



UNITED NATIONS
TRUSTEESHIP
COUNCIL



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PETITION FROM MR. CAMILLO WOKET, CHIEF, VILLAGE OF IRAS, MOEN, TRUK,
CONCERNING THE TRUST TERRITORY OF THE PACIFIC ISLANDS

(Circulated in accordance with rule 85, paragraph 1, of
the rules of procedure of the Trusteeship Council)

P.O. Box 121
Moen, Truk
Eastern Caroline Islands 96942
13 January 1977

President
Trusteeship Council
United Nations
New York, N.Y. 10017

Re: Trusteeship obligations of the United States of America
under the Trusteeship Agreement between the
United States and the Security Council of the United Nations,
dated 18 July 1947. 1/

Dear Sir:

I wish to call to your attention, as President of the Trusteeship Council, a recent development in the Trust Territory of the Pacific Islands, and request that my letter be circulated among the members of the Trusteeship Council.

As you are aware, the Trusteeship Agreement requires that the trustee "protect the inhabitants against the loss of their lands and resources" (Article 6, sect. 2). Furthermore, the trustee, although it is granted full powers of administration, legislation and jurisdiction over the Trust Territory, must exercise its powers subject to the provisions of the Agreement (Article 3).

1/ Trusteeship Agreement for the Trust Territory of the Pacific Islands
(United Nations publication, Sales No. 1957.VI.A.1).

I believe it will interest you to receive a copy of a recent decision of the Appellate Division of the High Court of the Trust Territory. This decision is Trust Territory of the Pacific Islands v. Namiko Lopez, and I have attached a copy. 2/ This decision is important because it reaffirms an older Trust Territory case, Alig v. the Trust Territory of the Pacific Islands, and states again that the Trusteeship Agreement "does not create a trust capable of enforcement through the courts" (Lopez, p. 6). In other words, Micronesians cannot enforce any rights under the Trusteeship Agreement in the courts of the Trust Territory.

I have attached a copy of another case, People of Saipan v. United States Department of Interior, 3/ in which it was held that Micronesians could enforce rights under the Trusteeship Agreement in Trust Territory courts as well as United States federal courts, provided that the case has first been heard in the courts of the Trust Territory. The High Court of the Trust Territory does not recognize that any federal court has jurisdiction in the Trust Territory, and refused to accept the ruling in People of Saipan.

It should be clear that such a system of justice is inherently unfair. The High Court in the Trust Territory has built a barrier around Micronesia, and tries to protect itself and the trustee from scrutiny by United States federal courts. Nowhere is this more obvious than in land dispute cases between Micronesians and the trustee. I have sent you a petition addressed to President-elect Jimmy Carter by the people of my village (see enclosure). It describes how the trustee has taken our land from us, in violation of the Trusteeship Agreement.

I would welcome an investigation into the judicial system in the Trust Territory, as well as into the facts of the taking of our land by the trustee. Also, it would be very helpful if the United States Government would express its view, in the United Nations, on the question of whether or not the Trusteeship Agreement creates rights which can be enforced in the courts of the Trust Territory, and further, that the trustee has trust duties under the Agreement which are also enforceable in court.

I thank you on behalf of the people of Iras for your consideration of my requests, and hope that you take appropriate measures to bring this matter to the attention of the Trusteeship Council.

Sincerely yours,

(Signed) Camillo NOKET
Chief, Village of Iras

2/ The enclosure has been placed in the files of the Secretariat and is available to members of the Council for consultation.

3/ Idem.

Enclosure

P.O. Box 121
Moen, Truk
Eastern Caroline Islands, 96942
20 December 1976

President-elect Jimmy Carter
c/o Carter Transition Office
330 Independence Avenue S.W.
Washington, D.C.

Dear Mr. President:

I have sent you a petition signed by the people of my village, Iras, Moen, Truk, Trust Territory of the Pacific Islands. The petition describes how the Government of the United States of America took our lands from us in 1956. I am hopeful that, once you are informed of the circumstances surrounding the taking, you will help the people of my village regain their land, or obtain other land.

Sincerely yours,

(Signed) Camillo NOKET
Chief of Iras

cc: Mr. Cyrus Vance, Secretary-designate
of the Department of State

Mr. Cecil Andrus, Secretary-designate
of the Department of the Interior

Petition

We, the undersigned citizens of the Trust Territory of the Pacific Islands, and residents of Iras Village, Moen, Truk District, hereby petition Mr. Jimmy Carter, President-elect of the United States, for aid and assistance in the matter of the unconstitutional taking of our lands by the Trust Territory Government. By submitting the following petition, we hope to bring to President-elect Carter's attention the unjust and illegal action on the part of the Trust Territory Government which denies us the use or benefit of our land. We hope, further, that he will, in the spirit of his long campaign to restore faith in the United States Government, direct the incoming Secretary of the Interior, who holds executive authority over the Trust Territory Government, to return our land to us or to provide us with comparable land in exchange, or to pay us fair compensation for the occupation of our land.

Our land was first taken by the Japanese during the Second World War. After the war, the United States military, and later, the Trust Territory Government, occupied our land. In 1955, the Trust Territory Government held a series of hearings, and decided that the land belonged to us and not to the Government. But we did not get our land back. Instead, officials of the Trust Territory Government came to our village, with stacks of United States money, and told our people to sign a document, written in English, in order to receive payments. The document, a copy of which is attached to the petition, is called a "Land Settlement Agreement". 4/ It states that, for the payment of a certain sum, the owner of the land gives the Government a "perpetual right" to use the land, and even to destroy it. It also states that the land will be used by the Government "for an indefinite period".

There was no Trukese translation provided to the villagers at the time they signed the document, nor was a clear explanation of the meaning of the document given to them. In fact, it would have been impossible to explain the document clearly, because there is no word in the Trukese language which conveys the meaning of "indefinite", and there is no concept equivalent to "perpetual use". The closest approximation in Trukese to "indefinite" implies a fairly definite time span. Furthermore, the persons used by the Government to assist in obtaining signatures on the documents included a rather young boy, and other persons with only a rudimentary knowledge of the English language. Certainly they could not have explained the legal meaning of a document written in English. The Government itself has described and misrepresented the document in various ways. At one time officials have referred to it as a lease; and at other times, as giving the Government "permanent use rights"; and now, it claims ownership of the land. In any event, at the time the documents were signed, few Trukese could speak, write, read, or understand English very well. We signed the documents because we thought the Government required us to do so in order to be paid for the Government's use of our land. We did not understand that we were to be deprived permanently of possession of our lands.

4/ Idem.

The documents referred to above were all signed in 1956 and 1957. Most persons who signed them were given cash, in payment, they were told, for the use and occupation of their land since 1945, and they were promised yearly payments in the future for six years. Practically everyone thought or was told that he would be allowed to repossess his land after the payments stopped, or that the Government would at least renegotiate the terms.

Considering the circumstances surrounding the signing of the documents, it appears to us that they are, by any legal standards, of no force or effect, and that they are void. The Congress of Micronesia and the Truk District Legislature have both passed resolutions asking the Government to renegotiate the land settlement agreements or to return the land to us, and numerous letters and a petition have been addressed to officials of the United States and the Trust Territory. All previous efforts have failed. We have also sought a legal solution to our problem, and we are continuing to seek relief in the Trust Territory court. But court action has taken a very long time, and we are not hopeful that the Trust Territory court will help us. All of the judges serve at the pleasure of the United States Secretary of the Interior. There are only four. Usually they are selected from among attorneys-general, and they are biased in favour of the Government. For instance, the judges in Micronesia have never permitted Micronesians to claim any rights under the Trusteeship Agreement, despite a federal court ruling that the Trusteeship Agreement is a constitutional document, and that it establishes rights which are enforceable in court. We put no faith in the Trust Territory court, as it is presently constituted. Our attorneys tell us that the court may dismiss our action, on the grounds that we should have filed it within six years after the land settlement agreements were signed in 1956. There were no private attorneys in Truk at that time, nor are there any now. Nor were there public defenders or legal services attorneys until the 1970s.

We realize that President-elect Carter is occupied with difficult problems of great importance. But we are encouraged to hope that he is interested in us, and that he is also concerned that the United States fulfil its treaty obligations to the people of Micronesia. We cannot believe that a great Power, and particularly the United States, as trustee for the people of Micronesia, must take the land of the people of Iras. The land has been ours for hundreds of years. It is our life. We respectfully ask that President Carter give it back to us, or provide us other land in exchange.

Respectfully submitted,

/signed by 94 persons/
