

Palau: The Baseball Bat War

by Rebecca Stanfel

No one disputes the basic facts. On January 7, Matthew Johnson, an American attorney who represents the Palau Public Lands Authority, tried to attend a meeting of the Koror State Public Lands Authority. KSPLA's board of directors is chaired by Yutaka Gibbons, who holds his position through his title of Ibedul—one of the two paramount chiefs in Palau. Before the KSPLA meeting began, Ibedul confronted Johnson about his reasons for attending the meeting and demanded three times that he leave the building. Johnson refused to depart each time. Ibedul then left and returned a few minutes later carrying an aluminum baseball bat, which he brandished at Johnson as he again insisted that the attorney leave. Johnson stayed where he was. Ibedul swung; Johnson blocked the blow with his arm. The bone shattered.

As Johnson struggled to get to his feet and leave the building, Ibedul struck him several more times, leaving deep bruises on his back and arms. "I have no doubt in my mind that he was trying to kill me," Johnson said, after returning to Palau from surgery in Manila to repair his mangled arm.

The significance of these events is what is contested. Ibedul's assault on Johnson resonates with tensions created by a multitude of deeper, unresolved, and often more nebulous issues—including the role foreigners should play in Palauan government and society, the deterioration of Palauan culture and the disposal of valuable public lands—all of which cut at the heart of the young republic. Most significantly, though, the violent incident underlies a dichotomy that runs like a fault line beneath the country: the relationship between constitutional government and traditional authority.

Like other Pacific Island nations, Palau had a functioning system of government in place long before any colonial power set foot on its shores. Each Palauan village was governed by a council of

hereditary chiefs, over which a high chief loosely presided. The villages formed ever-shifting alliances among themselves in an ongoing struggle for primacy. For a variety of reasons—including the fact that they were the first to obtain guns from westerners—the high chief of Koror, the Ibedul, and the high chief of Melekeok, the Reklai, gained a preeminence over



Photo: Jay Weiner

other village chiefs that persists to this day. Each village chief still commands a great deal of respect and authority, but the Ibedul and Reklai tower over the others. As Joel Toribiong, a delegate in Palau's legislature, the Olbiil Era Kelulau or OEK, explained, "Ibedul is more than a figurehead. He is the embodiment of what it means to be Palauan."

Americans came to this non-egalitarian, hierarchical society at the end of World War II, bringing with them the ideal of a more democratic form of government. Over the nearly 50 years of Trust Territory administration, Palauans came to embrace the American model, while simultaneously retaining their traditional culture and the power of the chiefs. Indeed, Palau modeled its 1994 Constitution heavily on that of the United States, but also included an article devoted solely to traditional powers, which declares, in part, that "statutes and traditional law shall be equally authoritative." The article further provides that while traditional power could not usurp constitutional governance, statutory law would only

be valid "to the extent that it is not in conflict with the underlying principles of traditional law."

Needless to say, this leaves the balance of power between Palau's elected and traditional leaders somewhat unsettled. For the most part, as former President Kuniwo Nakamura—one of the framers of Palau's Constitution—notes, "these two different worlds have peacefully co-existed."

But that does not resolve the question of what happens when they collide.

Whether Ibedul's assault on Johnson was justified under traditional law is a much-discussed issue. A local newspaper, *Tia Belau*, published a short commentary on the matter, in which the author posited that "any person, especially a stranger, is required to give notice and obtain permission before attending a meeting of chiefs or people in authority such as a *bai* [men's meeting house] or important sites in a village." The commentary noted that severe physical punishment was authorized for the failure to do so. Many are now asking the significant question that follows from this line of reasoning: whether Palau's courts—the enforcers of constitutional authority—can properly punish Ibedul for an act that may be sanctioned by tradition and custom.

For some, the notion that Ibedul is immune from prosecution—or even that his actions were justifiable under the color of traditional law—is an absurd and dangerous proposition. "The question of traditional law is the proverbial straw man," Johnson said. "It is an attempt to divert attention from the real issue, which is whether this is going to be a country of thugs or one of democratic principles and the rule of law." Johnson maintains that he went to the KSPLA meeting, which was held in the state government office building, "to just do my job, which is to regulate, administer, promulgate, enforce and monitor the actions and compliance of the state public land authorities." Palau's attorney general's answer to the

question was clear as well. On January 14, Ibedul was arraigned before Chief Justice Arthur Ngiraklsong on charges of aggravated assault.

Many Palauans share Johnson's assessment, although few were willing to be directly critical of Ibedul on the record. "There is a traditional mechanism for dealing with situations like this," a former high-ranking elected official said. "And going out and hitting someone is not one of them." Senator Joshua Koshiha was less circumspect. In a letter he sent to Palau's President Tommy E. Remengesau, Jr. and other high-ranking officials, Koshiha described Ibedul's actions as "a threat to the continued vitality of our Constitution," and called for his prosecution to the fullest extent of the law.

"Our Constitution provides that our laws apply equally to everyone in Palau," Koshiha added. "No exceptions are made for Presidents or members of the OEK or traditional chiefs." Jon Van Dyke, a law professor at the University of Hawaii and an attorney involved in the Chin case, another contentious matter in Palau, shares this view. "Imposing ordinary legal precepts against Ibedul is unusual, and high chiefs traditionally have used force to enforce their edicts. But this incident was in the context of a governmental body organized as part of the modern government in Palau, and it is normal for such meetings to be open to the public. Assaultive behavior of this sort cannot be accepted in this context."

However, many Palauans are equally outraged at the disrespect Johnson showed Ibedul—and the web of culture and custom that underlies Palauan life—and believe that the American attorney is at least partially to blame for not obeying the chief's commands. "A Palauan would never behave that way, even if he believed he had a legitimate right to be there," said Moses Uludong, a trial counselor and chief of Melekeok.

Former President Nakamura agreed with this assessment and added, "you have to respect the Ibedul's wishes even in a government building. There is not a boundary for Ibedul."

Nakamura's view is one that is particularly difficult for American expatriates to grasp. For the most part, the community of 20-odd American attorneys in Palau reacted to Johnson's assault with anger and fear. Several, who refused to discuss the matter on the record, bought baseball bats of their own as a statement of their solidarity with Johnson. A boycott of the Rock Island Café, a restaurant popular with the expatriates, but owned by Ibedul, was organized and is being observed by a number of Americans. Johnson also contacted the U.S. Chargé d'Affairs to express his concern over the incident.

It is altogether too easy for American attorneys to forget that Palau is a foreign country. Palau uses American currency and is on the U.S. postal system. Expatriate lawyers tend to congregate in apartment buildings where only other foreigners live; they watch cable television programming flown in from San Francisco, and make no attempt to learn the native language. This protective bubble allows American contract employees to pass through Palau as though it is an exotic travel destination designed for pleasure rather than a sovereign nation with thousands of years of history, culture, government and elaborate social codes.

When Americans do think about traditional leaders, it is all too often in an abstract sense. Chiefs are not seen as part of a living, breathing culture that binds people to one another and their land. Rather they are viewed as cultural artifacts whose power is best limited to arcane rituals uttered in strange tongues. Johnson himself expressed this world view when he said, "I would have obeyed Ibedul if he told me to go stand in the corner of a *bai*, but he wasn't engaged in traditional or customary practices."

The process of line drawing is a messy one, and there are countless instances where what is constitutional and what is traditional have become muddled. Some people want the legislature or the courts to delineate more clearly the different spheres of authority constitutional and traditional powers should occupy. Indeed, some speculate that the roots of the Ibedul-Johnson clash stem from the conflation of these roles in Ibedul's position at KSPLA, a government title he holds because of his hereditary rank. In this governmental capacity, Ibedul exerts tremendous authority to dispose of public lands. Controlling lands for the good of the people was once a chiefly prerogative, but some now accuse Ibedul of using his position predominately as a fief for personal enrichment.

Rather than separating the two systems of authority, though, many Palauans want a more moderate solution that preserves what they perceive to be the best of both systems. "The fact that the government filed the case against Ibedul has satisfied many of us that he is responsible to the law like everyone else," said Joel Toribiong. Almost universally, Palauans want Ibedul to pay some type of monetary compensation to Johnson without a full-fledged criminal trial. At the same time, they want Johnson to recognize that he disrespected a figure important to many Palauans. Ideally, they would like Johnson to work through traditional channels to make some gesture of reconciliation while Ibedul answers to the court. "If Johnson doesn't change his attitude, it is better for him to leave," said Uludong. "He needs to recognize that he played a part in the situation."

Like many others, Toribiong wants to resolve this matter and look to the future. He plans to introduce legislation that would require a brief orientation on Palauan culture and customs for American workers in Palau so that future conflicts can be avoided.

Stalin Pedro and Nancy Chism contributed to the research for this article.