

TRANSITION OF AUTHORITY

Amendment or repeal of a Trust Territory statute by Congress need not be explicit to be effective. If a Trust Territory statutory provision is inconsistent or in conflict with a statutory provision enacted by Congress, that provision is repealed by implication. FSM v. Albert, 1 FSM R. 14, 16 (Pon. 1981).

Under article XV, section 1 of the Constitution a Trust Territory Code provision is repealed by a subsequent statutory provision enacted by the Congress only if the statutory provisions in question are inconsistent or in conflict. Even if certain provisions are repealed, other provisions of that same statute may remain intact if the statute, without the deleted provision, is self-sustaining and capable of separate enforcement. FSM v. Boaz (II), 1 FSM R. 28, 29 (Pon. 1981).

The fact that Congress repealed many provisions of Title 11 of the Trust Territory Code by implication does not lead to the conclusion that all provisions of Title 11 are repealed. FSM v. Boaz (II), 1 FSM R. 28, 29 (Pon. 1981).

Since the national government does not have major crimes jurisdiction over Title 11 Trust Territory Code assaults calling for imprisonment of no more than six months, the repealer clause of the National Criminal Code would not appear to repeal those sections. FSM v. Boaz (II), 1 FSM R. 28, 30 (Pon. 1981).

Secretarial Order 3039, section 2 cleared the way for the assumption of jurisdiction by FSM courts by delegating the judicial functions of the government of the Trust Territory of the Pacific islands to the Federated States of Micronesia. Thus, the High Court's previous exclusive jurisdiction under 6 TTC 251 was effectively delegated to the Federated States of Micronesia, insofar as the Constitution of the Federated States of Micronesia authorizes such jurisdiction. Lonno v. Trust Territory (I), 1 FSM R. 53, 57-58 (Kos. 1982).

The language of Secretarial Order 3039, section 5(a) contemplates continued Trust Territory High Court activity pursuant to the "present procedural and jurisdictional provisions of Trust Territory law" only until new functioning courts are established by the constitutional governments, and recognizes that the jurisdictional provisions of Trust Territory law will necessarily be revised when those courts have been established. Lonno v. Trust Territory (I), 1 FSM R. 53, 59 (Kos. 1982).

A Secretarial Order, issued by one responsible official with full authority to state his intentions and instructions precisely, typically should not require reference to other documents for explanation. It is not a product of compromises and discussions among numerous legislators, where contemporaneous discussion may be especially helpful in determining the intention of the legislature in using certain words. Lonno v. Trust Territory (I), 1 FSM R. 53, 61 (Kos. 1982).

Delegation of former Trust Territory High Court judicial functions under 6 TTC 251 to the courts of the Federated States of Micronesia did not violate Executive Order No. 11021. Lonno v. Trust Territory (I), 1 FSM R. 53, 63 (Kos. 1982).

Interpretation of Secretarial Order 3039 as acquiescing in FSM Supreme Court jurisdiction over suits against the Trust Territory does not conflict with any residual United States obligation

to oversee activities of the FSM courts pending termination of the Trusteeship Agreement nor does this interpretation imperil any interest the United States government may have in protecting the Trust Territory government against unfair or overreaching actions by the courts of the new constitutional governments. Lonno v. Trust Territory (I), 1 FSM R. 53, 64 (Kos. 1982).

Trust Territory High Court appellate division jurisdiction by writ of certiorari over appeals from the courts of last resort of the respective jurisdictions of the Federated States of Micronesia, the Marshall Islands, and Palau eliminates any possible risk which might otherwise be posed to the United States or its interests or responsibilities here by the full exercise of constitutional jurisdiction by the courts of the constitutional governments. Lonno v. Trust Territory (I), 1 FSM R. 53, 64-65 (Kos. 1982).

The Secretary of the Interior has the power to terminate the Trust Territory High Court's exclusive jurisdiction over suits against the Trust Territory because that jurisdiction was originally conferred upon the High Court by authority emanating from the Department of Interior. Lonno v. Trust Territory (I), 1 FSM R. 53, 65-67 (Kos. 1982).

The Trust Territory High Court's former exclusive jurisdiction over lawsuits against the Trust Territory government has been delegated to the constitutional governments covered by Secretarial Order 3039. Within the Federated States of Micronesia, the allocation of this former exclusive High Court jurisdiction between the Supreme Court of the Federated States of Micronesia and the various state courts will be determined on the basis of jurisdictional provisions within the Constitution and laws of the Federated States of Micronesia and its respective states. Lonno v. Trust Territory (I), 1 FSM R. 53, 68 (Kos. 1982).

Until the state courts are established, the Trust Territory High Court retains that portion of its exclusive jurisdiction formerly held under 6 TTC 251 which does not fall within the constitutional jurisdiction of the FSM Supreme Court. Lonno v. Trust Territory (I), 1 FSM R. 53, 68 (Kos. 1982).

The Seaman's Protection Act, originally enacted for the entire Trust Territory by the Congress of Micronesia, relates to matters that now fall within the legislative powers of the national government under article IX, section 2 of the Constitution, and has therefore become a national law of the Federated States of Micronesia under article XV. That being so, a claim asserting rights under the Act falls within the FSM Supreme Court's jurisdiction under article XI, section 6(b) of the Constitution as a case arising under national law. 19 F.S.M.C. 401-437. Lonno v. Trust Territory (I), 1 FSM R. 53, 72 (Kos. 1982).

Retention of the power to play a major role in executive functions, to suspend legislation enacted by the Congress, and to entertain appeals from the court of last resort, the very essence of government, suggests that the Trust Territory government remains, not a foreign state, but an integral part of the national government here. Lonno v. Trust Territory (I), 1 FSM R. 53, 72 (Kos. 1982).

Under the present state of affairs, the Trust Territory government cannot be considered a foreign state, citizen or subject thereof within the meaning of article XI, section 6(b) of the Constitution. Lonno v. Trust Territory (I), 1 FSM R. 53, 74 (Kos. 1982).

It would be contrary to the desire of the framers of the Constitution that local officials retain control over local matters if the FSM Supreme Court were to relinquish jurisdiction over issues

involving local and state powers to the Trust Territory High Court, which is the least local tribunal now existing in the Trust Territory. In re Nahnsen, 1 FSM R. 97, 110 (Pon. 1982).

The Constitution contemplates that decisions affecting the people of the Federated States of Micronesia will be decided by courts appointed by the constitutional governments of the Federated States of Micronesia. This in turn requires an expansive reading of the FSM Supreme Court's jurisdictional mandate while we await establishment of functioning state courts. In re Nahnsen, 1 FSM R. 97, 111 (Pon. 1982).

Title 11 of TT Code is not inconsistent with nor violative of the FSM Constitution; therefore 11 TTC continued in effect after the effective date of the Constitution and until the National Criminal Code's effective date. Truk v. Otokichy, 1 FSM R. 127, 130 (Truk 1982).

Title 11 of the Trust Territory Code, before the effective date of the National Criminal Code, is not a national law because its criminal jurisdiction was not expressly delegated to the national government, nor is it a power of indisputably national character; therefore, it is not within the FSM Supreme Court's jurisdiction. Truk v. Otokichy, 1 FSM R. 127, 130 (Truk 1982).

The delegation of judicial functions to the Federated States of Micronesia, pursuant to Secretarial Order 3039, section 2 does not by itself give the FSM Supreme Court jurisdiction over Title 11 Trust Territory Code crimes occurring before the National Criminal Code's effective date. Truk v. Otokichy, 1 FSM R. 127, 131 (Truk 1982).

The national and state governments' assumption of powers from the Trust Territory government is accomplished through the transfer and transition approach rather than by operation of law. Manahane v. FSM, 1 FSM R. 161, 167 n.3 (Pon. 1982).

The FSM Supreme Court has jurisdiction to try Title 11 Trust Territory Code cases if they arise under a national law. Title 11 of the Trust Territory Code is not a national law. It was not adopted by Congress as a national law and it did not become a national law by virtue of the transition article. Truk v. Hartman, 1 FSM R. 174, 178 (Truk 1982).

Sections of Title 11 of the Trust Territory Code covering matters within the jurisdiction of Congress owe their continuing vitality to Section 102 of the National Criminal Code. Thus, the criminal prosecutions thereunder are a national matter and fall within the FSM Supreme Court's constitutional jurisdiction. In re Otokichy, 1 FSM R. 183, 185 (App. 1982).

Upon inception of constitutional self-government by the people of the Federated States of Micronesia, criminal law provisions in Title 11 of the Trust Territory Code became the law of governments within the Federated States of Micronesia by virtue of the Constitution's transition provisions. In re Otokichy, 1 FSM R. 183, 187 (App. 1982).

The savings clause, 11 F.S.M.C. 102(2), unlike the other sections of the National Criminal Code, was intended to apply to offenses committed before the Code's effective date. It specifically authorizes prosecutions of Title 11 Trust Territory Code offenses occurring prior to the enactment of the National Criminal Code. Therefore, these prosecutions fall within the FSM Supreme Court's constitutional jurisdiction. In re Otokichy, 1 FSM R. 183, 189-90 (App. 1982).

Change of forum for Title 11 Trust Territory Code cases from the Trust Territory High Court to the FSM Supreme Court is a procedural matter with no effect on the defendants' substantive

rights. In re Otokichy, 1 FSM R. 183, 193 (App. 1982).

Any power the Trust Territory High Court, the District Courts and the Community Courts may have to exercise judicial powers within the Federated States of Micronesia is to be exercised not as that of autonomous foreign states but as integral parts of the domestic governments. Those courts continue to exercise trial court functions in Ponape only on an interim basis, until the State of Ponape establishes its own courts, either under its present state charter or under any constitution which Ponape may adopt. In re Iriarte (I), 1 FSM R. 239, 244 (Pon. 1983).

The interim nature and limited purpose of the Trust Territory High Court, the District Courts and the Community Courts does not suggest that these entities are immune to the restraints imposed upon officials authorized to act by constitutions or statutes approved by citizens of the Federated States of Micronesia or their representatives. To the contrary, respect for constitutional self-government and the Trusteeship Agreement provisions to which they trace their power to act here, mandate that these interim entities act with great restraint, only as necessary to supplement the constitutional courts and until creation of constitutional courts here. In re Iriarte (I), 1 FSM R. 239, 244-45 (Pon. 1983).

The exercise of governmental powers by the Trust Territory High Court, the District Courts and the Community Courts must be carried out in a manner consistent with constitutional self-government and are subject to the safeguards erected by the Constitution for citizens of the Federated States of Micronesia. In re Iriarte (I), 1 FSM R. 239, 245 (Pon. 1983).

The Federated States of Micronesia Constitution does not contemplate that FSM citizens should be required to travel to Saipan or to petition anyone outside of the FSM to realize rights guaranteed to them under the Constitution. In re Iriarte (I), 1 FSM R. 239, 253 (Pon. 1983).

The FSM Supreme Court should not intrude unnecessarily in the efforts of the Trust Territory High Court to vindicate itself and other judges through court proceedings within the Trust Territory system. In re Iriarte (I), 1 FSM R. 239, 254 (Pon. 1983).

The Constitution does not contemplate that FSM citizens must first petition any person or body outside the Federated States of Micronesia as a condition to consideration of their constitutional claims by courts established under this Constitution. In re Iriarte (II), 1 FSM R. 255, 267 (Pon. 1983).

The Trust Territory High Court is an anomalous entity operating on an interim basis adjacent to a constitutional framework and consisting of judges appointed by officials of the United States Department of the Interior. These and other considerations point toward the propriety and necessity of vigilance by the FSM Supreme Court to uphold the constitutional rights of FSM citizens. In re Iriarte (II), 1 FSM R. 255, 267 (Pon. 1983).

Transfer of a case not in active trial in the Trust Territory High Court is mandatory unless the legal rights of a party are impaired by the transfer. U.S. Dep't Int. Sec'l Order 3039, § 5(a) (1979). Actouka v. Etpison, 1 FSM R. 275, 277 (Pon. 1983).

National court jurisdiction over the Trust Territory Weapons Control Act is consistent with 12 F.S.M.C. 102 which states in part that criminal prosecutions shall be conducted in the name of the Federated States of Micronesia for violations of the statutes of the Trust Territory which

continued in effect by virtue of the transition article of the Constitution and which are within the FSM national government's jurisdiction. 11 F.S.M.C. 1201-1231. FSM v. Nota, 1 FSM R. 299, 303 (Truk 1983).

8 F.S.M.C. 206 authorizes the transfer of authority from the Trust Territory and its officials to the Federated States of Micronesia government and its officials. Thus the reference in the Trust Territory Weapons Control Act to the High Commissioner and the Attorney General of the Trust Territory does not prevent its effectiveness as national law of the Federated States of Micronesia. 11 F.S.M.C. 1201-1231. FSM v. Nota, 1 FSM R. 299, 303 (Truk 1983).

The Trust Territory High Court has the legitimate authority to issue writs of certiorari for cases from the FSM Supreme Court; the Supreme Court cannot disregard an opinion resulting from such review. U.S. Dep't Int. Sec'l Order 3039, § 5(b). Jonas v. Trial Division, 1 FSM R. 322, 326-29 (App. 1983).

A writ of certiorari is improvidently granted by the Trust Territory High Court unless the FSM Supreme Court decision affects the Secretary of the Interior's ability to fulfill his responsibilities under Executive Order 11021. Jonas v. Trial Division, 1 FSM R. 322, 329 n.1 (App. 1983).

Title 5 of the FSM Code, including section 514, is in essence the Trust Territory High Court judiciary act. The statute was enacted when the Trust Territory High Court had general original jurisdiction over criminal cases within the area that is now the Federated States of Micronesia. The act was not deleted in the codification process but remains part of the body of FSM national law because at the time of codification, the Trust Territory High Court still had extensive original jurisdiction in the Federated States of Micronesia. In re Raitoun, 1 FSM R. 561, 564 (App. 1984).

In light of the Constitution's Transition Clause, action by the FSM Congress is not necessary in order to establish that violations of the Weapons Control Act are prohibited within the Federated States of Micronesia. The only question is whether those are state or national law prohibitions or both. If the definition of major crimes in the National Criminal Code bears upon the Weapons Control Act at all, it is only for that purpose of allocating between state and national law. Joker v. FSM, 2 FSM R. 38, 43 (App. 1985).

The Transition Clause of the FSM Constitution effectively adopts statutes of the Trust Territory, including the Weapons Control Act, and serves as the original enactment of a body of law, criminal as well as civil, for the new constitutional government. Further action by the FSM Congress is not necessary to establish that violations of the Weapons Control Act are prohibited within the FSM. Joker v. FSM, 2 FSM R. 38, 43 (App. 1985).

Public Law No. 2-48, promulgating the codification of the FSM statutes and speaking only of "All enacted law of the Interim Congress of Micronesia . . . and all enacted law of the Congress law of the Federated States of Micronesia" as "readopted and reenacted as positive law of the Federated States of Micronesia," may not be interpreted as an attempt to repeal or purge the Trust Territory law from the law of the Federated States of Micronesia. Joker v. FSM, 2 FSM R. 38, 43 (App. 1985).

There is nothing absurd about a weapons control scheme that recognizes that both the national and the state governments have an interest in controlling the possession, use and sale of weapons. While Congress and the states may eventually wish to allocate their respective

roles with more precision, the current Weapons Control Act appears to provide a workable system during these early years of transition and constitutional self-government. Joker v. FSM, 2 FSM R. 38, 44 (App. 1985).

In declining to "reenact" in Public Law No. 2-48 provisions originating with High Commissioners or Congress of Micronesia, Congress seems to have been motivated by transitional considerations rather than a desire to withhold official status from those laws. FSM v. George, 2 FSM R. 88, 92 (Kos. 1985).

Procedural statute 6 F.S.M.C. 1018, providing that the court may tax any additional costs incurred in litigation against the losing party other than fees of counsel, applies only to Trust Territory courts and not to courts of the Federated States of Micronesia, and therefore does not preclude the FSM Supreme Court from awarding attorney's fees as costs. Semens v. Continental Air Lines, Inc. (II), 2 FSM R. 200, 205 (Pon. 1986).

The gross revenue tax as enacted by the Congress of Micronesia continued in effect in the Federated States of Micronesia by virtue of the transition article of the FSM Constitution but, because it was subsequently amended by the FSM Congress and was included in the codification of FSM statutes, may now be considered a law enacted by Congress. Afituk v. FSM, 2 FSM R. 260, 264 (Truk 1986).

According to Secretarial Order No. 3039, § 5(a), all cases against the Trust Territory of the Pacific Islands and the High Commissioner that were filed in the FSM at the time the Truk State Court was certified will continue to remain within the exclusive jurisdiction of the High Court. Those cases filed after certification are not within the jurisdiction of the High Court. Suda v. Trust Territory, 3 FSM R. 12, 14 (Truk S. Ct. Tr. 1985).

Under the Constitution of the Federated States of Micronesia, the national government, not the state governments, assumes any "right, obligation, liability, or contract of the government of the Trust Territory." Salik v. U Corp. (I), 3 FSM R. 404, 407 (Pon. 1988).

The underlying principle of the Transition Clause of the Constitution, FSM Const. art. XV, § 1, is that a new constitution ought to bring with it no greater changes than are necessary to effectuate its terms. FSM v. Oliver, 3 FSM R. 469, 476 (Pon. 1988).

That a carryover statute covers topics that now fall into areas of both state and national responsibilities is not a sufficient ground for reducing the reach of the statute or allowing it to fall short of its originally intended scope. FSM v. Oliver, 3 FSM R. 469, 477 (Pon. 1988).

If neither state nor national powers alone are sufficient to carry out the original purposes of a carryover statute, or if state and national powers are invoked, then the statute is enforceable as both state and national law. FSM v. Oliver, 3 FSM R. 469, 477 (Pon. 1988).

Determinations as to whether claims of citizens against the previous Kosrae state chartered government may now be upheld against the constitutional state government are to be made by the judiciary on the basis of: 1) when the cause of action arose; 2) the identity of the officer or person whose action created the liability; and 3) the place where the original action creating the liability occurred. Seymour v. Kosrae, 3 FSM R. 539, 542-43 (Kos. S. Ct. Tr. 1988).

The Kosrae constitutional state government may be held liable for actions taken by police officers under the previous chartered state government, approximately one month before

ratification and four months before implementation of the Kosrae Constitution, in falsely arresting and abusing a citizen in Kosrae. Seymour v. Kosrae, 3 FSM R. 539, 543 (Kos. S. Ct. Tr. 1988).

As a matter of constitutional law, the authority to exercise executive, legislative and judicial powers came to the Federated States of Micronesia under the FSM Constitution, by operation of law, not through delegation of Trust Territory functions. United Church of Christ v. Hamo, 4 FSM R. 95, 103 (App. 1989).

The Constitution of the FSM has been the supreme law of the Federated States of Micronesia since May 10, 1979 and from that time on, nonconstitutional officials could be authorized to exercise powers assigned to the national government by the Constitution only through authorization by constitutional officials or pursuant to some other power rooted in the Constitution. United Church of Christ v. Hamo, 4 FSM R. 95, 104 (App. 1989).

In specifically authorizing the President to act pursuant to Secretarial Order 3039 in accepting executive functions from the Trust Territory, the FSM Congress implicitly adopted those provisions of Secretarial Order 3039 concerning transfer of executive functions as law of the Federated States of Micronesia. United Church of Christ v. Hamo, 4 FSM R. 95, 104 (App. 1989).

The FSM Constitution provides no authority for any courts to act within the Federated States of Micronesia, other than the FSM Supreme Court, inferior courts to be established by statute, and state or local courts. United Church of Christ v. Hamo, 4 FSM R. 95, 105 (App. 1989).

The transitional actions of the FSM Congress, intended to adopt as law of the Federated States of Micronesia those portions of Secretarial Order 3039 relating to judicial functions within the FSM and permitting the Trust Territory courts to continue functioning within the FSM pending establishment of constitutional courts, were a necessary and proper exercise of Congress' power under the Constitution to provide for a smooth and orderly transition. United Church of Christ v. Hamo, 4 FSM R. 95, 105 (App. 1989).

The FSM Supreme Court normally will refuse to review the correctness of an earlier Trust Territory High Court judgment, which has become final through affirmance on appeal or through lack of a timely appeal, and claims that the earlier judgment is ill-reasoned, unfair or even beyond the jurisdiction of the High Court typically will not be sufficient to escape the doctrine of res judicata. United Church of Christ v. Hamo, 4 FSM R. 95, 107 (App. 1989).

In light of the Trust Territory High Court's insistence on maintaining control over cases within the Federated States of Micronesia in disregard of Secretarial Order 3039 and to the exclusion of the new constitutional courts, its characterizations of Joint Rule No. 1 as "simply a memorandum" and of the words "active trial" in Secretarial Order 3039 as merely "administrative guidance," its acceptance of appeals after it was precluded from doing so by Secretarial Order 3039, its decision of appeals after Secretarial Order 3039 was terminated and its continued remand of cases to the High Court trial division for further action even after November 3, 1986, there can be no doubt that for purposes of res judicata analysis, the High Court was a court lacking capacity to make an adequately informed determination of a question concerning its own jurisdiction. United Church of Christ v. Hamo, 4 FSM R. 95, 118 (App. 1989).

Although final judgment in a case has been entered by the Trust Territory High Court, because any effort by a party to have the High Court consider its own jurisdiction would have been futile, it is procedurally fair to later afford the party an opportunity to question that jurisdiction. United Church of Christ v. Hamo, 4 FSM R. 95, 118-19 (App. 1989).

Where the Trust Territory High Court improperly retained a case for four years after the FSM Supreme Court was certified, and continued to hold the case more than a year after the Truk State Court was established, issuing a judgment based upon filed papers, without there ever having been a trial, let alone an active trial, in the case, by the time judgment was issued the subject matter of the litigation was so plainly beyond the High Court's jurisdiction that its entertaining the action was a manifest abuse of authority. United Church of Christ v. Hamo, 4 FSM R. 95, 119 (App. 1989).

Where the Trust Territory High Court's exercise of jurisdiction was a manifest abuse of authority, allowing the judgment of the High Court to stand would undermine the decision-making guidelines and policies reflected in the judicial guidance clauses of the national and state constitutions and would thwart the efforts of the framers of the Constitution to reallocate court jurisdiction within the Federated States of Micronesia by giving local decision-makers control over disputes concerning ownership of land. United Church of Christ v. Hamo, 4 FSM R. 95, 119 (App. 1989).

Decisions regarding res judicata and the transitional activities of the Trust Territory High Court typically should be made on the basis of larger policy considerations rather than the equities lying with or against a particular party. United Church of Christ v. Hamo, 4 FSM R. 95, 120 (App. 1989).

Actions of the Trust Territory High Court taken after the establishment of functioning constitutional courts in the Federated States of Micronesia, and without a good faith determination after a full and fair hearing as to whether the "active trial" exception permitted retention of the cases, were null and void, even though the parties failed to object, because the High Court was without jurisdiction to act and its conduct constituted usurpation of power. United Church of Christ v. Hamo, 4 FSM R. 95, 122 (App. 1989).

The Corporations, Partnership and Agency regulations were adopted pursuant to, and affect the reach of, the Trust Territory statute regulating corporations and, since those statutory provisions are part of FSM national law by virtue of the Transition Clause of the FSM Constitution, the regulations too must retain their effect until they are amended or repealed pursuant to FSM law. Mid-Pac Constr. Co. v. Senda, 4 FSM R. 376, 381 (Pon. 1990).

The Corporation, Partnership and Association Regulations incorporated by 37 TTC 52 (1980) remain in effect as FSM national law by virtue of the Transition Clause, FSM Const. art. XV, § 1, until they are amended or repealed by Congress. Mid-Pacific Constr. Co. v. Semes (II), 6 FSM R. 180, 187 (Pon. 1993).

Statutes and case law inherited from the Trust Territory are invalid to the extent that they are inconsistent with the state constitution which is the supreme law of Chuuk. Nimeisa v. Department of Public Works, 6 FSM R. 205, 210 (Chk. S. Ct. Tr. 1993).

The United States could not assume responsibility for, or be held liable for, the absence of

separate adjudicatory body for public land disputes when the exclusive authority to establish such a body had been transferred to the Ponape district legislature. Nahnken of Nett v. United States (III), 6 FSM R. 508, 528 (Pon. 1994).

Title 3 of the Trust Territory Code represents interim legislation prior to the time when the former Trust Territory Districts were chartered, and had no continuing existence after the adoption of the Truk Charter in 1977. Wainit v. Weno, 7 FSM R. 121, 123 (Chk. S. Ct. Tr. 1995).

Whether carryover provisions from the Trust Territory Code are state or national laws must be determined on a statute-by-statute, or a section-by-section, basis. Burke v. Torwal, 7 FSM R. 531, 534 (Pon. 1996).

The reciprocal child support enforcement provisions of chapter 17 of Title 6 of the FSM Code remain in effect as part of state law. Burke v. Torwal, 7 FSM R. 531, 534 (Pon. 1996).

A proceeding for enforcement of a CNMI child support order in the FSM is properly filed in state court by the state attorney general, not in national court by the FSM Attorney General. Burke v. Torwal, 7 FSM R. 531, 535-36 (Pon. 1996).

Because whatever vestigial authority the Trust Territory or the United States may have had after May 10, 1979, disappeared on November 3, 1986, when the Federated States of Micronesia became independent, governmental conduct after that date is not attributable to the United States or to the Trust Territory. Nahnken of Nett v. United States, 7 FSM R. 581, 591 (App. 1996).

Although the Kosrae Constitution contains no impairment of contracts clause, it is not silent in this area. The Kosrae Transition Clause provides that contracts continue unaffected. Cornelius v. Kosrae, 8 FSM R. 345, 352 (Kos. S. Ct. Tr. 1998).

Trust Territory Code Title 67 remains in effect in Chuuk through the Chuuk Constitution Transition Clause. Pau v. Kansou, 8 FSM R. 524, 526 (Chk. 1998).

Title 32, sections 301 *et seq.* date from the Trust Territory period but continue in effect pursuant to the FSM Constitution's Transition Clause. AHPW, Inc. v. FSM, 9 FSM R. 301, 305 (Pon. 2000).

Via the analogy implicated by the Transition Clause, under a statute carried over from the Trust Territory which speaks in terms of the Trust Territory and any of its political subdivisions as being persons, Pohnpei is also a person to the same extent that a Trust Territory political subdivision was a person under the statute's prior incarnation. AHPW, Inc. v. FSM, 9 FSM R. 301, 305 (Pon. 2000).

Trust Territory statutes that mostly never took effect cannot be relied upon to interpret provisions of the FSM Constitution. Chuuk v. Secretary of Finance, 9 FSM R. 424, 432-33 (App. 2000).

Under the Chuuk Constitution's transition clause, Trust Territory Code Title 67, which authorizes and empowers land commissions to determine the ownership of any land in its district, applies in Chuuk. In re Lot No. 014-A-21, 9 FSM R. 484, 490 (Chk. S. Ct. Tr. 1999).

Chuuk, as the succeeding sovereign, is entitled to rely on the taking of the land in question by the Trust Territory, the previous sovereign, and is not required to correct any wrong in the original 1968 Trust Territory taking because it is now too late. Sefich v. Chuuk, 9 FSM R. 517, 518 (Chk. S. Ct. Tr. 2000).

When in 1968 the Trust Territory entered the land in question and, pursuant to 6 TTC 302, acquired title by adverse possession 20 years later in 1988, Chuuk is the successor to the title. Sefich v. Chuuk, 9 FSM R. 517, 519 (Chk. S. Ct. Tr. 2000).

Title 6, chapter 10, subchapter 1 of the FSM Code is replete with references to officials who either do not exist now or who no longer carry out the functions with which they are identified in the statute, and when confronted with such language in a section thereof, the FSM Supreme Court has generally ruled that the section applies only to the Trust Territory High Court. FSM v. Kuranaga, 9 FSM R. 584, 586 (Chk. 2000).

The witness fees in 6 F.S.M.C. 1011 apply only to the Trust Territory High Court. FSM v. Kuranaga, 9 FSM R. 584, 586 (Chk. 2000).

Trust Territory statutes continue in effect except to the extent they are inconsistent with the Constitution, or are amended or repealed. Pohnpei v. KSVI No. 3, 10 FSM R. 53, 62 (Pon. 2001).

Title 67, Section 2 of the Trust Territory Code continues in effect under the transition clause of the FSM Constitution, is consistent with other provisions in the FSM and Pohnpei Constitutions, and clearly confirms that all marine areas below the ordinary high water mark belong to the government. Pohnpei v. KSVI No. 3, 10 FSM R. 53, 66 (Pon. 2001).

Trust Territory Code Title 67 remains in effect in Chuuk through the Chuuk Constitution Transition Clause. Small v. Roosevelt, Innocenti, Bruce & Crisostomo, 10 FSM R. 367, 369 (Chk. 2001).

A Trust Territory statute (except to the extent it is amended, repealed, or is inconsistent with the Constitution), which related to matters that now fall within the national government's legislative powers became national law upon the Constitution's ratification, and the other Trust Territory laws presumably became law of each of the states at the same time; and if neither state nor national powers alone are sufficient to carry out the statute's original purpose, or if state and national powers are invoked, then the statute is enforceable as both state and national law. Foods Pacific, Ltd. v. H.J. Heinz Co. Australia, 10 FSM R. 409, 414-15 (Pon. 2001).

Because the national government has the exclusive power to regulate foreign and interstate commerce, the Consumer Protection Act is the law of the FSM insofar as any advertising, sale, offer or distribution involves commerce between the states of the FSM or with any foreign entity. The Consumer Protection Act also is the law of the states of the FSM, insofar as it involves commerce which is intrastate and has not been repealed by the state legislatures. Foods Pacific, Ltd. v. H.J. Heinz Co. Australia, 10 FSM R. 409, 415 (Pon. 2001).

Title 67 of the Trust Territory Code remains Chuuk state law pursuant to the Chuuk Constitution's Transition Clause and because it has never been amended or repealed. Stephen v. Chuuk, 11 FSM R. 36, 41 n.1 (Chk. S. Ct. Tr. 2002).

A Kosrae district Trust Territory High Court judgment in a trespass action will not be set aside as invalid because it was in a designated land registration area when the registration area designation was not filed in the Kosrae district High Court and the prevailing defendants did not ask that title be issued to them, but only that the complaint be dismissed. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 172-73 (Kos. S. Ct. Tr. 2002).

The Kosrae State Court has always accepted and enforced Trust Territory High Court decisions as valid and binding, consistent with the Kosrae constitutional provisions on transition of government. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 173 (Kos. S. Ct. Tr. 2002).

Under the FSM Constitution's Transition Clause, Trust Territory statutes applicable to the states became part of the states' laws regardless of whether they were published in the FSM Code; they are the laws of the states until amended, superseded or repealed. Villazon v. Mafnas, 11 FSM R. 309, 311 (Pon. 2003).

When a state has not enacted laws in an area within its jurisdiction such as child support, national law is applicable to the state court proceeding, because the Trust Territory Code reciprocal support enforcement provisions, now codified at 6 F.S.M.C. 1711, are imputed to be state law under the FSM Constitution's Transition Clause. Under that clause, Trust Territory statutes that were applicable to the states became part of the states' laws regardless of whether they were published thereby. They stand as the laws of the states until amended, superseded or repealed. Anson v. Rutmag, 11 FSM R. 570, 572 (Pon. 2003).

When the Chuuk Legislature has made no effort to repeal, supersede or amend the Trust Territory Code regarding land tenure in Chuuk, pursuant to Article XV, § 9 of the Chuuk Constitution, the Trust Territory Code provisions still apply to land disputes. Chuuk v. Ernst Family, 12 FSM R. 154, 158 n.3 (Chk. S. Ct. Tr. 2003).

The states of Yap and Kosrae repealed the Trust Territory Code when they enacted their state codes. Kitti Mun. Gov't v. Pohnpei, 13 FSM R. 503, 509 (App. 2005).

Generally, when the word "district" appears in an FSM Code provision carried over from the Trust Territory Code by virtue of the Constitution's Transition Clause, "state" will be read in its place. FSM v. Kansou, 14 FSM R. 136, 138 n.1 (Chk. 2006).

Under the Chuuk Constitution's Transition Clause, Trust Territory Code Title 8 is still applicable law in Chuuk. Chuuk v. Andrew, 15 FSM R. 39, 42 n.2 (Chk. S. Ct. App. 2007).

Trust Territory judicial decisions are not stare decisis, that is, they are not binding precedent on FSM courts. Nakamura v. Moen Municipality, 15 FSM R. 213, 218 (Chk. S. Ct. App. 2007).

Since a statute in force in the State of Chuuk on the effective date of the Chuuk Constitution continues in effect to the extent it is consistent with the Chuuk Constitution, or until it is amended or repealed; since nothing in the Trust Territory survival of actions statute is inconsistent with the Chuuk Constitution; and since the statute has not been amended or repealed, 6 TTC 151(1) remains the law in Chuuk. Dereas v. Eas, 15 FSM R. 446, 448 (Chk. S. Ct. Tr. 2007).

Chapter six of Title Six is the Trust Territory of the Pacific Islands sovereign immunity

statute. If it ever had any application to the FSM, it would have been supplanted or repealed by implication when the FSM Congress enacted a sovereign immunity statute, FSM Pub. L. No. 1-141, specifically applicable to the FSM national government. It remained part of the FSM Code because, at the time the FSM laws were codified, the Trust Territory government retained vestigial functions and authority in the FSM. By its terms, chapter six relates only to the Trust Territory government's liability and not to the liability of any of the FSM constitutional governments. FSM v. GMP Hawaii, Inc., 16 FSM R. 601, 604 (Pon. 2009).

Trust Territory High Court decisions are not stare decisis in the Federated States of Micronesia, but their rationale may be adopted when persuasive. Roosevelt v. Truk Island Developers, 17 FSM R. 207, 212 (Chk. 2010).

Trust Territory Code Title 17 is retained as Chuuk state law through the Chuuk Constitution's Transition Clause. Chuuk Health Care Plan v. Pacific Int'l, Inc., 17 FSM R. 535, 540 n.1 (Chk. 2011).

Title 67 of the Trust Territory Code remains Chuuk state law pursuant to the Chuuk Constitution's Transition Clause and because it has not been amended or repealed. FSM Dev. Bank v. Kansou, 17 FSM R. 605, 608 n.2 (Chk. 2011).

The term "Trust Territory" in statutes carried over from the Trust Territory Code should generally be read as meaning "Federated States of Micronesia" when the power involved is a national power. Chuuk Health Care Plan v. Pacific Int'l, Inc., 17 FSM R. 617, 619 n.1 (Chk. 2011).

A statute in force in Chuuk on the Chuuk Constitution's effective date continues in effect to the extent it is consistent with the Chuuk Constitution or until it is amended or repealed. Thus 1TTC 103 is still effective statutory law in Chuuk. Ruben v. Chuuk, 18 FSM R. 425, 430 n.1 (Chk. 2012).

Since, under the Transition Clause, a statute in force in the State of Chuuk on the effective date of the Chuuk Constitution continues in effect to the extent it is consistent with the Chuuk Constitution or until it is amended or repealed, both 67 TTC 453 and 454 remain as Chuuk state law until amended or repealed since both are consistent with the Chuuk Constitution which requires "just compensation," and since they have not been repealed by implication because they occupy gaps in the recently enacted Chuuk eminent domain statute. In re Lot No. 029-A-47, 18 FSM R. 456, 459 (Chk. S. Ct. Tr. 2012).

An argument that citizens' rights must be upheld over a Trust Territory High Court judgment because the Trust Territory High Court was not a constitutional court must be rejected when there were no constitutional courts in 1960 when the judgment was issued and the Trust Territory courts were the only functioning court system then. The impropriety of the Trust Territory High Court deciding cases when both the Trust Territory High Court and constitutional FSM courts were simultaneously in existence and functioning thus offers no support. Heirs of Henry v. Heirs of Akinaga, 19 FSM R. 296, 303-04 (App. 2014).

Under a plain reading of Secretarial Order 2969, Trust Territory public lands were transferred to the respective Trust Territory districts, and thus Trust Territory public lands on Weno were earlier transferred to the Truk District government. Although, on July 12, 1979, when the FSM Constitution took effect, any Trust Territory government interest in property was transferred to the FSM for retention or distribution in accordance with the FSM Constitution, public land on Weno was not Trust Territory government property since all Trust Territory public land there had already been transferred to the Truk district government. It would thus have been Truk district government property. Chuuk v. Weno Municipality, 20 FSM R. 582, 584-85 (Chk. 2016).

Under Secretarial Order 2969, Amendment No. 1, Trust Territory public lands in Chuuk were conveyed to the Chartered Truk District Government, and the Chuuk state government is the legal successor to the Truk district government. Iwo v. Chuuk, 20 FSM R. 652, 655 (Chk. 2016).

Neither Secretarial Order No. 2969 nor Secretarial Order No. 3039 relates to privately held land, nor do they dictate how the FSM as a nation should structure its government to deal with issues related to private lands and their title, transfer, and ownership. FSM Dev. Bank v. Lighor, 22 FSM R. 321, 332 (Pon. 2019).

The FSM Constitution, art. XV, § 3, states that a property interest held by the Trust Territory government is transferred to the FSM for retention or distribution in accordance with the Constitution. Other FSM Constitution provisions govern land ownership and use, and FSM law allows for national government eminent domain and real property acquisition. FSM Dev. Bank v. Lighor, 22 FSM R. 321, 333 (Pon. 2019).

Chuuk State Constitution's transition clause provides that statutes in force at the time the Constitution took effect remain in effect to the extent they comply with the Constitution, or until amended or repealed. Chuuk State Land Mgt. v. Jesse, 22 FSM R. 573, 576 (Chk. S. Ct. App. 2020).