

THE UNIVERSITY OF PAPUA NEW GUINEA

SCHOOL OF LAW

OVERSEAS LAWYERS EXAMINATION – 27/3/2019

<b>COURSE NUMBER:</b>	<b>5.10705</b>
<b>TITLE OF PAPER:</b>	<b>Customary Law</b>
<b>SEQUENCE OF PAPER:</b>	<b>One only</b>
<b>TIME ALLOWED:</b>	<b>Three (3) Hours plus 20 Minutes Reading Time</b>
<b>INSTRUCTIONS TO CANDIDATES:</b>	<b>Answer ALL Questions</b>
<b>MARKING SCHEME:</b>	<b>The number of marks which each question carries is shown immediately below the question</b>
<b>AIDS TO BE PROVIDED BY SCHOOL OF LAW:</b>	<b>Exam Answer Booklets</b>

**AIDS CANDIDATES ARE PERMITTED**

**TO TAKE INTO EXAMINATION ROOM: Copies of –**

- *Constitution*
- *Customs Recognition Act*
- *Underlying Law Act 2000*
- *Land Act 1996*
- *Mining Act 1992*
- *Oil and Gas Act 1998*
- *Textbooks*
- *Case Authorities*

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5.10705 – CUSTOMARY LAW

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**QUESTION 1:**

Discuss the status of custom or customary law within the legal system of Papua New Guinea, making references to the *Constitution*, the *Customs Recognition Act* and the *Underlying Law Act 2000* and cases.

**(20 Marks)**

**QUESTION 2:**

Section 21 of the *Constitution* declares that the joint-purpose of Schedule 2 and Section 21(1) of the *Constitution* is to assist in the development of an indigenous jurisprudence for Papua New Guinea. To this end Schedule 2 imposes certain special responsibilities on a Law Reform Commission to be established for that purpose and on the National Judicial System, especially on the Supreme Court and the National Court.

Discuss how the Supreme Court and the National Court should perform their special responsibility of developing an indigenous jurisprudence for Papua New Guinea.

**(30 Marks)**

**QUESTION 3:**

The State may not compulsorily take possession of any property or compulsorily acquire any interest in or right over any property, except as permitted by Section 53 of the *Constitution* and in accordance with an



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Organic Law or an Act of the Parliament and on payment of “just compensation on just terms”.

**Part A**

Discuss the concept of “just compensation on just terms”, referring to the *Constitution*, other relevant laws, and case authorities.

**(25 Marks)**

**Part B**

Describe the scheme or process for determination and payment of compensation under either (a) the *Land Act 1996* or (b) the *Oil and Gas Act 1998*.

**(25 Marks)**

**SAM KAIPU  
COURSE EXAMINER**