

IN THE TRADITIONAL RIGHTS COURT  
REPUBLIC OF THE MARSHALL ISLANDS

ROMAK MAJUWI,

Plaintiff,

LOMORE and INOK JORAUR,

Defendants.

CIVIL ACTION NO. 1987-21

Re: OPINION OF THE TRC PANEL ON THE  
EVIDENCE PRESENTED BY BOTH PARTIES  
IN THE HEARING OF THE CASE

This Court, pursuant to Rule 13 began its hearing of the case, jointly with the High Court, on the 15th thru 18th of December, 1987, and later on the 22nd thru 24th of February, 1988, in the Courthouse in Uliga, Majuro Atoll, Republic of the Marshall Islands.

This case was referred to the Traditional Rights Court to answer and determined the dispute between the two parties in respect to the alap and dri jerbal rights on Batlube, Monkanon and other wetos on Utrik Atoll, Republic of the Marshall Islands.

"HOW DOES CUSTOM RESOLVE THE DISPUTES IN THE CASE?"

The Marshallese term, MANIT, which translates into the English language as, 'custom', was formed of the combination of these two old Marshallese sayings, MA and NIT. MA, stands for these words, MAN JABOK KO (Covenant), and NIT, stands for, NITIJELA EO (The Nitijela), NITBWilli JELA EO. The term is use to described or outlined the laws enacted and passed in the Nitijela of the people who had great knowledge and wisdom. These were amended by the Governments of Germany, Japan, The United States of America and the present day, Nitijela of the Marshallese people.

MEN-MEN-BWIJ (Bwij Chart), shows the two types of bwij. KONE JUBAR (Children borned of the females) and LIEOK TIT (Children borned to the

males). KONE JUBAR, will never lose their land rights unless there is no more surviving members of the female lineage. LIEOK TIT, gains their land rights only through their fathers. The Marshallese saying for these are: BWIJ TEO LEOL (A Bwij whose roots in the bwij land are not as firm as those of the KONE JUBAR), which means BAO IN BELLOK (Birds that are flying away).

THE CUSTOM AND TESTIMONIES PRESENTED IN COURT

1. IroiJlaplap Murjel Hermios testified in Court that he made his decision and recognized Plaintiff Romak Majuwi as the alap on the wetos in question after both parties had presented their complaints to him and that, he signed the Plaintiff's Bwij Chart and thereby agreeing that the informations contained therein are true.

2. "The Book of IroiJ", page 53, shows that there was an agreement made by and between the bwij members of the last preceding generation.

3. An agreement agreed to, by and between members of the last afore-mentioned generation would not be proper and is contrary to the custom for each succeeding generation to break.

4. IroiJ Edrik Lijutok Elaisa testified in Court that she signed with an "X" and approved the Defendants' Bwij Chart and that she did not present the Chart to the IroiJlaplap.

5. KABI-JUK-NEN (The land or weto where a new bwij is started by the females) - The Plaintiff's bwij and the Defendants bwij are in line of successors under their mothers, are both entitled to the wetos in questions.

6. KORA MENIN-UNAK (Female bwij member who marries someone from a different place and lives with her husband away from her bwij lands) - Lujin, the eldest female child of Lijubilo married a man from Ailuk and followed her

husband and lived on Ailuk Atoll.

7. KITRE (The Marshallese term used to name lands that a husband gives to the spouse) - There are three sons and three daughters borned to Lujin on Ailuk Atoll. The husband gave to his wife, Lujin part of his lands on Ailuk Atoll.

8. LA-MOREN (Marshallese customary term used to tell the length of time spent on one weto) - After living on Ailuk Atoll for a long time, Lujin died and from that day on her children inherited and held all her rights, including the rights to her bwij lands and they continue to hold these rights to this day.

9. JEBELBEL IN KE EJU KAN (Old Marshallese saying that means; even if the bwij members dispersed and live on other islands or wetos, they will always belong to the same bwij and the same bwij lands) - Plaintiff's bwij lives on Ailuk Atoll and the Defendants' bwij lives on Utrik. Regardless of this, they all originated from the same bwij and are all entitled to the same bwij lands. (A bwij will cease to exist only upon the death of all female offsprings of the female bwij members).

10. TOO-ENE (Lands or wetos on a different island where members of the wife's or the husband's bwij can go ashore to live on, live from and to provide food from a sea journey. In the olden days a person could be killed if he went ashore unless, that person had relatives living on that island.) - The Plaintiff's lands on Ailuk are TOO-ENE lands to the Defendants. Lands where the Defendants can, at will, live on.

11. BER-BER IJIN, BERBER IJEN, BER IN NA WOT KWE (Old Marshallese saying that means; even if a bwij member lives not on the bwij land, he is

still represented as if he were there in person, by the other members who does live on the bwij lands).

12. AL-AL (Old Marshallese saying that means - to look after and care for the land) - The Defendant's bwij, for many generations had remained and planted and cared for the wetos in question.

13. AKEO BWE KWAR KALLIB (Old Marshallese saying that means, a person who had planted and cared for the land is entitled to be the first one to harvest the crop of a coconut, pandanus and breadfruit trees and a share of copra money, except for the alap share, unless the alap gives his permission for his share to be used.

The Defendants made a big issue of protesting the Plaintiff's claim on the basis that it was their bwij who for a very long time for many generations had carried the responsibility of the lands including doing the duties of the bwij to the Iroj. They claimed that this has made them entitled to inherit the lands in question as a result of a IMMENENE EO AITOK KITEN (A tradition long practiced).

In considering its opinion on this claim, the Traditional Rights Court realized that between bwij to bwij who have originated from the same origin or from the same family tree, the old custom saying should have no bearing on this because each bwij, under the custom, responsible for each other. This makes it clear that if a bwij is absent or not living on the lands for a length of time, for purposes proper under the custom, it is up to the other bwij who are remaining on the lands to look after and care for the lands in the name and place of any absent bwij.

OPINION

This case is different in respect to the other cases heard before in the Marshall Islands in as much as that each party's bwij outline differs as well as the rights or roles of Iroj to Iroj and also the outline of the rights of each bwij leader.

The Plaintiff claims the right to inherit the title of alap on the wetos in question on the basis that he is a member of the older bwij in the succeeding line under the female lineage after the death of the last alap, Alap Window. To support his claim, the Plaintiff presented to the Court his Bwij Chart which Irojlaplap Murjel Hermios has testified to and approved.

What goes against this claim and the approval of Irojlaplap Murjel Hermios are the informations contained in the "Book of Iroj", which were prepared by earlier generations and which contained the name of Window as alap and Lamore as his successor.

In his testimony, supporting the contents of the "Book of Iroj", the Defendants testified that there was a land division made by and between Lotobo and Window at the time when Lojook was still alive and living on Ailuk Atoll. Iroj Edrik Aen approved the division. The result of this division is clear in the outline of who is next in the line of successor, Outline 5 and 7 of the "Book of Iroj".

Lotobo is a member of Lijain's bwij (His name is not in the Plaintiff's Bwij Chart). Window (also spelled Undo) is a member of Litwe's bwij (Litwe is not in the Plaintiff's Bwij Chart). Lojook (sometimes spelled Lojok) is a member of Lujin's bwij (his name is in the Defendants' Bwij Chart). These three are brothers, under the custom, lining horizontally under

their own bwij and as such, under the Marshallese custom, are all entitled to inherit based on their rights to the succeeding line of female lineage.

The land division referred to was made in two parts. The first half of the division went to Lotobo consisting of Jenrok, Jibed, and Tobi located on Toka Island. The other half was given to Window consisting of Batin Kotel, Nukne, Ankanon, a small island named Ellok on Toka Island and Wato Waitworok.

By the fact that Iroi jlaplap Lobadreo did not take part in the approval of the agreement made by and between Iroi j Edrik Aen, Lotobo and Window and by the fact that Lojook was not present at the time the agreement was made, it is apparent that this was something done improperly and against the custom.

What causes doubt on the binding of this agreement between Iroi j Edrik Aen, Lotobo and Window is the lack of approval from Iroi jlaplap Lobadreo and because Lojook was not present at the time to defend the rights of his own bwij.

In his rebutting testimony, Iroi j Rimios Hermios testified that he works closely with his brother, Iroi jlaplap Murjel Hermios and he will not recognize or respect any documents that does not carry the Iroi jlaplap signature. Iroi j Rimios Hermios is the younger brother of Iroi jlaplap Murjel Hermios and will eventually succeed Iroi jlaplap Murjel Hermios upon his death.

In considering its opinion based on the hearings of this case, it was made clear to the Traditional Rights Court that Iroi jlaplap Murjel Hermios did not receive sufficient evidence in order to make a proper and just decision. This was made clear by his failure to examine the Defendant's Bwij Chart before the same chart was presented in Court, and by not having with him the

"Book of Iroij" when he made his decision.

The Defendant's Bwij Chart shows, based on the Defendant's knowledge that there were two sisters who came to Ailuk from Maloelap Atoll. The name of the elder sister was Liormeto and the younger sister was named Lijubilo. The children of Liormeto were Jemej (M), Libuke (F) and Litwe (F). The children of Lijubilo were Lokojbo (M) and Lujin (F). The Plaintiff and the Defendants are brothers under the custom in line under their own bwij. This means, under the custom, they are all entitled to inherit the lands in question due to their rights in the succeeding line.

The Traditional Rights Court also considers this opinion that the contents of the "Book of Iroij", which was prepared and contained the names of each alap and each Iroij Edrik on Utrik Atoll and which the Iroiylaplap Lobadreo had (This was testified to in Court) approved, only shows who hold alap rights and nothing of the land division. Regardless of this, the Traditional Rights Court saw that it was an arrangement that was just, based on the arrangements in Outline 7 and not 5 of the "Book of Iroij".

OPINION IN ANSWER TO QUESTION NO. 5

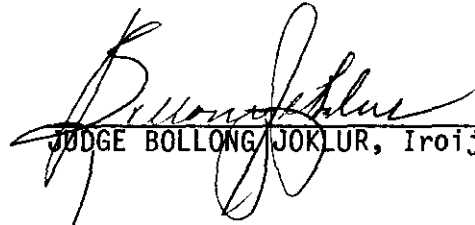
THEREFORE, The Traditional Rights Court Panel tenders its opinion in answer, based on the Bwij Chart presented in Court on the Defendant's bwij, as follows: If the older bwij ceases (all the members of female lineage are dead), the younger bwij will hold the alap title.

DATED: 4-5-88


**FILED**

APR 05 1988

ASST. CLERK OF COURTS  
REPUBLIC OF MARSHALL ISLANDS

  
JUDGE BOLLONG JOKLUR, Iroij

  
JUDGE ELLAN JORKAN, ATab

  
JUDGE BERSON JOSEPH, Dri Jerbat