

LAND OWNERSHIP PATTERNS IN THE MARSHALL ISLANDS

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The Marshall Islands begin approximately 2,000 miles southwest of Hawaii. They consist of 29 atolls and 5 separate islands, inhabited by 15,000 Marshallese people, and constitute an administrative district of the United States Trust Territory of the Pacific Islands. Administration of the Marshalls is in accordance with a trusteeship agreement between the United States and the United Nations. These low coral formations, no point over 25 feet above high water, contain only 70 square miles of dry land. There is 700 miles of ocean between Narikrik Atoll in the southeast corner of the district and Ujelang Atoll in the northwest corner. The Marshalls are in the northeast trades of the Central Pacific between 4 and 15 degrees North Latitude and between 162 and 172 degrees East Longitude. Temperatures average 80 degrees F. Rainfall varies from 160 inches in the southern regions to less than 50 inches in the northern sections.

It is quite probable that Marshallese land tenure is very much today as it was 1,000 years ago. Their land tenure is based on a matrilineal society. All children inherit lands from their mothers. There cannot be any illegitimate children. There are no landless people and their land tenure pattern is the most important single factor of their lives. All children become members of their mother's clan. However, the clan is not a factor in the land ownership pattern. A paramount chief in the Marshalls is not a clan chief. His powers are associated with specific land parcels and the people that live on them.

A land parcel is controlled by a paramount chief, a family head and an undetermined number of commoners, or workers as they are sometimes

called. Each land parcel has a name and a history. The relative interests of various owners are seldom determined exactly. Formerly, powers of a paramount chief were absolute. The chiefly powers started to decline with the establishment of the German protectorate. Corresponding with the decline of chiefly powers, the commoners have gained in power and status.

Arguments over land provide the Marshallese with a form of entertainment and excitement in an area where a great premium is placed on anything that will break the dull monotony of isolated life. Land is so scarce it has acquired more than use values. The ocean and lagoons provide most of the food for the 15,000 Marshallese. Land is the foundation of prestige and social position. It is never bought or sold. It may become the subject of a gift, even to total outsiders, but its value is completely beyond the command of money. It is something to fight and die for.

Under the present Trusteeship civil war is prohibited and acquisition of land by foreigners is impossible. Land is something to acquire by intrigue, marriage, magic and sharp legal action in addition to acquisition by normal inheritance. There is no serious dispute in the district without foundation in a land dispute.

Marshallese land parcels are usually of three to four acres each. The tendency is to leave the parcels intact. Any number of commoners may hold rights in a given parcel but only one each of the higher levels may exist at any one time in the same parcel. The commoners work under general direction of the family head, who in turn answers to the chief.

There is only one cash crop - copra. Division of cash proceeds varies

from place to place from time to time. Duties and responsibilities on a particular land parcel will show the general picture. Copra was selling at $4\frac{1}{2}\phi$ per pound. The paramount chief received $\frac{1}{2}\phi$ per pound, the family head got $\frac{1}{2}\phi$ and the worker kept the remainder, or $3\frac{1}{2}\phi$. Generally, the chief's and family head's shares do not vary. As copra prices rise or fall, the worker gets more or less. The commoner must tend the land. He must keep underbrush down and maintain the land in condition to produce food and copra. The commoner must furnish his own knives and other simple tools. He must make and market the copra and remit shares to chief and family head. Any of the three levels may live on the land and take food from it but none has to maintain a residence on it. The commoner plants new trees and other food plants. Any major change in planting arrangement must be agreed to by family head and commoner. The commoner gives first fruits to the family head who in turn delivers these to the chief. The question of who is the chief for this parcel is in violent dispute. The family head personally recognizes a different chief than the one recognized by the workers and the High Court of the Trust Territory. This case was in dispute in the civil war that was raging in Majuro Atoll at the time the Germans stopped all local armed conflicts. It has been in dispute for over a hundred years and the wrangle may continue for another hundred. The commoner may use as many coconuts and other food products from the land as he needs for home use without any accounting. In case the worker doesn't do his work, the family head will step in and see that it is done and take the commoner's copra share. During the Japanese administration the division of copra proceeds was fixed by the Government. Now it is left to the people concerned.

Absolute chaos reigns today with respect to actual land ownership and relative interests of owners. They can determine three or four principal persons who hold rights on a given parcel with some certainty. But the number of people with some shade of interest in many parcels is indeterminable. Contact with 20th century civilization has brought many, many problems. For example, the Rongelap people were moved from their home atoll in March, 1954 after sustaining serious burns from nuclear fallout originating at a hydrogen bomb test at nearby Bikini. There were 82 people on Rongelap at the time of the fallout. All were moved to Majuro Atoll where they remained for three years while their home atoll lost its deadly nuclear energy. New homes, at no cost to them, and free food helped approximately 200 additional people discover they were of the Rongelap land-holding lines and therefore eligible to share in the handouts of the United States Atomic Energy Commission.

In an area of dedicated travellers like the Marshallese, together with relatively loose sex customs, it is quite probable that reasonably strong proof could be brought to show any given Marshallese as having some degree of kinship to a substantial percentage of the entire population. When it is necessary to determine legal ownership of land, the Trust Territory Code requires the case to go before the High Court of the Territory. There is a special rule of the High Court pertaining to land cases in the Marshalls, together with four key decisions handed down by the Court during the past 10 years. The special rule requires the plaintiff to name the person he recognizes as his paramount chief on the land in question; what action the paramount chief has taken on the matter and what action the plaintiff

has taken to obtain a determination of his rights through traditional Marshallese channels. The substitution of open court for the arbitrary decisions of past German and Japanese administrations and the civil wars of pre-contact days, has brought considerable confusion. Why go to court if you don't get what you want? Any loser of a court case is apt to feel that he should be able to continue to present the matter to the court from time to time until he does get the case decided the right way. Obviously, his way.

The first key case established the principle that land matters officially and clearly decided by the German and Japanese administrations would be given full legal standing. Various levels of ownership were recognized. The Court ruled as follows:

"The present Marshallese system of land ownership is basically feudalistic. So far as we can determine, there is no helpful general analogy between the Marshallese system of land ownership and anything common in English-American history since the days of feudalism. All the different levels of owners have rights which the Courts will recognize, but they also have obligations to each other which severely limit their control over the land. There is duty of loyalty all the way up the line from commoner to head of family to little chief to paramount chief. A corresponding duty of protection of the welfare of subordinates running (sic) down the line and a strong obligation of cooperation running both ways. Thus, the rights involved are a combination of strictly private or property rights and rights or powers somewhat like those going with a public office."

The second key case contained the elements necessary for the Courts to establish limitations on the powers of paramount chiefs. Limine,

the plaintiff, was properly recognized and established as the family head of a lineage by his paramount chief. He committed some personal acts the chief did not like. However, his actions as family head were satisfactory to all concerned. No complaint was entered with respect to these actions. Nevertheless the defendant was named as family head by the paramount chief in place of Limine. The High Court ruled that there was no good reason for the change and re-established Limine as family head. The court found the paramount chief had acted in complete disregard to the rights which the chief himself had established. This the Court ruled "...is considered both unreasonable and contrary to the Marshallese customary law."

The third case involved the legal limitations of a will. The Court ruled as follows: "Under Marshallese customary law the approval of the paramount chief, or those entitled to exercise the paramount chief's powers, is necessary to make a will of rights effective and is one of the most important things about it." The paramount chief has power to determine whether, under all the circumstances, the necessary people have been consulted about a will or have consented to it. The Court ruled that the paramount chief may approve a will in part and disapprove another part. His decision, if properly made, will be binding no matter how clear it is the person making the will desired something entirely different.

The fourth case established the right of paramount chiefs to take away rights on lands under them when there is good cause. A family head, with the approval of his paramount chief, withdrew from his position as family head with respect to a certain land parcel. He named a daughter of his brother to succeed him as family head prior to

his death and to remain in the position after his demise. A certain lineage was given the commoner rights on the land parcel with the stipulation that the commoners would take care of the family head. This arrangement worked well for over 10 years. Eventually, neither side would cooperate or work together. The paramount chief took away all of the rights of both feuding sides in the given land parcel and gave them to other people. The Court ruled that this was entirely proper and legal. The various people holding the land rights reached the point where they were bickering and were not working the land properly. Therefore, the Court concluded, the paramount chief was well within his rights to bring about a change for the improvement of conditions by taking away land rights from one and giving them to another.

Now, what lies ahead? With modern medical care the population is increasing so fast it is estimated there will be 30,000 Marshallese, or double the present number, by 1970. Close contacts with thousands of Americans since World War II in the nuclear testing areas of Eniwetok and Bikini and with personnel at Kwajalein Island activities have whetted Marshallese appetites for much more than fish and coconuts. How can advanced 20th century operations be conducted on land that is under a stone age tenure system and where the smallest dispute gets into the raging storms of inter-national politics at the United Nations? Time alone will tell.