had no prior experience of the agricultural development they were supposed to be planning to engage in.<sup>14</sup>



With respect to human rights, Papua New Guinea's citizens are supposed to be able to seek to remedy human rights violations through the country's judicial system, and the National Court has established a fast track system for such violations. The court can issue protection orders and mandate

compensation, but in practice people in rural communities have virtually no means to access legal assistance or the court system and costs are prohibitive. While local village courts can also determine human rights matters they have very limited powers of enforcement and no jurisdiction over company activities.<sup>15</sup>

## Special Agriculture Business Leases – in theory and in practice<sup>16</sup>

A SABL is a temporary acquisition of customary land for a fixed period of time for the purpose of establishing a plantation or other agricultural business. They are issued by the Department of Lands and Physical Planning, with the Minister mandated to negotiate with customary land holders and sign a contract on behalf of the State – if and when the landowners give their consent. The Minister then issues a State Lease over the parcel of land in question and leases it back to the landholders supposedly for 'agricultural or economic development purposes'. It is intended that when the term of a SABL ends, the land will go back to its customary owners, but a majority of SABLs are for the maximum term, 99 years. This is the equivalent of about three generations.

The SABL process has facilitated a massive and debilitating land and timber grab, primarily due to "rampant corruption and weak rule of law, coupled with the unyielding pursuit of timber by logging companies."<sup>17</sup>

There is no rent or compensation payable to customary landowners for SABL leases and all customary rights in the land, except those which are explicitly reserved, are suspended for the period of the lease. The lease can be granted to either a person, a group, or to a company, but the landowners are supposed

to agree on who gets the lease. Yet many landowners have complained that their land has been taken without their knowledge or agreement.

The size of the resulting land-grab – covering more than 12% of PNG's total land mass – has caused a great deal of harm.

Furthermore even though the Land Act prohibits the selling or leasing of customary land to foreigners, SABLs have been used to transfer control of an estimated 5 million-plus hectares of land from customary landowners, often to the PNG-based subsidiaries of mainly Malaysian logging and oil palm companies, who are exporting the timber, primarily to China.

Other problems with SABLs include the fact that there is no legal limit on the size of a SABL and Forest Clearance Authorities (FCAs) may be granted even where planting is not actually planned – there are many instances of SABL areas being logged but then not planted.

Furthermore, there is no amalgamated agricultural law regulating large-scale agriculture projects, and the Department of Agriculture is not involved in overseeing SABLs, even though they are intended for agricultural purposes.



# 2 Who holds the power with SABLs?

07

Because the processes for issuing SABLs and FCAs are so complex there are many different people involved, who have varying degrees of influence over whether a SABL or FCA is issued, and if so to whom and how transparently.

There are also many people in positions of power nationally and locally, who potentially have a vested interest – whether political or financial – in maintaining processes that enable the leasing of customary land to foreign companies. These variously include the Prime Minister,<sup>18</sup> other senior ministers, parliamentarians, government and local officials and the police, and local middlemen who seek to accrue benefits from SABLs to themselves. It has been noted that almost the only exceptions seem to be members of the judiciary, the two Commission of Inquiry Commissioners who submitted their reports, and a couple of Members of Parliament.<sup>19</sup>

## Corruption, power and its effects on land deals

Corruption is rife in PNG in general, especially amongst parliamentarians and those in government,<sup>20</sup> and particularly in relation to the extractive sector, including the logging industry.<sup>21</sup> Corrupt government officials have a significant impact on land deals because of their role in the different phases of the land acquisition process including the demarcation of land and land titling; identifying and recognising those with rights over the land; the design of land use schemes and the identification of ‘underutilised’ or ‘vacant’ land; the expropriation of land for ‘public purposes’; selling or leasing land to outsiders; addressing land-related complaints; and monitoring extraction and industrial agriculture activities.<sup>22</sup>

An investigation into human rights in Papua New Guinea found that:<sup>23</sup>

**“Corruption at all levels and in all organs of government was a serious problem due to weak public institutions and governance, lack of transparency, politicization of the bureaucracy, and misuse of public resources by officials to meet traditional clan obligations. Corruption and conflicts of interest were of particular concern in extractive industries, particularly the logging sector, and in government procurement.”**

This tallies closely with the findings of the Commission of Inquiry’s (COI) investigation into SABLs, which described a range of allegations of corruption, from senior ministers and politicians exerting pressure for officials to fast-track SABL applications, through to the Papua New Guinea Forest Authority (PNGFA) continuing to issue FCAs whilst turning a blind eye to the subsequent activities of logging companies operating in SABLs. Members of Parliament have also been found to be playing a corrupt role in the issuing of SABLs:

**“Foreign investors, politicians and corrupt public officials have all conspired and colluded to create bad leases and titles over customary land...They are all equally liable and should be investigated and prosecuted as some of them have been named in the reports.”**

**John Numapo, COI Commissioner<sup>24</sup>**

## Where the power lies...

Primary responsibility for the lack of forward movement over the last several years must rest with the Prime Minister and the Ministers for forests, lands and agriculture who were initially appointed by the Prime Minister<sup>25</sup> to implement the COI recommendations.



Prime Minister Peter O'Neill has made numerous unfulfilled promises to cancel the leases since 2013

Particular power rests with the Minister for Lands and Physical Planning, who is responsible for issuing the SABLs, and the Custodian of Trust Land, who is supposed to protect the interests of the customary landowners. Officials in the PNGFA and the Department of Environment and Conservation (DEC), who are responsible for allocating FCAs and Environmental Permits respectively, also wield significant influence. The COI found evidence of corruption, mismanagement and lack of coordination in the departments of Lands and Physical Planning, Environment and Conservation, Agriculture and Livestock, Provincial Affairs and Local Level Government, Investment Promotion Authority, and the PNG Forest Authority.<sup>26</sup>

At the local level the chairs of Incorporated Land Groups (ILGs) and so-called 'landowner company' directors, whether they genuinely represent communities or not, are in a position of influence with respect to those communities, and have not been immune to bribery and intimidation.<sup>27</sup> In the same vein officials from the Department of Lands who are responsible for checking on and authorising the establishment of ILGs have the power to authorise non-representative bodies. In general, local politicians and directors have both played important roles in facilitating processes in favour of particular companies (for whatever reason).<sup>28</sup>

The Department of Lands is responsible for undertaking a land investigation before issuing a SABL, effectively establishing Free, Prior and Informed Consent.<sup>29</sup> The conduct of these initial land investigations is a crucial part of the SABL process, and therefore a point at which power can be abused. This preliminary process is supposed to involve determining who owns the land, raising awareness about the process amongst landowners, and identifying the type of land rights held by clan members and the agents that will be appointed to execute the SABL. This process should involve District Land Officers, Provincial Lands Officers, the Department of Land and Physical Planning, and Customary Lands Officers.<sup>30</sup> The COI and several court cases have highlighted that these procedures are almost universally overlooked or fraudulently executed.





## Tackling endemic corruption

Officials are also placing obstacles in the way of efforts to reduce corruption generally. Efforts to tackle high-level governance abuses have been closed down.<sup>31</sup> Institutions responsible for addressing government corruption, the Ombudsman Commission and the Public Accounts Committee, are under-resourced and suffer political interference.<sup>32</sup> The Prime Minister has been promising an Independent Commission against corruption since 2011 but no meaningful progress has been made to establish such a body, in part because of a lack of any significant budget allocations.<sup>33</sup>

Overall, this hegemonic situation is making it extremely difficult to establish effective system-wide anti-corruption measures to prevent those with power in relation to SABLs abusing their positions.

The Royal PNG Constabulary have frequently been found protecting the interests of powerful SABL actors, using brute force and intimidation to suppress resistance by customary landowners. In 2016 Police Commissioner Gari Baki stated that there were 1,600 complaints about abuses by police generally, between 2007 and 2014, although this is considered to be just the tip of the iceberg as most people are too scared to complain or think it pointless. However there appears to be little accountability even for fatalities.<sup>34</sup> This situation has been evident in relation to resistance to SABLs, as is described in more detail below.<sup>35</sup>



# 3 The Commission of Inquiry and its fin

10

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In 2011 the Papua New Guinea government, under Prime Minister, Sam Abal, set up a Commission of Inquiry (COI) to look at the legality of the large number of SABLs issued since 2003. This was in response to intensifying landowner complaints, and questions from civil society organisations, academics and scientists. The COI was instructed to inquire into 75 specific SABLs to determine if they complied with legal and policy frameworks. During the inquiry a further two SABLs were notified to the Commission, bringing the total under investigation to 77.

Three Commissioners were appointed to conduct the inquiry: John Numapo (Chief Commissioner), Alois Jerewai and Nicholas Mirou. The Commission held public hearings in the capital, Port Moresby and the seven provinces where most of the SABLs are located. Two final reports from Commissioners Numapo and Mirou were presented to the Prime Minister (now Peter O'Neill) on 24 June 2013. No final report was ever submitted by Commissioner Jerewai. The two reports submitted thus covered only 42 of the 77 leases investigated.<sup>36</sup>



On 17 September 2013, the Prime Minister presented the Commission's report to Parliament. The COI found evidence of genuine landowner consent and commercially viable agricultural projects being undertaken in only 4 of the 42 SABLs assessed. In the other 38 leases there was no genuine landowner consent – an essential legal requirement if a SABL is to be issued. The COI also found widespread abuse, fraud and a lack of coordination between government agencies, along with a general failure and incompetence of government officials to ensure compliance, accountability and transparency within the SABL process.<sup>37</sup>

According to the Commissioners, throughout the course of their inquiry serious allegations were also levelled against officials and senior government bureaucrats involved in the management of SABLs, concerning bribes being offered by project developers and representatives of landowner companies to procure SABL titles. In most cases the COI was not able to establish proof of these allegations, but said that it could not discard them either.

The inquiry also received evidence of undue political pressure being put on government officials by senior ministers and politicians to fast-track SABL applications and issue titles. Incidences of political interference were numerous and were reported in various individual SABL reports.<sup>38</sup> Examples of pressure being put on the Commissioners themselves, by senior ministers, are recounted by the Chief Commissioner, John Numapo, who refused to give up the inquiry when pressured to do so. The Prime Minister then publicly threatened to refer the Commissioners to the Fraud Squad (without providing a reason).<sup>39</sup>

Overall the Commissioners found there was corruption, mismanagement, and lack of coordination by key agencies including the Departments of Lands and Physical Planning, Environment and Conservation, Agriculture and Livestock, Provincial Affairs and Local Level Government, and the Investment Promotion Authority and Papua New Guinea Forest Authority (PNGFA). The Commission found most of the SABL leases were unlawful and should be revoked. In a few cases the Commission suggested that if there was genuine landowner approval then the leases should be revised or re-negotiated rather than being completely revoked.<sup>40</sup>

The COI also found that the PNGFA was failing to monitor forest clearance in SABL areas in most forests (with the notable exception of the New Guinea Islands regional office which had cancelled several FCAs).

Commissioner John Numapo concluded that:

**“The overall recommendation of the COI is that the current SABL set up is a complete failure and must be abolished. The current set up is riddled with loopholes, shortfalls and inadequacies – so much so that corrupt public officials and unscrupulous individuals are taking advantage of it to enrich themselves. There is simply no transparency and accountability in the whole process, starting from application to processing to the final issuing of SABLs.”<sup>41</sup>**

## Commission of Inquiry into SABL (2011) – summary findings <sup>42</sup>

- Widespread abuse, fraud, lack of coordination between government agencies, and failure and incompetence of government officials to ensure compliance, accountability and transparency within the SABL process from application stage through to registration, processing, approval and granting of the SABL.
- Undue political pressure put on government officers by government ministers and other politicians to fast-track SABL applications and issue titles.
- Incompetence, failure, inaction and lack of commitment by government officers and agencies to properly and diligently carry out their statutory functions. Legal requirements were deliberately breached and proper processes and procedures were either bypassed or simply ignored.
- Landowners' consent fraudulently obtained through misrepresentation, meaning that SABL titles were issued directly to foreign owned companies, without landholders being aware of the particular entities or groups granted a SABL over their customary land.
- SABLs being sold to foreign companies for the whole or balance of the 99 years, leaving absolutely no residual rights for the landowners. The inquiry found that 58 out of 75 SABLs were for 99 years.





# 4 SABLs impact on human rights



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In addition to the loss of land, destruction of the natural resources and the ensuing pollution of rivers – the source of food and water for many landowners,<sup>43</sup> the incoming ‘agricultural development’ brought through SABLs has also violated citizens’ human rights with respect to labour conditions. There is evidence that even in 2016 both foreign and local men were being “*subjected to forced labour, including through debt bondage, in the logging, mining and fishing sectors*” and that violations of wages, overtime and health and safety laws and regulations are also common, again particularly in the logging and agricultural sectors.<sup>44</sup> With respect to the logging industry “*extremely low wages and poor working conditions, including cramped and unhygienic worker housing*” are observed.<sup>45</sup>

For reasons like these many of the communities that have experienced land grabbing through SABLs are still fighting for the return of their lands. A few communities have succeeded but the majority are still suffering deeply from the loss of their lands for up to 99 years, and the devastation of their forests. They want their plight to be heard and addressed, and for other communities to be forewarned.

Their stories show that in terms of the ongoing impacts of SABLs and FCAs, especially in relation to customary landowners’ human rights, little has changed since 2013; the ongoing abuse continues to deprive Papua New Guinea’s customary landowners of their human rights, including their rights to food and water.

## State sanctioned violence in the theft of land



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A new police station in a recently established oil palm plantation

### Armed police defend stolen lands in New Hanover<sup>46</sup>

In 2016 the New Ireland Provincial Government sent in fully armed police to defend illegal logging and road clearing operations and arrest anybody seen obstructing progress.<sup>47</sup> On the island of New Hanover, local people had been engaged in a long struggle to defend their land and remaining forests areas and reclaim what was rightfully theirs from the foreign logging companies.

This was despite the fact that the Commission of Inquiry had already recommended that the three SABLs in New Hanover be revoked based on evidence of both corruption and fraud being found, and that the majority of landowners in New Hanover were “*totally unaware*” that their land had been given away. The three SABLs cover 936km<sup>2</sup>, and by September 2016 some 85km<sup>2</sup> of mostly intact forest had been cleared, and 67km<sup>2</sup> planted with rubber, cocoa, coconut and multipurpose *Calophyllum*.



## Ignored in Bewani: The right not to be arbitrarily deprived of property and the right to Free, Prior and Informed Consent

In the village of Aimbai in Bewani, in West Sepik Province, none of the villagers spoken to by ACT NOW!, including the chief of the village, said they had any prior knowledge about a SABL agreement that included their land, until a logging company arrived and started operations. There had been no efforts to explain what a SABL is to the villagers, and they had no idea that their legal rights to their own land had been signed away, behind their backs, for 99 years. The Malaysian logging company in question, Bewani Oil Palm Development Ltd, together with the help of Member of Parliament and former Deputy Prime Minister, Belden Namah, had allegedly forced the chairmen of numerous Incorporated Land Groups to sign the agreements without consulting their communities.<sup>48</sup>

The SABL, issued in 2009 covered a massive area of 1,399km<sup>2</sup>. The logging companies flocked in. By December 2016 150km<sup>2</sup> of forest had been cleared, and approximately 80km<sup>2</sup> planted with oil palm. Between May 2012 and January 2017 446,805m<sup>3</sup> of logs with an export value of US\$62 million were exported to China and India.<sup>49</sup>

The confused villagers tried to stop the companies and get explanations, but found themselves threatened, beaten and turned away by the armed police and army who were making sure the people did not disrupt the operations and that if they did, they would not do so again.



**“When the company uses the police and army, they twist the law and beat us up very badly, to the point where we are afraid to attempt stopping the company again.”**

**Peter Tai, the Chief of Aimbai village<sup>50</sup>**

The chief’s subsequent demands for compensation for their high quality kwila trees had mostly been ignored. Only one poor quality school made out of waste materials was built and paid for out of the landowners’ small royalties from the FCA. Villagers had to give most of their royalty payments back to the logging company anyway because most business houses in the Provincial centre, Vanimo, including the only supermarket, are owned by the logging company.<sup>51</sup>

The Commission of Inquiry determined that this SABL bordered on criminal negligence and should be “*revoked and reviewed*”.<sup>52</sup>





## Police brutality and human rights abuses in Pomio, East New Britain

The situation has been fraught in Pomio District in East New Britain, where there is widespread opposition to SABLs that have allegedly involved fraud, forgery, and non-representative Incorporated Landowner Groups (ILGs) giving a false impression of landowner consent. By February 2017, almost 210km<sup>2</sup> of mostly intact rainforest had been cleared, and 1,275,218m<sup>3</sup> of logs with a declared export value of some US\$122 million exported, mainly to China.<sup>53</sup>

The four SABLs – part of the Sigite-Mukus Integrated Rural Development Project – were issued to Pomata Investment Ltd, Ralopal Investment Ltd, and Nakiura Investment Ltd in 2008, and to Unung Sigite Ltd in 2009. Their umbrella company, Memalo Holdings Ltd, subleased the land to a Malaysian logging company.<sup>54</sup>

In the villages of Pomata and Marana, inhabitants have been explicitly restricted from planting food staples and cash crops to generate additional income, and this restriction has been closely enforced by the Royal PNG Constabulary, known locally as the “company police.” This has left local people with no choice but to be employed as labourers on their own land.<sup>55</sup> In West Pomio the SABLs threaten the true landowners’ own small-scale sawmill logging initiatives.<sup>56</sup>

**“In the Pomio SABLs we, the people have lost our God given birth right to our land for 99 years and significantly our traditions, cultures, customs, virgin forest and friendly environment, the eco systems we depend on and our peaceful community living and life setting. People have been deprived of their basic human rights to own land, to have their freedom of speech and freedom of movement and are now facing serious social disorders in our communities and our children not attending to their classes very well. We all face a massively unpredictable future.”<sup>57</sup>**

Landholders resisting the implementation of the SABLs have faced ongoing intimidation by police. In 2013 a fact-finding mission that included a team of government officials and civil society organisations found evidence of ‘continuous brutality and human rights violations’ by police operating on behalf of Rimbunan Hijau in the Ralopal and Pomata SABLs. Instances of violence include assaults rendering victims unconscious, locking villagers in shipping containers for days on end, attacks by police on unarmed villagers with fan belts, rifle butts and toe-capped boots, forcing villagers to spend the night lying in the rain on felled logs, and forcing them to drink polluted water.<sup>58</sup>

The police were also found to have forced various groups of youths and landowners to sign agreements pledging not to resist logging operations on their land even though the people had not consented to the logging and it was being done in breach of their constitutional rights. They also forced various people to make compensation payments in cash to the logging company.<sup>59</sup>



The logging company has disputed these findings and continues to deny any wrongdoing.

Towards the end of 2016 the logging company was reported to have had police deployed at Mu, Drina and Palmalmal to try and intimidate landholders and stop any protests. Communities in Totongpal and Manginuna were allegedly threatened and sworn at as they tried to maintain a roadblock, with the police making a point of insulting and trying to scare the women, and destroying a phone that had been used to capture pictures of the police action.<sup>60</sup>

In July 2016, Police Commissioner Gari Baki had ordered that police should not be permanently deployed to logging camps, but they were clearly still present in Pomio.<sup>61</sup> This promise to remove the police was subsequently repeated by Police Minister Jelta Wong in 2017 and it seems that the order is now being enforced in Pomio at least (which is the Minister’s home province), but there are still concerns that the Minister’s instructions may not be followed in other SABL areas such as New Ireland and the Sepik.<sup>62</sup>



## Lies, false representation, fear and repression

Another key feature of the SABL process in Papua New Guinea is that it creates quasi-legal agreements, where documents are officially agreed and signed, but not by the right people.

This is further complicated by the fact that agreements are written in English but literacy rates are very low.

There is widespread evidence, including from the Commission of Inquiry and the Supreme Court showing that individuals without the authority to speak on behalf of customary landowners are flouting customary landowners' human rights by appointing themselves as chairpersons of Incorporated Land Groups and illegally signing deals on behalf of communities who often know little or nothing about the SABL agreements and their life and livelihood changing consequences.<sup>63</sup>

People living in the Pomio district have reported that the three local men who have been vocal in supporting SABL leases and the logging operations, appointed themselves as chairpersons of landowner companies but do not represent the local people. The whole logging and oil palm operation was approved by these men in isolation from the communities and without the knowledge of the majority of the population. The people are intimidated but are mounting court cases.<sup>64</sup>

It has also been reported that in Bewani the ILG chairpersons were themselves intimidated into signing on behalf of their communities, without time for consultation. In 2017 an ILG Chairperson from the Bewani Oil Palm Plantation in the West Sepik (Sandaun) Province, said he was among 125 ILG chairpersons who were physically threatened or assaulted and forced to sign SABL agreements with Malaysian logging companies on behalf of everyone in their villages.



The chairpersons were approached individually by a group of men, with the local Member of Parliament at their side, to ensure their cooperation. They were told that they would be denying their people their rights to basic services like aid posts, schools and good houses if they did not sign. The ILG chairpersons were then made to gather at one of the company's transit logging camps to sign the agreements:

**“Men came in groups to get us to go sign the agreements and for those of us who disagreed, they tore our houses down, beat us up and threatened us. They approached each of us at a time so we couldn't go against a group of men, especially with the local MP is on their side...We signed all papers of the 14 page agreements, agreements that we didn't read and so didn't understand what we were signing, but we knew it was bad because after all, we were forced to sign.”<sup>65</sup>**

## Dividing and conquering the people

Even when communities do have an understanding about what is being proposed, the generally false but tantalising promises being made by the companies can create sharp conflicts within communities and even families, between young and old, and between men and women.

### A divided family in Elis, Bewani, West Sepik Province



Anna Kwembi, from Elis village, is struggling to keep a logging company off her family's land, but, together with her daughter, she has angered the men in her family, her brothers and sons, by taking this stance. She says her family used to work as a team, making sure their land was well guarded. But she has watched on as the logging company convinced her brothers that they should agree to cut the forests and plant oil palm, turning her brothers against her by dangling the prospect of being able to send their children to school overseas, having houses with electricity and water, and owning their own computers. Anna says she does not understand what a 'Special Agriculture Business Lease' is, but she does

know that their forest provides everything from food to building materials, herbal plants and much more, so any compensation would definitely need to provide significant long-term benefits just as the forests do.

Anna's daughter obtained a court order restraining the company from going into their family's area between the May River and the Lumbro River, but the company went in anyway, logging the huge kwila trees. It has not planted any oil palm. Anna believes that the local government officers have been bribed and the company knew there will be no repercussions. But she is adamant that she will protect the land for her children and their children, and that she does not care if the company sends the police and army to stop her: *"This land does not belong to the police and army, it is mine to protect and I will do whatever I can to protect it"*.<sup>66</sup>

The reality of SABLs is that the companies have made promises that are irresistible to some, including the provision of schools, hospitals and health care, roads and significant royalties. However, they hardly ever deliver on these promises. Instead, communities find themselves much worse off than they were before, losing access to their land and resources, receiving minimal compensation, and having to take poorly paid work as virtual slaves on their own land. One simply cannot imagine how gloomy the future is for these communities that have a rich cultural heritage and strong spiritual connections to their land.





## SABLs: Development for whom?

### Promises versus reality: SABL-related ‘development’ brings virtual slavery to West Pomio

Under the Pomio West SABL whole villages have been taken over as the property of the leaseholder along with everything standing on the land. People described how services that had been promised them prior to their land being taken are actually being used to force them into being labourers.

Gone, along with their forests, are all kinds of environmental services that their ancestors before them had benefited from for thousands of years. Today the people are not even allowed to plant gardens freely on their own land. Instead, they have the choice of either intensive farming on whatever plots they are allowed to keep, or becoming severely underpaid labourers on oil palm plantations. The wages are so low that the whole family needs to work to provide just the food for the family – nothing else can be bought.<sup>67</sup>

By 2017 the social and environmental situation had deteriorated as a result. The logging and oil palm had destroyed cultural sites, old cemeteries and historical sites, traditional and historical landmarks, and old villages, and had not left any buffer zones. There has been a high influx of people from outside looking for jobs, in spite of the extremely poor conditions, and even the children are not attending school.<sup>68</sup>

The schools only get assistance if they agree to conditions set by the company. Where health services are provided, they are only for company employees. At the same time the company in question has tried to convince landowners that it is the company that has redeveloped the Palmamal Aerodrome and local Sports Field. But this was actually paid for with public funds, with only the machinery used belonging to the company.<sup>69</sup>

## SABLs violating human rights

In response to communities' concerns about logging and oil palm operations it seems that PNG's largest logging company and multi-sector business group, Rimbunan Hijau, has been telling communities that human rights and sustainable development principles impede rural development, and should be ignored if people want to get rich.<sup>70</sup> This is certainly the message that the company and its consultant Kanawi Pouru, delivered to people in the Pomio District of East New Britain Province.

In August 2016, Pouru, a former Managing Director of PNG's Forestry Authority, told local people in Malakur Village that both the United Nation's Declaration on Human Rights and the Round Table on Sustainable Palm Oil (RSPO) Principles and Criteria are anti-development mechanisms set up by rich and wealthy Europeans to suppress people in rural communities in Papua New Guinea who want to change their lifestyle and alleviate poverty through commercial exploitation of

their vast natural resources. Kanawi also accused NGOs of misleading "ignorant rural communities" and suppressing their rights to advance economically.<sup>71</sup>

However, this did not stop the villagers complaining about the manner in which Rimbunan Hijau subsidiary Gilford Ltd and the umbrella landowner company, Memalo Holdings Ltd, were being secretive about a lot of information in relation to the controversial SABL on their land, and pointing out the safeguards under the UN Declaration and the RSPO. They also pointed out that the company is obliged to seek free, prior and informed consent in accordance with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The response that came was obstructive: they were told that it was not their place to ask questions about whether Gilford complied with RSPO and UN standards, and that abiding by these rules would stop the company being able to invest its own money to help the community.<sup>72</sup>



Kanawi Pouru making his presentation in Malakur village



# 5 Empty promises from the PNG government

22

The SABL land grab: Papua New Guinea's ongoing human rights scandal



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PNG Prime Minister Peter O'Neill (left) and UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein

Since receiving the Commission of Inquiry reports in 2013, the PNG government has taken little meaningful action to cancel the illegal leases. This is despite the findings that the SABLs were not consented to by customary landowners and that over 90% of them were not issued in accordance with the law. At the same time the PNG Forest Authority has continued issuing Forest Clearance Authorities (FCAs) allowing forests in SABL lease areas to be clear felled and the timber exported. For example, a new FCA in a 105,200ha contested area in West Sepik, of mostly intact rain forest, was issued in April 2014.<sup>73</sup>

Data shows that the volume of logs exported under FCAs continued to increase even after the establishment of the COI, and after the supposed moratorium on new FCAs in 2011.<sup>74</sup> Log exports under FCAs in SABLs increased from 133,000m<sup>3</sup> in 2009, to 710,000m<sup>3</sup> in 2011, and then increased to a consistent volume of about 1 million m<sup>3</sup> per year in 2014, 2015 and 2016.<sup>75</sup> One third of PNG's total log exports now come from SABL areas.

During this period numerous promises were made by Prime Minister, Peter O'Neill, that the government would act on the Commission's findings and cancel the leases:

**“We will no longer watch on as foreign owned companies come in and con our landowners, chop down our forests and then take the proceeds offshore...For too long landowners have been taken advantage of and had their land stolen from under them.”<sup>76</sup>**

In June 2014 the National Executive Council gave the impression that action on SABLs was about to start.<sup>77</sup> It announced that the SABLs identified by the COI would be revoked, that a Ministerial Committee would consider the SABLs overlooked because Commissioner Jerewai failed to submit his report, and that there would be a special SABL taskforce under the Forests Ministry, reporting to the Ministerial Committee.<sup>78</sup> Again, Prime Minister, Peter O'Neill promised:

**“I will make sure that we terminate the leases of those that were acquired illegally, done not in a proper manner and I have already called Chief Secretary to request the agencies that I have stated – Agriculture, Lands and Forestry – to fast track this and that is happening as we speak and I hope that over the next few weeks we will start the process of terminating the leases.”<sup>79</sup>**

However, it appears this Ministerial Committee made no progress, perhaps because it was headed up by the Ministers for Forests (then Patrick Pruaitch), Lands (Benny Allen) and Agriculture (Tommy Tomscoll). Commenting on this leadership, COI Commissioner John Numapo said:

**“I am at a loss to understand why the Ministers for lands, forestry and agriculture have been given the task to implement the recommendations of the COI when it was their respective departments that were responsible for the management and administration of SABLs, and that messed up the whole SABL scheme. Adverse findings were made against these government agencies, including their respective ministers, so how on earth do we expect them to effectively implement the recommendations of the COI?”<sup>80</sup>**

In July 2014 the Office of the Registrar of Titles in the Lands Department did publicly notify the holders of 29 SABLs that they were required to return the original copies of their leases. However, it appears from a list published in February 2018, that only four leaseholders complied, and that even for these the government has not so far gazetted any cancellation notice.<sup>81</sup>

In December 2014, the Prime Minister blamed PNG’s bureaucracy for not responding to political directions to implement the recommendations of the COI. He said he had again tasked the Chief Secretary with ensuring the recommendations were implemented.<sup>82</sup> In May 2015, the Chief Secretary announced the government was setting up a new ‘Independent Task Force’ to speed up the implementation of the COI’s recommendations and cancellation of the leases,<sup>83</sup> but again no actual progress was made.

More than two years later, in August 2017, a new ‘Customary Land Advisory Committee’ was announced to trawl through the SABLs, with the promise of investigating each one independently. However, of the 10 SABLs reportedly cancelled as of February 2018, four are ones voluntarily surrendered, four are the result of court cases that were happening anyway, and only one seems to have actually been cancelled. This is the SABL held by Purari Development Holdings in Ihu, Baimuru.

Since February 2018 there have been no further announcements, and a written request for an update from ACT NOW! in May 2018 has not been replied to.<sup>84</sup> It thus remains to be seen whether this process will be any more comprehensive and effective than any of the previous committees, or whether it is just for show. In the meantime, some five million hectares of customary land still remains in foreign hands with logging continuing every day in some SABL areas.<sup>85</sup>



# 6 Using the courts to resist the SABLs

24



Although there has been little movement by the government to revoke illegal SABLs, a small but growing number of communities have succeeded in using the courts to have specific SABLs cancelled. In the absence of a swift change of policy and practice at the national level, these precedents offer a potential route for other communities to follow, especially those SABLs which have already been declared illegal by the COI.<sup>86</sup>

ACT NOW! has found seven legal cases in the official Law Reports in which the validity of a Special Agriculture and Business Lease has been challenged in the courts. In all cases the court found the SABL had not been granted in accordance with the law and proper process and the breaches were so serious that the lease was declared null and void.

## **Gire Gire Estates Ltd v Barava Ltd [2016]**

National Court decision on a judicial review of the decision to grant a SABL found the lease was granted in breach of sections 10, 11 and 102 of the Land Act and the Land Registration Act. The judge ruled that the actions were tantamount to constructive fraud and the lease was void.

## **Maniwa v Malijiwi [2014]**

SABL over Portion 144 C, East Sepik Province, granted to Sepik Oil Palm Plantation Limited in September 2008. The judge endorsed the view that in order to lawfully grant a SABL over customary land, the Minister must comply with all the requirements of Section 10, 11, and 102 of the Land Act, which they did not. The SABL also breached Article 53 of the Constitution concerning the right not to be unjustly deprived of property. The SABL was declared null and void, and actions dependent on the existence of the SABL, including logging and palm oil were declared illegal and null and void.

## **Isu v Ofoi OS [2014]**

Two SABLs granted in July 2012 were both found null and void and quashed. They were SABLs over Portion 113C Milinch Murua Fourmil Tufi, Oro Province granted to Sibo Management Limited, and the SABL over Portion 143C Milinch Kupari Fourmil Tufi, Oro Province granted to Wanigela Agro Industrial Limited. The original owner copies of the title deeds were ordered to be surrendered to the Registrar of Titles for cancellation and the Registrar to make all necessary amendments and deletions to the Register of State Leases to give effect to this Order.

### **Mota v Camillus [2014]**

Two 99-year SABL leases granted in 2008 over land in the Nakanai area of West New Britain, totalling 577ha. The leases were granted to Akami Oil Palm Limited (now Akami Development Limited). The leases were declared null and void and quashed on the grounds of constructive fraud as “none of the elaborate procedures under Sections 10, 11 and 102 of the Land Act for acquisition by the State, by lease, of customary land, and granting of Special Agricultural and Business Leases over such land to third parties, were complied with”.

### **Mahuru v Dekena [2013]**

SABL granted over an 8.51ha block of land at Taurama Valley in the National Capital District in June 2010. The Court found that the procedures in the Land Act were not followed by the Minister. The errors of law were so numerous and serious as to amount to constructive fraud. The Court quashed the lease and declared it null and void. Justice Cannings stated:

“To lawfully grant a Special Agricultural and Business Lease over customary land the Minister must comply with all of the requirements of Sections 10, 11 and 102. The elaborate procedures in Sections 10, 11 and 102 of the Land Act have been inserted for a reason: to ensure that leases over customary land are granted only after a thorough identification and investigation of the land and the customary landowners and their agreement to what is proposed. In PNG land is a critical natural resource required by National Goal Number 4 to be conserved and used for the benefit of the present generation and for the benefit of future generations. Decisions about the transfer of interests in customary land must be made carefully and thoughtfully and in strict accordance with procedures prescribed by law.”





### **Musa Valley Management Company Ltd v Kimas [2010]**

SABL over 211,600ha of land at Portion 16C, Milinch Gona, Fourmil Tufi granted to Musida Holdings Limited in December 2008. The court found that the procedures for acquisition of the land by the State under Sections 10 and 11 and for granting of the lease under Section 102 were not complied with as the customary landowners or at least a substantial majority of them did not agree to either process. The errors of law were significant. There was a lack of agreement among the landowners. The Secretary's decisions to grant the lease were seriously flawed. The lease was declared null and void.



### **Ramu Nickel Ltd v Temu [2007]**

SABL granted over land described as portion 19C, Milinch Sepu, Fourmil Ramu, Madang Province in August 2003. The court granted an order quashing the decision of the Minister for Lands granting the lease and the registration of the lease by the Registrar of Titles. The court also ordered the Registrar of Titles to de-register or cancel the registration of the lease.

**However, securing a win in court does not necessarily mean the battle is over.**

The court challenge to the SABL issued to Sepik Oil Palm Plantation Ltd in Turubu Bay, East Sepik Province, was supported by the Turubu Eco Forestry Development Program, a local NGO created to inform landowners of their rights. The founder of the program, the late Gabriel Molok became a leading figure in the fight against land grabs in the area. As in many other cases the oil palm company had circumvented local opposition by working with police, government officials and a few individuals within the community, and by literally bulldozing their way into the forests. In 2014, five years after the company commenced operations, the National Court nullified the SABL and ordered the cessation of logging and oil palm operations. The company appealed to the Supreme Court which again ruled against the SABL in August 2016. However, the court decisions have not stopped the logging which locals report still continues under newly issued FCAs.<sup>87</sup>

Similarly, the people of Collingwood Bay in Oro Province have twice mounted successful court actions against the illegal leasing of their land for logging and oil palm; yet they are now embroiled in yet another court battle as their forests seem irresistible to foreign companies and local speculators.<sup>88</sup>

The restraining order against a Malaysian logging company secured by Anna Kwembi's daughter in the village of **Elis, in Bewani, West Sepik Province**, has not stopped the company continuing to log the Kwila trees on their land either. Without the support of the authorities the family is in no position to stop them.<sup>89</sup>



Villagers in **West Pomio**, led by Paul Pavol, have also turned to the courts, with the help of environmental lawyers CELCOR, in part **to overturn restraining orders** preventing Pavol and six other customary landowners from entering their own territories (a tactic used by the logging companies to intimidate customary owners). The local, district, and provincial land courts have been dismissive, and the landowners have had no support from the Member of Parliament for Pomio or the ILG presidents who are also beneficiaries of the land grab. But they are determined to stop the loggers and have succeeded in their legal battle against the restraining orders which were overturned by the National Court in 2018. Their fight against land grabbing and deforestation continues with renewed vigour. This 2018 victory sets an important precedent for other customary landowners who are subject to similar restraining orders.<sup>90</sup>

On the whole though, the playing field is not level with local people at a serious disadvantage against the system that upholds the land grabs through SABLs. Local people don't have financial or physical access to courts or lawyers to secure the fulfilment of their rights. For example, an overnight ferry ride followed by a one-hour flight is required to travel from Pomio to Port Moresby, and this three-day return journey is itself unaffordable for most people. Lawyers are also very expensive and the logging companies engage the top law firms and routinely fly-in overseas counsel to defend any litigation. Plaintiffs can also be susceptible to pressure to withdraw their case. These factors make SABLs extremely hard to challenge, especially on a case-by-case basis. The burden of proving that they have not been consulted falls on landowners who are ill equipped to deal with the challenge, and wary of the corruption and intimidation they may encounter, at both local and national levels.



# 7 SABLs and the international human rights



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Given the fact that next to nothing has been done to address the systemic aspects of SABL-mandated land grabbing in PNG – in spite of the results of the COI and regardless of the explicit promises made by the Prime Minister – it becomes ever more important to assess the situation in relation to the international human rights framework, to consider what options there might be for using it to finally drive real change on the ground.

There are several UN treaties pertaining to human rights that relate, either directly or indirectly, to illegal land grabbing, especially because of the way in which land grabs and associated violence can deprive vulnerable peoples of their rights to life, self-determination, security, land, livelihood, housing, and adequate food and/or water.

First and foremost there is the **Universal Declaration of Human Rights 1948**, which is considered to be customary law binding on all states, and therefore applicable in Papua New Guinea. The most directly applicable article establishes individuals’ rights to own property, and not to be arbitrarily deprived of it. Other pertinent

articles enshrine people’s rights to life, liberty and security; the economic, social and cultural rights indispensable to human dignity; and the right to a standard of living adequate for human health, including food and housing. Article 25, for example, recognises the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.”<sup>91</sup>

The abuse of the SABL process in PNG can be said to contravene all of these rights, by arbitrarily depriving customary owners of access to their own lands, and to the food and other resources they derive from those lands; because of associated intimidation and violence, including the destruction of houses; and by forcing people to accept extremely poorly paid work on their own lands, which has been described as virtual slavery, to survive.<sup>92</sup>

PNG’s Constitution is notable for the fact that it is one of the few around the world that contains all the rights and freedoms articulated in this Declaration, which can therefore be enforced by PNG’s judiciary.<sup>93</sup>

## Illegal SABLs breach seven fundamental human rights

Illegal SABLs breach the following fundamental rights protected in the **Universal Declaration on Human Rights** because people have been forcibly and illegally exiled from their own lands – their home for generations – and denied their means of subsistence, especially through illegal logging and oil palm planting:

- **Article 3: The rights to life, liberty and security of person.**
- **Article 7: Equality before the law and equal protection of the law.**
- **Article 8: An effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law.**
- **Article 9: Freedom from arbitrary arrest, detention or exile.**
- **Article 12: Freedom from arbitrary interference with privacy, family, home.**
- **Article 17: No arbitrary deprivation of property.**
- **Article 25: The right to a standard of living adequate for health and well-being, including food and housing**

The **International Covenant on Economic, Social and Cultural Rights (ICESCR)**<sup>94</sup> and the **International Covenant on Civil and Political Rights (ICCPR)**<sup>95</sup> are similarly relevant. Both take people's right to self-determination as their starting point, and go on to state that, "*All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*"

PNG ratified both these treaties on 21 July 2008.<sup>96</sup> However, the illegal application of the SABL process, as determined by the COI, has resulted in people's lands being leased, for several generations, without their knowledge, depriving them of their right to self-determination, and causing their access to food and their living conditions to plummet.<sup>97</sup>



## SABLs and the right to food



Being deprived of the means of securing food is a critical human rights-related aspect of land grabbing. Article 11 of ICESCR obliges states to ensure access for all to sufficient, nutritionally adequate and safe food, to ensure freedom from hunger. Article 11.1 of ICESCR (which Papua New Guinea ratified in 2008) stipulates that States “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” and requires them “to take appropriate steps to ensure the realization of this right.” The Committee on Economic Social and Cultural Rights has defined the right to food further in its General Comment No. 12 in which it says States must proactively engage in activities that strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security.<sup>98</sup>

Former Special Rapporteur on the right to food from the Office of the High Commissioner for Human Rights (OHCHR), Olivier de Schutter, has observed that this includes governments preventing others, including “private actors such as firms” from encroaching on people’s right to food, explicitly linking the right to food to the debate on large-scale land acquisitions and leases:

“States would be acting in violation of the human right to food if, by leasing or selling land to investors (whether domestic or foreign), they were depriving the local populations from access to productive resources indispensable to their livelihoods. They would also be violating the right to food if they negotiated such agreements without ensuring that this will not result in food insecurity...”  
Olivier De Schutter<sup>99</sup>

## SABLs, land grabbing and human rights

ICESCR's Committee on Economic, Social and Cultural Rights has also published a General Comment on states' obligations under ICESCR, specifically concerning business activities and land grabbing, which is highly pertinent to the SABL issue in PNG. It states that:

"The obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over Covenant rights without adequate justification, or when they pursue policies that negatively affect such rights. This may occur for instance when forced evictions are ordered in the context of investment projects. Indigenous peoples' cultural values and rights associated with their ancestral lands are particularly at risk. States parties and businesses should respect the principle of free, prior and informed consent of indigenous peoples in relation to all matters that could affect their rights, including their lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired."<sup>100</sup>

A 2018 report from OHCHR Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Leilani Farha, explains that forced evictions constitute a gross violation of a range of human rights, which may include abuses of the right to security, food and water, as well as housing, as well as impinging on people's rights to work, health and education. The report observes that forced evictions impact the most marginalised and least powerful communities disproportionately, and that they intensify existing inequalities and drive social conflict. Illegal SABLs are arguably driving a process of forced evictions, by depriving communities of access to their own lands, without their consent and sometimes through the use of restraining orders.<sup>101</sup>

The **International Convention on the Elimination of All Forms of Racial Discrimination (UNCERD)** is also highly relevant to the situation in Papua New Guinea. The abuse of the SABL process has led to widespread discrimination against PNG's indigenous customary landowners in favour of foreign companies wanting to access PNG's natural resources. This is already recognised in the last Universal Periodic Review of PNG by the UN's Human

Rights Council (Section J), in which the Committee on the Elimination of Racial Discrimination additionally mentions its concern about alleged denial of access to judicial remedies for indigenous landowners under PNG's Compensation (Prohibition of Foreign Legal Proceedings) Act (1996) and Environmental (Amendment) Act 2010, specifically in relation to the destruction of their lands and resources.<sup>102</sup>



## SABLS and indigenous peoples' rights

**Convention No. 169 of the International Labour Organization (ILO), the Indigenous and Tribal Peoples Convention recognises indigenous peoples' right to own and possess the lands they traditionally occupy and rely on for their subsistence and traditional activities and requires governments to proactively identify and safeguard these rights.<sup>103</sup> Similarly, the rights of indigenous groups and ethnic minorities should be protected, including from land grabbing, under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which establishes Indigenous Peoples' right to dispose of their natural wealth and resources freely, and calls on governments to ensure land is not taken from them without their Free, Prior and Informed Consent (FPIC).<sup>104</sup> The abuse of the SABL process, frequently without customary landowners' consent or even knowledge, contravenes both. However, PNG has not signed the ILO Convention<sup>105</sup> and did not participate in the UNDRIP vote.<sup>106</sup>**

The existence of all these treaties and obligations, endorsed, adhered to or ratified by Papua New Guinea, has not so far had much discernible impact on the government, other than possibly eliciting false promises and political manoeuvres from the Prime Minister presumably to appease opposition. The question of how to ensure the implementation of international treaties and norms thus arises.

It has now been suggested – both publicly, and directly to the **International Criminal Court (ICC)** – that illegal land grabbing around the world should be considered a crime against humanity, with cases of abuse being taken to the ICC under its 'Rome Statute', which entered into force in 2002 and enables the ICC to prosecute land grabbing cases.<sup>107</sup> The Rome Statute states that “*the most serious crimes of concern to the international community as a whole must not go unpunished*”, and a 2016 policy paper from the Office of the Prosecutor of the ICC indicates that the ICC would indeed consider giving special consideration to crimes relating to the illegal dispossession of land, exploitation of natural resources and environmental destruction.<sup>108</sup>

However, Papua New Guinea is not currently a signatory to the Rome Statute (although it has committed to take steps toward ratifying and implementing it).<sup>109</sup> Nevertheless, it is still possible to apply the Rome Statute if the person accused – and so far it does have to be a person – is a national of a country that has signed the statute. But in the case of Papua New Guinea, where most of the foreign logging companies are Malaysian, another route would be necessary because Malaysia has not signed the Rome Statute either.<sup>110</sup> It has been proposed that in such situations it would still be possible for the UN Security Council to refer a situation involving a non-signatory state to the ICC prosecutor.<sup>111</sup> This might be problematic however, since China is the main destination for illegal timber from PNG, and is also a permanent Security Council member, meaning that it could potentially veto such resolutions.

In addition to the existing treaties, two important new agreements are currently being negotiated that could (eventually) drive the change needed in Papua New Guinea, if all else fails.



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The first of these is the planned legally binding **'UN Treaty on transnational corporations and other businesses with respect to human rights'** – negotiations on a 'zero draft treaty' are due to commence in October 2018. This would constitute a significant step beyond current voluntary approaches (such as the UN Guiding Principles on Business and Human Rights) that are supposed to be adhered to by businesses. These have clearly made no difference to the foreign logging companies currently operating in PNG. The purpose of this treaty, which civil society organisations have been pressing for over many years, is to end transnational corporations' impunity and attain justice for those suffering as a result of corporate human rights violations. It would enable the logging companies themselves

to be brought before an international court (as opposed to individuals within those companies).

The second new agreement is a **UN declaration on the rights of peasants and other people working in rural areas**, which the international peasant movement La Via Campesina and others have been demanding. A draft declaration – which was adopted by the UN Human Rights Council<sup>112</sup> – is currently under consideration and will go to the UN General Assembly in October 2018. The declaration addresses key human rights challenges such as the right to seeds, collective rights and the rights to land and food, all of which are highly pertinent to the current situation in PNG.<sup>113</sup>



## United Nations interventions

Various United Nations bodies have engaged with the Papua New Guinea government over the SABL issue since 2011. These interventions have so far NOT proved to be effective in influencing government action to protect the human rights of affected communities. This points to the need for UN efforts to be increased, better coordinated and reinforced by other actors.

**9 February 2018** – UN High Commissioner for Human Rights on a visit to Papua New Guinea publicly said *“it was unacceptable that many businesses had been granted licenses to engage in extractive industries without the free, prior and informed consent of the people living on the affected land, particularly under the Special Agricultural Business Leases (SABL). Many communities have been forcibly evicted from their homes, often reportedly violently, with impunity and allegedly sometimes with the complicity of local police”*.<sup>114</sup>

**May 2016** – Countries including Norway, Mexico, Chile, Guatemala, Thailand and Switzerland used the Universal Periodic Review process to raise issues relating to the SABL land grab and the need for the full rights of indigenous people to be guaranteed (including their full prior and informed consent to activities affecting their lands). Other issues raised included how to prevent land grabbing and illegal logging, the use of excessive force, and violations by members of the security forces – particularly in relation to communal land rights.

**17 February 2016** – UN Committee on the Elimination of Racial Discrimination letter to the Papua New Guinea government, noting the lack of any response to its letter of 2011 and expressing concern about the lack of concrete action to cancel the SABLs and stop the logging operations.

**18 February 2014** – UN Working Group on the issue of human rights and transnational corporations; the Special Rapporteur on the right to food; the Special Rapporteur on the rights of indigenous people; and the Special Rapporteur on the human right to safe drinking water and sanitation sent a letter to the Papua New Guinea government raising a series of questions about the large-scale land acquisitions under the SABL scheme and the human rights impacts.

**11 March 2011** – UN Committee on the Elimination of Racial Discrimination letter to the Papua New Guinea government expressing concern about the alienation of indigenous lands through the issuing of SABLs without the consent of the landowners and not providing them with adequate information. Also noting that Papua New Guinea has failed to submit any reports since 1984.

In spite of Papua New Guinea's progressive Constitution – which protects human rights for all of its citizens, recognises the customary landownership of its indigenous population, and seeks to ensure that the country remains independent and free of foreign influence – the ongoing SABL saga shows just how far away the current executive and legislative branches are from implementing the population's human rights and aspirations. This is underpinned by the fact that Papua New Guinea has signed just six of the thirteen international human rights conventions.<sup>115</sup>

Almost all of the SABLs that have so far been publicly reported on were declared illegal several years ago, but only a handful have been revoked, and most of those have been quashed through court cases brought by landowners. Furthermore, it seems that Forest Clearance Authorities are still being issued in SABL areas by the Forest Authority, and Papua New Guinea's timber exports from SABLs have now increased to around one million m<sup>3</sup> per year. Customary landowners thus continue to struggle to enjoy their rights to their own lands and livelihoods, security, food and water, which they have been illegally deprived of. Those engaged in the incoming timber and agribusiness industries are also suffering appalling working conditions. Corruption and fraud appear to remain endemic across the country, preventing the rapid change that was explicitly called for by the Commission of Inquiry in 2013.

In order to secure the human rights of Papua New Guinea's citizens, in line with the country's Constitution and its commitments under the UN Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, the **Government of Papua New Guinea** should:

- Prove its commitment to recognising and implementing citizens' human rights by signing and ratifying all international human rights conventions, and the Rome Statute of the International Criminal Court.<sup>116</sup>
- Ensure that communities' rights to Free Informed Prior Consent to any activities taking place on customary land are fully respected and enforced including the need for adequate awareness-raising prior to any decision making.
- Move to stop corruption and human rights abuses by establishing the Independent Commission Against Corruption and Human Rights Commission that have been promised for more than a decade.<sup>117</sup>
- Ensure that all police and military personnel are removed from all SABL and logging areas and end the practice of state resources being used on behalf of foreign companies against the people.
- Revoke all illegal SABL leases immediately, returning related territories to customary landowners, and relieving customary landowners of the burden of pursuing costly court cases themselves.
- Ensure that the new Customary Land Advisory Committee rapidly completes its review of all SABLs including those that the third COI Commissioner failed to report on, and provides regular public updates about its work.
- Immediately suspend all Forest Clearance Authorities that relate to SABL areas, and implement a moratorium on issuing any new FCAs until an independent public review of existing FCAs and how they were issued has been conducted.



- Instigate disciplinary action against all officers identified in the Commission of Inquiry as having failed to protect the interests of customary landowners and uphold the law.
- Ensure that plans for the future development of Papua New Guinea's economy exclude any proposals based on the SABL concept, ensuring that, in line with the Constitution, the benefits of customary lands are enjoyed directly by customary landowners rather than foreign entities, and the country's forests and other natural resources are protected and restored.

**Members of Parliament and other local officials and influencers in Papua New Guinea** also have an important role to play in improving the wellbeing of the country's citizens, and should proactively support customary landowners struggling to secure their human rights and prevent the destruction of their lands and resources.

**The United Nations and other governments** need to find more effective ways of ensuring that UN Member States, such as Papua New Guinea, fulfil their commitments with respect to the UN Declaration of Human Rights and those international human rights conventions that they have signed, including with respect to land grabbing. This should include:

- The use of the International Criminal Court and/or UN Security Council to challenge abusive land grabbing cases as crimes against humanity.
- The negotiation and successful conclusion of the proposed Treaty on Transnational Corporations and Other Businesses with Respect to Human Rights, and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.

In the case of Papua New Guinea specifically, where it is clear that the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination, have all been flouted, especially in relation to SABLs, **OHCHR Special Rapporteurs and UNCERD** should:

- Follow up on earlier correspondence and visit Papua New Guinea to investigate exactly why recommendations, including in relation to the last Universal Periodic Review for Papua New Guinea, and those of the Commission of Inquiry, have not yet been fully and effectively implemented.<sup>118</sup>

**Other countries' governments should:**

- Ensure that their citizens and corporations operating in Papua New Guinea do so lawfully and respect human rights obligations.
- Reduce demand for Papua New Guinean timber by improving measures to implement bans on illegal timber imports, including by calling on China to consistently identify the sources of timber used in manufacturing furniture and flooring products that it exports to other countries.

## Notes

<sup>1</sup> “New Guinea.” WWF Global. Accessed August 24, 2018. [http://www.panda.org/knowledge\\_hub/where\\_we\\_work/new\\_guinea\\_forests/](http://www.panda.org/knowledge_hub/where_we_work/new_guinea_forests/).

<sup>2</sup> *Stained Trade: How US imports of exotic flooring from China risk driving the theft of indigenous land and deforestation in Papua New Guinea*. Global Witness, <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>

<sup>3</sup> “Illegal Logging.” Global Forest Atlas, Yale School of Forestry and Environmental Studies. Accessed August 24, 2018. <https://globalforestatlas.yale.edu/forest-use-logging/logging/illegal-logging>.

<sup>4</sup> Ibid

<sup>5</sup> Kanti Barua, Sepul, Juho Penttilä, and Miika Malmström. *China as a Timber Consumer and Processing Country: An Analysis of China's Import and Export Statistics with in-depth Focus on Trade with the EU*. Helsinki: Indufor for WWF, 2016. [https://www.wwf.org.uk/sites/default/files/2017-03/WWF%20UK%20%20Indufor%20China%20Timber%20Trade%20-%20Final%20Report\\_decl16.pdf](https://www.wwf.org.uk/sites/default/files/2017-03/WWF%20UK%20%20Indufor%20China%20Timber%20Trade%20-%20Final%20Report_decl16.pdf). p41.

<sup>6</sup> “Log Exports Reach New Peak Despite Government Promises.” *PNGexposed Blog*. June 29, 2015. <https://pngexposed.wordpress.com/2015/06/29/log-exports-reach-new-peak-despite-government-promises/>.

<sup>7</sup> <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>

<sup>8</sup> Brack, Duncan, Adelaide Glover, and Laura Wellesley. *Agricultural Commodity Supply Chains: Trade, Consumption and Deforestation (Research Paper)*. London: Chatham House, 2016. <https://www.chathamhouse.org/sites/default/files/publications/research/2016-01-28-agricultural-commodities-brack-glover-wellesley.pdf>.

<sup>9</sup> *Agri-food Trade Statistical Factsheet: European Union – Papua New Guinea*. Brussels: European Commission, 2018. [https://ec.europa.eu/agriculture/sites/agriculture/files/trade-analysis/statistics/outside-eu/countries/agrifood-papua-new-guinea\\_en.pdf](https://ec.europa.eu/agriculture/sites/agriculture/files/trade-analysis/statistics/outside-eu/countries/agrifood-papua-new-guinea_en.pdf).

<sup>10</sup> Project Appraisal Document, PNG Productive Partnerships in Agriculture Project, World Bank, 31 March 2010. p1.

<sup>11</sup> This is inferred from a total population of over 7.5 million people of whom 85% live in rural communities and the land grab affecting more than 10% of the total land area.

<sup>12</sup> “Papua New Guinea: Constitution of the Independent State of Papua New Guinea.” WIPO – World Intellectual Property Organization. Accessed August 23, 2018. [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=199188#LinkTarget\\_1807](http://www.wipo.int/wipolex/en/text.jsp?file_id=199188#LinkTarget_1807); Mousseau, Frederic. *On Our Land: Modern land grabs Reversing independence in Papua New Guinea*. California: Oakland Institute, 2013. [https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI\\_Report\\_On\\_Our\\_Land.pdf](https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_On_Our_Land.pdf); “Our National Goals and Directive Principles.” Home | ACT NOW! (blog). n.d. <http://actnowpng.org/content/our-constitutional-goals-and-directive-principles>

<sup>13</sup> Mousseau, Frederic. *On Our Land*.

<sup>14</sup> Mousseau, Frederic. *On Our Land*; Forest Legality Initiative, <https://forestlegality.org/risk-tool/country/papua-new-guinea>

<sup>15</sup> Gabriel, Jennifer, Paul N. Nelson, Colin Filer, and Michael Wood. “Kastom, Property and Ideology, Land transformations in Melanesia, Chapter 7, Oil Palm Development and Large-Scale Land Acquisitions in Papua New Guinea.” ANU Press. Last modified 2017. <http://press-files.anu.edu.au/downloads/press/n2414/html/ch07.xhtml?referer=2414&page=13>

<sup>16</sup> “The Commission of Inquiry into Special Agriculture Business Leases (SABLs): A Summary of Findings.” ACT NOW! June 2016. <http://actnowpng.org/sites/default/files/publications/SABL%20COI%20Brochure%20June%202016.pdf>; “Special Agricultural Business Leases (SABL)” ACT NOW!, 2015. [http://actnowpng.org/sites/default/files/publications/SABL\\_Flyer\\_Community\\_Version\\_Draft\\_3\\_2Jul2015\\_Final.pdf](http://actnowpng.org/sites/default/files/publications/SABL_Flyer_Community_Version_Draft_3_2Jul2015_Final.pdf); *Breaking New Ground: Investigating and Prosecuting Land Grabbing as an International Crime*. Vancouver: Allard International Justice and Human Rights Clinic, Allard School of Law, 2018. [http://www.allard.ubc.ca/sites/www.allard.ubc.ca/files/uploads/IJHR/breaking\\_new\\_ground\\_-\\_allard\\_ijhr\\_land\\_grabbing\\_manual\\_-\\_public\\_version.pdf](http://www.allard.ubc.ca/sites/www.allard.ubc.ca/files/uploads/IJHR/breaking_new_ground_-_allard_ijhr_land_grabbing_manual_-_public_version.pdf).

<sup>17</sup> *Breaking New Ground: Investigating and Prosecuting Land Grabbing as an International Crime*.

<sup>18</sup> Filer, Colin. “Kastom, Property and Ideology, Land transformations in Melanesia, Chapter 8, The Political Ramifications of Papua New Guinea’s Commission of Inquiry.” ANU Press. Last modified 2017. <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>.

<sup>19</sup> Ibid

<sup>20</sup> For example, many journalists complain of both attempted bribery and intimidation aimed at influencing coverage by agents of members of parliament and other government figures. Self-censorship by journalists is common, especially when reporting on contentious political events. Papua New Guinea 2017 Human Rights Report. US Department of State, 2017. <https://www.state.gov/documents/organization/277353.pdf>.

<sup>21</sup> <https://www.state.gov/documents/organization/277353.pdf>.

<sup>22</sup> *Breaking New Ground*. p22

<sup>23</sup> <https://www.state.gov/documents/organization/277353.pdf>.

<sup>24</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>

<sup>25</sup> COI Inquiry into SABLs: Summary of Findings, leaflet. ACT NOW!

<sup>26</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>

<sup>27</sup> “Bewani ILG Chairmen ‘assaulted and Forced to Sign SABL Agreements.’” ACT NOW! (blog).



- <sup>28</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch07.xhtml?referer=2414&page=13#>
- <sup>29</sup> Ibid
- <sup>30</sup> Mirou. *COI SABL Report*.
- <sup>31</sup> The interagency Investigation Task Force Sweep was closed down in 2017
- <sup>32</sup> <https://www.state.gov/documents/organization/277353.pdf>.
- <sup>33</sup> Grant Walton and Husnia Hushang, "Promises, promises: a decade of allocations for and spending on anti-corruption in Papua New Guinea", [http://devpolicy.org/publications/discussion\\_papers/DP60\\_Anti-corruption-allocations-PNG.pdf](http://devpolicy.org/publications/discussion_papers/DP60_Anti-corruption-allocations-PNG.pdf)
- <sup>34</sup> Human Rights Watch. Papua New Guinea, Events of 2016, <https://www.hrw.org/world-report/2017/country-chapters/papua-new-guinea>
- <sup>35</sup> *Breaking New Ground*. Reference 78.
- <sup>36</sup> COI Inquiry into SABLs: Summary of Findings, leaflet. ACT NOW!
- <sup>37</sup> Ibid
- <sup>38</sup> Ibid
- <sup>39</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>
- <sup>40</sup> COI Inquiry into SABLs: Summary of Findings, leaflet. ACT NOW!
- <sup>41</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>
- <sup>42</sup> [http://actnowpng.org/sites/default/files/publications/SABL\\_Flyer\\_Community\\_Version\\_Draft\\_3\\_2Jul2015\\_Final.pdf](http://actnowpng.org/sites/default/files/publications/SABL_Flyer_Community_Version_Draft_3_2Jul2015_Final.pdf).
- <sup>43</sup> <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>
- <sup>44</sup> International Institute of Social Studies, Netherlands. *Land grabbing and human rights: the involvement of European corporate and financial entities in land grabbing outside the European Union*. European Parliament, 2016.
- <sup>45</sup> <https://www.state.gov/documents/organization/277353.pdf>.
- <sup>46</sup> <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>
- <sup>47</sup> "Provincial Govt Sends in Armed Police Against Customary Landholders." *ACT NOW!* (blog). October 28, 2016. <http://actnowpng.org/blog/blog-entry-provincial-govt-sends-armed-police-against-customary-landholders>.
- <sup>48</sup> "Police and army accused of serving SABL loggers." *ACT NOW!* (blog). September 7, 2017. <http://actnowpng.org/blog/blog-entry-police-and-army-accused-serving-sabl-loggers>.
- <sup>49</sup> <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>
- <sup>50</sup> <http://actnowpng.org/blog/blog-entry-police-and-army-accused-serving-sabl-loggers>
- <sup>51</sup> "SABL Logger Cheating Bewani Locals." *ACT NOW!* (blog). September 13, 2017. <http://actnowpng.org/blog/blog-entry-sabl-logger-cheating-bewani-locals>.
- <sup>52</sup> <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>
- <sup>53</sup> Ibid
- <sup>54</sup> Ibid
- <sup>55</sup> "Dirty SABL Palm Oil to Hit the International Market." *ACT NOW!* (blog). September 6, 2016. <http://actnowpng.org/blog/blog-entry-dirty-sabl-palm-oil-hit-international-market>.
- <sup>56</sup> *Taking on the Logging Pirates: Land defenders in Papua New Guinea speak out!* Oakland Institute, 2017. <https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/taking-on-logging-pirates-hi.pdf>.
- <sup>57</sup> "Pomio Villagers Reject MPs Defence of SABL Land Grab." *ACT NOW!* (blog). February 2, 2017. <http://actnowpng.org/blog/pomio-villagers-reject-mps-defence-illegal-sabl-land-grab>.
- <sup>58</sup> "Multi-agency report confirms police working for Rimbunan Hijau brutalize communities in SABL areas." *Act Now!* (blog). November 10, 2014. <http://actnowpng.org/blog/multi-agency-report-confirms-police-working-rimbunan-hijau-brutalize-communities-sabl-areas>
- <sup>59</sup> Ibid
- <sup>60</sup> "Police Intimidation and Violence Against Pomio Communities." *ACT NOW!* (blog). November 1, 2016. <http://actnowpng.org/blog/police-violence-intimidation-against-pomio-communities>; "August 2017: Police Minister Promises to Stop SABL Abuses, *ACT NOW!* (blog). August 22, 2017. <http://actnowpng.org/success/campaign-success-august-2017-police-minister-promises-stop-sabl-abuses>.
- <sup>61</sup> "ENB Police Defying Commissioners Orders and Facilitating Illegal Logging." *ACT NOW!* (blog). December 21, 2016. <http://actnowpng.org/blog/blog-entry-enb-police-defying-commissioners-orders-and-facilitating-illegal-logging>.
- <sup>62</sup> "Minister must ensure police ban in SABL areas enforced." *ACT NOW!* (blog). <http://actnowpng.org/media/media-release-minister-must-ensure-police-ban%E2%80%A8-sabl-areas-enforced>
- <sup>63</sup> "Supreme Court Condemns PNG LNG As One of Many 'large-scale Frauds.'" *Papua New Guinea Mine Watch* (blog). November 29, 2017. <https://ramumine.wordpress.com/2017/11/29/supreme-court-condemns-png-lng-as-one-of-many-large-scale-frauds/>.
- <sup>64</sup> "Pomio Communities Slam SABL Support by 'company Puppets.'" *ACT NOW!* (blog). March 30, 2017. <http://actnowpng.org/blog/blog-entry-pomio-communities-slam-sabl-support-company-puppets>.

- <sup>65</sup> "Bewani ILG Chairmen 'assaulted and Forced to Sign SABL Agreements.'" *Act Now!* (blog).
- <sup>66</sup> "SABL Land Grab Dividing Families." *ACT NOW!* (blog). October 4, 2017. <http://actnowpng.org/blog/blog-entry-sabl-dividing-families>.
- <sup>67</sup> "SABL Slavery! Pomio Land Grab Fails to Deliver on Promises." *ACT NOW!* (blog). August 30, 2016. <http://actnowpng.org/blog/blog-entry-sabl-slavery-pomio-land-grab-fails-deliver-promises>.
- <sup>68</sup> "<http://actnowpng.org/blog/pomio-villagers-reject-mps-defence-illegal-sabl-land-grab>."
- <sup>69</sup> "<http://actnowpng.org/blog/blog-entry-sabl-slavery-pomio-land-grab-fails-deliver-promises>." ; *ibid*
- <sup>70</sup> "Rimbunan Hijau Tells Communities Human Rights Impede Their Development." *ACT NOW!* (blog). September 20, 2016. <http://actnowpng.org/blog/blog-entry-rimbunan-hijau-tells-communities-human-rights-impede-their-development>.
- <sup>71</sup> *Ibid*
- <sup>72</sup> *Ibid*
- <sup>73</sup> *Breaking New Ground*. Reference 84.
- <sup>74</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch07.xhtml?referer=2414&page=13>
- <sup>75</sup> <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>. Annex A
- <sup>76</sup> Peter O'Neill, *Post Courier*, 20 September 2013
- <sup>77</sup> "The Full NEC Decision on the SABL Land Grab." *ACT NOW!* (blog). June 27, 2014. <http://actnowpng.org/content/full-nc-decision-sabl-land-grab>.
- <sup>78</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>
- <sup>79</sup> Peter O'Neill, *Post Courier* 7 Feb. 2014
- <sup>80</sup> <http://press-files.anu.edu.au/downloads/press/n2414/html/ch08.xhtml?referer=2414&page=14#>
- <sup>81</sup> *Ibid*
- <sup>82</sup> EMTV (TV). 18 December 2014.
- <sup>83</sup> EMTV (TV). 19 May 2014.
- <sup>84</sup> "Committee to Address SABL." *The National* (newspaper). August 31, 2017. <https://www.thenational.com.pg/committee-address-sabl/>; "Lands Minister Working on SABL Cases." *Loop PNG* (blog). January 21, 2018. <http://www.looppng.com/png-news/lands-minister-working-sabl-cases-72489>; "Cancelled SABLs Revealed." *Loop PNG* (blog). February 6, 2018. <http://www.looppng.com/png-news/cancelled-sabls-revealed-73107>.
- <sup>85</sup> COI Inquiry into SABLs: Summary of Findings, leaflet. *ACT NOW!*
- <sup>86</sup> "SABL Warrior Wins International Human Rights Award in New York." *ACT NOW!* (blog). September 30, 2016. <http://actnowpng.org/blog/blog-entry-sabl-warrior-wins-international-human-rights-award-new-york>.
- <sup>87</sup> <https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/taking-on-logging-pirates-hi.pdf>.
- <sup>88</sup> <http://pngcentral.org/reports/serious-doubts-over-collingwood-bay-logging-legality>
- <sup>89</sup> "SABL Land Grab Dividing Families." *ACT NOW!* (blog). <http://actnowpng.org/blog/blog-entry-sabl-dividing-families>
- <sup>90</sup> "Multi-agency Report Confirms Police Working for Rimbunan Hijau Brutalize Communities in SABL Areas." *PNGExposed* (Blog). November 6, 2014. <https://pngexposed.wordpress.com/2014/11/06/multi-agency-report-confirms-police-working-for-rimbunan-hijau-brutalize-communities-in-sabl-areas/>; and "SABL Warrior Wins International Human Rights Award in New York." *Act Now!* (blog); "PNG Landowners Win Back Access to Their Land | RNZ News." *Radio New Zealand* (blog). April 6, 2018. <https://www.radionz.co.nz/international/pacific-news/354294/png-landowners-win-back-access-to-their-land>; <https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/taking-on-logging-pirates-hi.pdf>
- <sup>91</sup> Letter from UNHRC to the Papua New Guinean Ambassador to the United Nations in New York, 18 February 2014. Ref: AL Business enterprises (2011) Food (2000-9) Indigenous (2001-8) Water (2008-1).
- <sup>92</sup> "Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc A/810 at 71 (1948)." Human Rights Library, University of Minnesota. Accessed August 23, 2018. <http://hrlibrary.umn.edu/instrree/bludhr.htm>; *Breaking New Ground*. p27.
- <sup>93</sup> "Universal Periodic Review Papua New Guinea." OHCHR. Accessed August 23, 2018. <https://www.ohchr.org/EN/HRBodies/UPR/Pages/PGIndex.aspx>.
- <sup>94</sup> *Breaking New Ground*.
- <sup>95</sup> *Ibid*
- <sup>96</sup> "Ratification status for Papua New Guinea." OHCHR. Accessed August 23, 2018. [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=134&Lang=EN](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=134&Lang=EN)
- <sup>97</sup> UN General Assembly, International Covenant on Civil and Political Rights, 1966, United Nations, Treaty Series, vol 999, online: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>; UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol 993, online: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>; *Breaking New Ground*. p27.
- <sup>98</sup> Letter from UNHRC to the PNG Ambassador to the UN in New York, 18 February 2014.



<sup>99</sup> "Large-scale land acquisitions and leases: A set of core principles and measures to address the human rights challenge" (11 June 2009) at 4, online: <http://www.oecd.org/site/swacmal2010/44031283.pdf>.

<sup>100</sup> General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, Advance Unedited Version, Committee on Economic, Social and Cultural Rights, E/C.12/GC/24, 23 June 2017. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6Q5mlBEDzFEovLCuW1a0Szab0oXTdlmnsjZZVQclMOuuG4TpS9jwLhCjCxiuZlYrkMD%2FSj8YF%2BSXo4mYx7Y%2F3L3zvM2zSUBw6ujlnCawQrjx3hlK8Odk6DUwG3Y> Quoted in *Breaking New Ground*.

<sup>101</sup> *Breaking New Ground*.

<sup>102</sup> "Universal Periodic Review Papua New Guinea." OHCHR. <https://www.ohchr.org/EN/HRBodies/UPR/Pages/PGindex.aspx>.

<sup>103</sup> *Breaking New Ground*.

<sup>104</sup> "UN Declaration on the Rights of Indigenous Peoples." United Nations. [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf).

<sup>105</sup> Ratifications of C169 – Indigenous and Tribal Peoples Convention, 1989. No.169, International Labour Organization, [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312314](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312314)

<sup>106</sup> United Nations Declaration on the Rights of Indigenous Peoples voting record, United Nations Bibliographic Information System <http://unbisnet.un.org:8080/ipac20/ipac.jsp?profile=voting&index=.VM&term=ares61295>

<sup>107</sup> *Breaking New Ground*.

<sup>108</sup> *Ibid*

<sup>109</sup> As part of the revised Cotonou Agreement between the African, Caribbean and Pacific Community and the EU

<sup>110</sup> "The States Parties to the Rome Statute." ICC-CPI. [https://asp.icc-cpi.int/en\\_menus/asp/states%20parties/pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#P](https://asp.icc-cpi.int/en_menus/asp/states%20parties/pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#P).

<sup>111</sup> *Breaking New Ground*.

<sup>112</sup> <https://viacampesina.org/en/un-human-rights-council-passes-a-resolution-adopting-the-peasant-rights-declaration-in-geneva/>

<sup>113</sup> "Fifth Session of the Open-ended Intergovernmental Working Group on the Rights of Peasants." UN Human Rights Council. <https://www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/5thSession.aspx>.

<sup>114</sup> "UN human rights chief urges Papua New Guinea to combat corruption and strengthen rule of law" at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22644&LangID=E>, OHCHR.

<sup>115</sup> "Ratification status for Papua New Guinea." OHCHR.

<sup>116</sup> "Rome Statute of the International Court." ICC-CPI. Accessed August 23, 2018. [https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf).

<sup>117</sup> "PNG Slowly Setting Up Human Rights Commission." *Loop PNG* (blog), June 13, 2017. <http://www.looppng.com/png-news/%E2%80%8Bpng-slowly-setting-human-rights-commission-60761>.

<sup>118</sup> "Universal Periodic Review Papua New Guinea." OHCHR.

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