

COURSE: SE 103 PRINCIPLE AND PROBLEM IN LAND TENURE.

18

NAME: ALFRED WARAU.

LONG ESSAY....

TOPIC: SETTLING LAND DISPUTES.

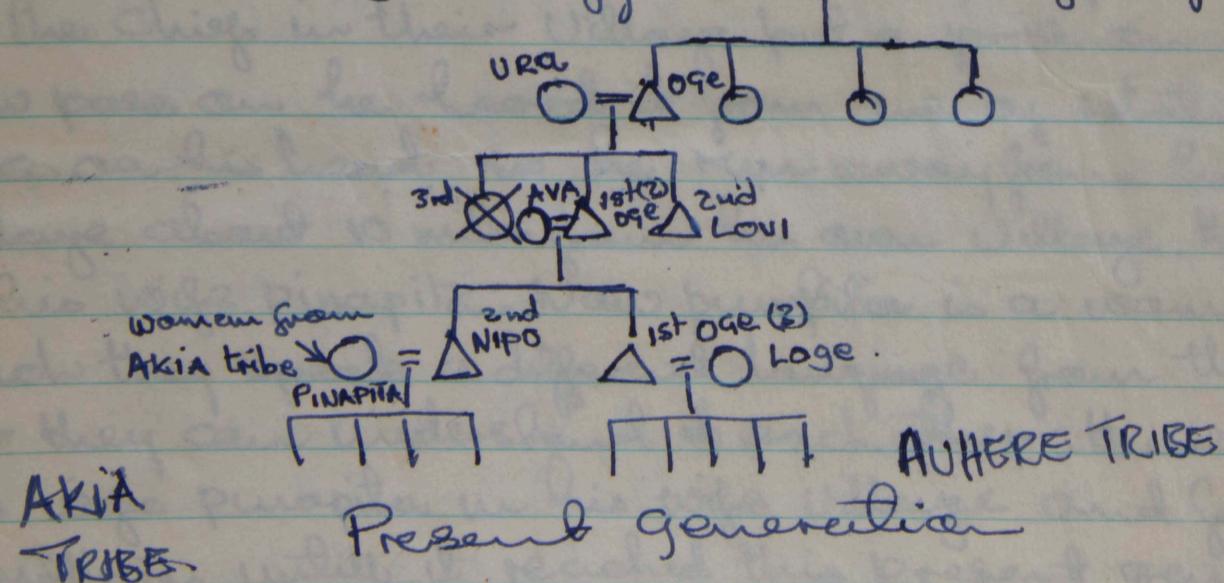
Introduction:

In this long essay I would like to present a case on a dispute that current occurring near my village between two tribe. The names of the two tribes were AKIA tribe and AUHERE tribe and the land that they were disputing over is called KWAINAPO Land which is located in bush above my village in east Kwai on Malaita province.

Now, long essay has been prepared on a base that has made interviews with people who had come from the area who themselves involve in the dispute. The dispute itself was not only over land but there are other factors that leads to this dispute, therefore we'll look into these factors as we go along.

A GENEALOGY:

From the interviews I've made with the people, the two tribes are of the same family and therefore they should not make any dispute at all, but as I have mention earlier there are other factors leads to this dispute. Now below is a rough diagram showing the two tribes genealogy:-



Kwai people are planning to attacked them, and so

Now the diagram might ^{not} look ~~not~~ attractive but it is very meaningful therefore I will explain it in this paragraph.

First from their great, great grandfather, MR Oge was born with three other sisters, now Oge married to Ura who was a woman in their same line, then Ura give birth to a first born son and they name him after his father and later Ura give birth to another son and they name him Lovi means live together, unfortunately their only daughter die so they left with only ~~the~~ two boys.

Now Oge(2) got married to a girl in their same area but of different tribe and the girls name is AUA, now Lovi also got married but as he is not so important in this case we have to leave his line and concentrate of Oge(2)'s line.

After years pass Oge(2) and his wife AUA had there first son and they name him Oge(3) and then later another son and they name him Nipo and so this two sons are the main important people who produced these two disputed tribes (AKA tribe and AUHERE tribe)

Now Oge(3) married to a girl in their same area by the name Loge and from their produces it multiplies until it reached this present generation, which is now call AUHERE tribe. Now the other son, that is MR. Nipo he was a wanted man, that is they put a price on his head, something of 30 red shell money, 20 pigs with tails and some more valuable, this is because this man Nipo is a cannibal and he also finished every people in his own tribe so the chief in their village put a price on his head, but as now pass on he heard it from one of relative that they put a price on his head so he run away from his own village to another village about 10 miles from his own village, there he got married to his wife Pinapita. Now Pinapita is a woman from Akia tribe which they speak a different language from the Kwais people, but yet they can understand ~~to~~ each other, therefore Nipo ^{start} ~~start~~ with his wife Pinapita in his wife village and from their produces it multiplies until it reached this present generation.

Kwais people are planning to attacked them, and so

Now Since Nipo left his home his people thought that he has already die, therefore his right to his land was held by his brother but yet they don't know he has also produce a new generation in other land where to me he is a absentee from his land and live in other peoples band.

The period of his absent from his even village is a lifetime one and he died in his wife home and was buried there, but the problem is his ground, grand, children don't know who their great great grandfather was and where did he come from so that they could traced their genealogy and could claim some right over the land which their great great grandfather have have some rights to it, and the new generation stay in Akia for the rest of their life and claim rights to their great, great grandmother and as the new generation intermarried their right separate even through the fathers line and mother line and as they live for years and years up to the present Cattuig the land at AKIA is their home and they know nothing about their rights to same land in Kwaiso.

Now Nipo's brother Oge who married at home and stay at home his grand, grand children use the land, they stay they recognized their rights to the land and perform their culture on the land and they don't think one day there will be a dispute among them in their land in future, perform on every thing that any visitor would come in the land and see that they are the original owner, they have fulfill every requirement that show that they are the landowner, therefore as one fulfills these requirements one has ^{to} protect his right to his land.

One thing this is that as new generation like to-day who might not know that more about our custom or genealogy they might think that only their tribe which own the land yet they don't know that there are other cousin brothers in the Akia tribe, and yet because of their ~~absentee~~ absence from home and no evidence showing what cultural &

Kwaiso people are planning to attacked them, and so

activity they perform on the land ^{their} right to the land is very slim, slim in a way that if that generation at Akia return Kwaio and if a dispute arise as there is no evidence of performance has been done on the land and the matter is brought up into court one would likely to loose because most court make judgement ~~on~~ ^{by} evidence.

HOW THE AKIA TRIBE KNOW THEY HAVE A LINK TO KWAINAPO LAND.

In my area back home chiefs and elder sit down with people to ~~and~~ write down their genealogy and land they have right to, this recording of land rights and genealogy has begin in the 60's when mission school educate some of our people how ~~to~~ ^{write} so these people help to sit down with these chief and elder write down their genealogy, but yet in those day people don't take this recording of genealogy for granted as in these most of our grand grand father still alive as you might know that in the past people live longer than the present generation.

Now as most of these old people ~~seem~~ to be disappearing from us and as most of the younger generation got education one has to get his recording on his genealogy up-to-date before no body will be left to preached out his genealogy again.

In this period of recording genealogy the ~~to~~^{AUHERE} people found out that there is a missing link in their genealogy and so as people move around, one day a malaric team come around our area to do their work and these in the team a man name John Nipo who was a grand son of this man Nipo who married to AKIA, and after John Nipo in our village for about 2 weeks people sort of get to know each other's name, so day one old set down in front of his son kitchen and people goes pass that kitchen and so John Nipo some boy in the village went pass the kitchen and the old man asked them, who is that stranger you are

Kwaio people are planning to attacked them, and so

walking and one ^{old} man says say this is John Nipo who comes with the malarial team to work in our village, then the old man remembered this name Nipo, but yet he ask John Nipo, "where do you come from" and John answered, "I'm from the Akia tribe", then the old man ask John to sit down and he asked John "How do you got this name Nipo, because that ~~name~~ should be a name in our genealogy" and so as John could only remember little of his genealogy he outline ^{very} little of his genealogy and he told the old man that he heard his grand father came from the Kwaiio side, but he is not sure, so from there the search started to be made.

So the old man and three dogs from AWhere tribe board a dugout boat motor and went down to the people of Akia to make investigation of who are the right descended of Mr Nipo and after they have found the right people they told them if they wish to return to their great, great ^{grand} fathers land they can do so and so as there is also land shortage experience in the area they people said they will move and so in 1981 people from Akia who were the right descended of Nipo return to the land that once they never dream of returning to it.

It was early on Saturday year 1981 that the first canoe arrived with the first two families and they first settle near the ~~Cost~~ Coast with the people and later they move up to Kwainapo land as it is right in the bush and cleared a settlement area and they build three house and they start to make gardens on these virgin land which have never ever been cultivated before.

Now later about three canoes arrived from Akia with three families who claim to be descended of Nipo and they went up to their settlement area and settle with the first two families who first arrived, now from these, there are about 6 houses built and they start to clear the land for more gardens, and about two ^{to} three months there about five canoes arrived from Akia and they enlarge their settlement, and the small Kwaiio people are planning to attack them, and so

Settlement became a ~~big~~^{buy} Village with something about ten to fifteen houses and their population start to increase, now they are more even populated then some Small Coastal Village, and more as the land has been cleared for the expansion of their small settlement. All these improvement happen with in the first year 1981 and two to three months with in 1982, therefore one would be in a very good picture of how people who have little land rights in ~~their~~ ^{other} ex-sisted environment exposed to a new environment when they have much great right they work very hard to develop the land, but yet they don't know what coming ahead of them.

Now it was in June last year 1982 that the last Canoes arrived, there above ten Canoes and so the original Settle of the area start to wonder why these people seem to be flow in large number and people question themselves and yet they keep Silence as they have been Convinced that they are right descended of MR Nipo, but according to our Culture if you own a land and you married ^{to a} girl where is people look for land there is no way you can stop them living with you there is no way you'll chase them because we call it, they are your Tabu's, so if you chase them it will look shameful, so that is what happen with the people of Akia when the settle in Kwamays land. These people just came in free of question ~~was~~ therefore anyone in the Akia tribe can come and settle because how can you identify all the descended of Nipo. So to-day this Settlement is very big and crowded more then some of our big village alone the Coast.

HOW THE DISPUTE COMES ABOUT:

Now when I heard of this dispute I've ask ~~the~~ question to myself "Why do they let these people to come in to settle the land?" and "why should they let them know that their great great grand father came from this land?", these question which I had in me, I think some young boys at home also ask our chief

Kwais people are planning to attack them, and so

and their answer sound according to our Melanesian behaviour where one people who existed, the same tribe must leave together.

Now lets go back to how this dispute came about, now the first factor is population, as the Small Settlement get crowded and people worked more land for gardening and lot of cash cropping they need more land, but the major problem behind this dispute is that, according to one interview I have made is that the land they have rights to, is very small land for such a crowded tribe, therefore these people they went into other tribe's land and start claiming it, now this is where the dispute start, because although they are crowded and if the work within the land they have rights to, there won't be any problem arising, but as these people they just claim land according to their own wish this is where the dispute starts, and all this, ^{cause} because they were so crowded in their small settlement,

The other factor which contribute to the dispute is identification of boundary, as according to our customary way of identifying boundary is by indicating it by the nature of the land that is by using mountains, rivers, valleys, etc, but how could one know that from which mountain to which mountain and from which valley to which valley his rights to the land ends, because as you go further into the bush there are lots of valleys and lots of mountain and lots rivers and streams, so how can one know that his rights end from this Valley to this Valley, by just standing at the coast and pointing into the bush, therefore this factor also contributed to the dispute.

The third factor that contributed to the dispute is language problem, now as the Akia people have their own language and the Kwai people have their own language how can they understand each other, now this is where jealousy come in because both tribes can't understand each other.

Example, if two or three people from Akia tribe sit down together and they speak in their language, although they were not talking of attacking the Akia people, and if one Akia man saw them he will go home and report to his people that the Kwai people are planning to attack them, and so

next morning the Akia tribe will come to the village and asked the people of what was their conversation about yesterday, and although the Kwai people will say that they were talking on something else the Akia tribe won't believe them and they would want to fight. According to one man I've interviewed he said that most of the minor dispute cause by this misunderstanding of both language.

The Fourth factor which also contribute to the dispute but on minor case is Social behavior, now the people from Akia tribe their way of doing some is quite different from the people of Kwai, but with the principle of doing things.

Now when I was about 7 years to 8 year of age in primary school the people that are very wild to me is the Kwai people and with the use metal tools they look wild, because most of them are isolated in the bush above our village, so when ever they came down to our village they look frightening, and they are sort of one headed people that is they want to do something which cause disturbance to their neighbours they don't have to think twice, they do it even though it is bad or good and even you've done any trouble to them they'll come to your house and destroy your home without your consent, from these experience in passed I thought the Kwai people are too wild but that is not true.

But these people from Akia who have made their settlement at Kwaiapo land they are more wilder than the Kwai people therefore even the Kwai people were afraid of them, because in a case I've heard from people coming from home to town of a dispute between the two tribes, they've say that even women in the settlement join in a fight between the tribes, to us in our culture women don't join in fights only men involve in fight therefore to me when I hear something like this happening where I've never ^{heard} women in our village join in with the men and go and fight the tribe it ^{other} sound surprising to me and for my first time to hearist, although I heard in other countries women join in the army force, it's not surprising to me but when it happens at a door step like that it sound surprising.

RESULT OF DISPUTE.

In result of this dispute people when ever they go to their gardens they have to go in two, or three, therefore no ladies is to wander her own to her garden unless there is a male present.

The other result of the dispute Akia people has damage my uncle brand new canoe, that is they chop the canoe in three pieces and my uncle take them to court and they fine \$300.00

Another result is that a fight broke out and resulting one Kwaios man receive a knife in his stomach that is when this Kwaios people went to garden and they met these Akia people and so the a fight broke out.

This fight resulted with police from Aukis patrolling in the area and which the Kwaios people are ~~suspecting~~ so that police could remove the Akia people from the land because ~~of~~ most of the fight were cause by these Akia people, yet no response yet from the police.

SETTLING DISPUTE:-

At the present there ~~is~~ ^{have been} not attempt been made to settle this dispute, although ~~some~~ ^{few} Court Cases were held over the land, but as one would know that no any Court decision in the world will satisfy both parties, therefore whenever the Kwaios people ~~want~~ ^{won} a case the wider the Akia people goes.

Now to settle this dispute, this is what both tribe, I think should do, is to sit down with the elders ^{& chiefs} in the village level and let them draw up their genealogy and to discuss to what extent each tribe have right to the land and identify the true boundaries which both parties should agreed on it, now this is the unofficial way of attempting this dispute.

IF by attempting it in customary ways but another tribe is not satisfy then that ^{my} satisfying tribe should take the case to the local court, but I don't think local court decision will change because most of land hearing base of evidence, the ^{MAP} evidence and the court walk the land and found that it is true

10

the changes are there that you are going to win the Case, therefore the Major problem with this Akit tribe is that they don't present enough evidence and sometimes some of their evidence are true, because how can one who have live in another land for rest of his life then move to a new land and perform any thing on that land, because he cannot offer sacrifice to his ancestors because he don't know them by name so that he can call them and burn something for them, therefore most of the Court Case the Kwaio people win.

So far there hasn't been any case held by Magistrate Customary land appeal court and High Court, but yet it will come as the local court decision made on one of the case has been satisfying to both parties.

Therefore from my point of view, the way to attempt it is for Government to give order to the police force at Auki, so that the police ^{at} Auki can remove them from the area, as ^{they damage} cause to peoples private properties or Malaita province acquired the land and registered it and give perpetual titles to the settlers, that is so that the land can be Survey and proper boundaries can be identify.

Conclusion:

To conclude ~~it~~ doesn't mean ^{that} the dispute is settle, except to say the ^{end} of the essay but not the end of dispute.

This dispute has now been going on for two years ^{so we are} yet only our division don't get involve yet and the Customary land appeal Court not yet and also the High Court therefore we are looking forward for our change of handling some of it.