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MARINE RESOURCES IN YAP STATE, FSM : THE CURRENT STATUS OF CUSTOMARY AND TRADITIONAL REGULATION

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Abstract

Yap State, one of the four constituent states of the Federated States of Micronesia, consists of a relatively large island and a few smaller atolls to 600 miles north east of the main island. This paper focuses on legislation applied to marine resources and coastal fisheries and the scope of resources management in several islands and islets of Yap State. The traditional conservation systems are also discussed in relation to the protection of inhabitants' fishing right.

Key words: coastal fisheries, fishing right, marine resources, traditional systems, Yap

Yap State, one of the four constituent states of the Micronesian Federation, consists of a relatively large island and a few smaller atolls up to 600 miles north east of the main island. This paper focuses on legislation applied to fisheries resources and coastal conservation and the scope of management in several islands and islets of Yap State.

Yap has a very complex marine and fisheries management structure. The Government of Yap is made up of four branches; the executive, legislative, judicial and customary, in contrast to her other three sister states, Pohnpei, Chuuk and Kosrae, which have only the first three branches. Yap's fourth branch is paramount: it has a very strong say over custom, behavior and development. It is headed by a Council of Chiefs, consisting of chiefs from Yap main islands and neighboring islands. The chiefs are considered the upholders of Yapese custom and, according to the Constitution of Yap State (Article III, Section 2), "Due recognition shall be given to tradition and customs in providing a system of law, and nothing in this Constitution shall be constructed to limit or invalidate any recognized tradition or custom". A principal function of the council of chiefs is to consider developments in Yap which affect the lives and well-being of the people, to advise the Government on matters affecting customs, and to resolve problems and disputes in customary ways whenever possible.

Thus in Yap State, a traditional political structure has been partially integrated into a modern representative government. The traditional rights of the people are protected by the Yap State Constitution, but the Council of Chiefs has the power to veto legislation promulgated by the elected legislature when matters of custom or tradition are concerned (Article III, Yap Constitution). In relation to marine resources, the Constitution states: "The State recognizes traditional rights and ownership of natural resources and areas within the marine space of the State, within and beyond 12 miles from the island baselines. No action may be taken to impair these traditional rights and ownership, except the State Government may provide for the conservation and protection of natural resources within the marine space of the State within 12 miles from the island baselines" (Article XIII, Section 5).

The preamble to Yap's Constitution recognizes traditional heritage and village life as the foundation of Yapese society and commits the Government to an integration of modern

technology with traditional ways so as to benefit both the present and future generations. Yap State's waters are divided into internal waters and the State Fisheries Zone. The internal waters extend from the shore to the island baselines, and the State Fishery Zone extends 12 miles seaward from the island baselines. The island baselines are defined for an island or atoll with a fringing or barrier reef as a "line following the contour of the seaward edge of the reef system" (Yap State Code, Title 18 and 27), that is, the edge of the outer reef. Any resource management involving the utilization of inshore marine resources must be accepted and approved by the Council of Chiefs. However, the ambiguous wording of this section makes it unclear whether the government can intervene on matters concerning resource conservation and protection in internal waters.

Despite differences in culture and language, Yap and its neighboring islands have traditionally been linked by a system of political, economic and religious ties. The tribute system, which ceased some time around the turn of the century, obliged the neighboring islanders, at specified intervals, to send tribute to the chief of one district village on Yap, as well as religious gifts to specific religious functionaries. Gifts from specific families to their Yapese overlords were also required. Following is a brief outline of traditional neighboring island social organization as it relates to marine usage and tenure. These systems are still in effect, but are increasingly weakened by the effects of current political, economic, religious and educational systems. With the introduction of Christianity, especially after World War II, a number of cultural restrictions on marine resource usage were lifted. This, coupled with an increasing involvement of people in the cash economy, has weakened some aspects of the traditional systems. The system of control and tenure of marine areas and resources fall into three broad and overlapping categories. In all islands, however, marine areas are not "owned" by the chief(s), but are only managed by them, in consultation with other clan elders, for the benefit of the whole clan.

On Ulthi Atoll, for example, all the reef and lagoon areas belong to the highest ranking clan. This clan's chief also presides as the paramount chief of the atoll. The marine areas of the atoll are, however, divided into a number of sections which are controlled by the chiefs of each clan. Members of any clan have the right to fish in any sections within the atoll that belong to their own clan.

A slightly different tenure and rights system has been adopted on Woleai Atoll. Here, the reef and lagoon are divided up and controlled by the ranking clan in each island or village. There is no paramount chief who has jurisdiction over the entire atoll. The head of each ranking clan, in consultation with other elders, controls its own areas, determining when and if they should be closed, as well as deciding upon communal fishing. Individuals are able to fish within their own clan's areas at any time.

The third form of tenure and use rights is exemplified Satawal Atoll. Here, the chiefs of the three ranking clans divide up the responsibilities for island affairs. One chief takes the role of "chief of the sea". He has the right to control the usage of marine resources and fishing methods. The use of the fringing reef area is open to anyone who wants to fish there, but use of all other fishing areas (mounts, uninhabited atolls) require permission of the "chief of the sea". The right to use the food resources of fishing areas other than the fishing reef belongs to the chief of the sea.

Social organization, especially as it relates to marine and other resource usage and tenure, is much more complicated than outlined above. Customary control of marine usage area is, for the most part, still strong in the neighboring islands. This can be attributed in part to their

remoteness, small size and greater reliance on subsistence fishing. However, of considerable significance is the fact that the management and control of resource use in the neighboring islands have been continuously under traditional control; colonial powers, and, more recently, the constitutional government, have had minimal influence. Traditional systems of marine tenure, fishing rights, catch distribution, dispute resolution and awarding of punishments are still observed. However, there has been a general relaxation in the control of some of the fishing resources and fishing rights.

There is a lack of small-scale commercial fishing in the neighboring islands of the type that occurs on Yap proper. This is partly due to the lack of opportunities, but, significantly, it is also a result of a fear that commercial fishing will not leave enough reef fish for subsistence purposes. Some positive management actions taken on many of the neighboring islands have highlighted the responsibility of traditional authorities for marine management. In Ifik atoll the chiefs have banned the use of boats and outboard motors; only paddling and sailing canoes are permitted. This is, in part, to control the level of marine resources exploitation and to help maintain traditional skills.

Many of the neighboring islands have banned the use of monofilament gill nets. When this type of net was first introduced to the islands, it was quickly recognized that it was likely to result in overfishing. It also would change the way net fishing was conducted: from communal fishing to fishing by a few individuals. As a result, this type of net was banned. Spearfishing with flashlights was also recognized by the chiefs and elders as a method that would allow the reef fish resources to be over-harvested. Many of the neighboring islands have thus banned flashlight spearfishing.

In Woleai Atoll, one area outside the atoll that regularly has schools of tuna can only be fished by pole and line from sailing canoes; no trolling boats are permitted there. A number of the islands customarily close sections of the reef after senior people die. These closures may last from a month to more than 12 months. While not specially aimed at fish restoration, these closures do allow fish stocks on the reef to recover. On one islet of Woleai Atoll, the harvesting of coconut crab is prohibited, except for when the wind blows from the west. During the westerly wind season it is not possible to fish either inside or outside the lagoon, and coconut crabs are then used as 'reserve' food. This control has allowed the coconut crab population increase considerably on that island. On Satawal, a raised coral island with only a fringing reef and a very high population, a section of the reef is traditionally closed for long periods as a reserve for reef resources.

These are only few examples of traditional control and customary law, which show that chiefs and elders, through the traditional system, are actively managing the atoll resources of their islands.

One advantage that the traditional system has over the legislative system is the ability to be flexible and to adjust quickly to changing circumstances. The legislative system is usually too rigid and slow to respond to changing circumstances.

The Yapese clearly recognize that culture and natural resources, such as land, reef and coastal sea upon which they depend, are fully intertwined, and that a healthy environment is the foundation of a healthy culture.

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