

The petitioner is a citizen of the Republic of Kiribati and was not present in court during the trial. She was, however, represented by her family member, Ngaia Tioti, who lives and works in the Marshall Islands.

The Government of the Republic of the Marshall Islands (“Republic”), the respondent in this matter, opposes the granting of a decree of eligibility for citizenship on the basis that petitioner’s claim is too remote as a sixth-generation patrilineal descendant from the progenitor, Koonat, in whom the petitioner claims married and migrated to Kiribati in the late 1800s to the early 1900s. The Republic also questions the legitimacy of the petitioner’s *Kalimur*, and asks whether a botoktok descendant can claim alap rights to customary land when the progenitor migrated from the Marshall Islands more than 100 years ago.

Parties agree the current irojlaplap of Namok is Irojlaplap Driktak Jibas, also spelled Riktak Jibas.

II. Issue / Question

The issue or question before this Court is whether the petitioner Teinauea Tiare, a sixth-generation descendant of a Marshallese male, holds any alap or dri jermal rights over Namok Island, Mili Atoll, Marshall Islands, that her lineage may have or have her rights to an alap or dri jermal expired.

For the reasons set forth below, we find Teinauea does not hold alap or dri jermal rights on Namok.

III. Relevant Factual Findings

We find that Koonat, the progenitor of the petitioner’s family tree, is a female, not a male. She bore two daughters, Kirdrere who migrated to Kiribati, and Kirdrimoi who stayed on Mili Atoll. Kirdrere bore four sons and the petitioner is a fourth-generation descendant of the youngest male shown in the *menmenbwij* (Exhibit 1).

As a fourth-generation descendant from a Marshallese male, Teinauea have rights to live on and harvest from the land as an *ajri* (child) of the paternal lineage, irrespective of her expired alap and dri jermal rights as a descendant of Koonat, and, as long as she obtains the permission of the Alap and Irojlaplap (*Tobin*, 1956 at 18-21; *Motlok v. Lebeiu*, 7 TTR 359 (1976)).

Kirdrere's lineage's purported alap rights ended with her as the next generation's alap rights would have continued with Jeblo, Kirdrimoi's daughter. Marshallese custom dictates primary inheritance rights are passed down matrilineally, unless there are deviations under the custom that would dictate otherwise. (*Lokkon v. Nakap*, 1 MILR (Rev.) 69, 71 (1987); *Motlok v. Lebeiu*, 7 TTR 359 (1976); J. A. Tobin, *Land Tenure in the Marshall Islands* at 16-17 (1956); Amata Kabua, *Customary Land Titles and Inherent Rights: A General Guideline in Brief* at 19 (1993); Public Law P.L. 2023-67, *Customary Law (Succession of Customary Title, Right and Interest) (Ralik Chain) Act* (2023)).

Kirdrimoi, on the other hand, bore a daughter named Jeblo. Kirdrimoi's lineage continues as the reigning *bwij* for the descendants of Koonat as females continued to bear daughters over the years in the Marshall Islands. Irojlaplap Jibas testified that the current Alap of Koonat's family depicted in the *menmenbwij* is Nemur, a descendant of Kirdrimoi.

Though the petitioner's genealogy chart confirms her family lineage as a Marshallese descendant, this Court finds the *menmenbwij* is not from Namok. Namok, as attested to by Irojlaplap Jibas is a *kotra* land that exclusively belongs to his iroj bwij. The petitioner's ancestress, Koonat, is not part of Irojlaplap Jibas' iroj bwij.

If Namok is a *kotra* land, we find Irojlaplap Jibas is authorized under the custom to assign workers to it or give it away, however, the evidence in this case presented conflicting outcomes as to the petitioner's claim that she was specifically assigned alap or dri jermal rights on Namok.

IV. Analysis of Relevant Customs & Factual Findings

A. The Genealogy Chart

The *menmenbwij* (Exhibit 1) bears the signatures of Irojlaplap Driktak Jibas and Alap Nita A. Jibas. It is entitled “*Menmenbwiji an Koonat im Obaia Namok Is, Mili Atoll, Marshall Islands.*” On its face, it is a *menmenbwij* of Koonat’s family who are from Namok. In his testimony, Irojlaplap Jibas attested to the petitioner’s lineage as part of Koonat’s family tree. However, he also confirmed the current alap for the family of Koonat is Nemur, a direct descendant from the younger *bwij* of Kirdrimoi, not Alap Nita A. Jibas who is depicted in the *menmenbwij* as the one who purportedly verified the *menmenbwij* as that of Namok.

Namok, as Irojlaplap Jibas stated, is a *kotra* land belonging to his iroj *bwij*. He testified he gifted the petitioner with the alap and dri jermal rights on Namok as *tolemour* for nursing him. We find his testimony regarding his *tolemour* of Namok to the petitioner in direct conflict with the *Kalimur* he also attested to making in 2023 in support of the petitioner’s lineage in her application.

The *Kalimur* shows the four sons of Kirdrere as beneficiaries of alap and dri jermal rights on Namok. (Exhibit 2). The petitioner is a fourth-generation descendant from the youngest of Kirdrere’s sons, and six generations from Koonat.

B. Tolemour

Tolemour is a Marshallese custom which describes a situation in which land was given by an iroj for the successful treatment or nursing of an iroj. (*Anjoij v. Wame*, 5 TTR 337 (1971)). *Tolemour* on a *kotra* land may be continued or terminated as a *tolemour*, depending on the successor Irojlaplap’s determination. (*Id.*, at 339; *Tobin*, 1956 at 57). Irojlaplap Jibas may assign workers to Namok, however, as stated by this Court, the petitioner expressly claimed alap and dri jermal rights by virtue of her lineage in which her *menmenbwij* and *Kalimur* were submitted, and because she claims the Irojlaplap recognizes

her as the alap and dri jermal of Namok. Teinauea did not claim *tolemour* in her petition or pre-trial statement to this Court,¹ however, Irojilaplap Jibas testified that he granted her alap and dri jermal rights on Namok, a *kotra* land, on the basis of *tolemour*.

Again, this presents a direct conflict to her claim as a direct descendant of one of the named beneficiaries in the *Kalimur* submitted in support of her application.

C. Kotra

Irojilaplap Jibas testified Namok is *kotra* land and he holds all three land interests; Irojilaplap, Alap and Senior Dri Jermal. As a *kotra* land, he has exclusive rights, under the custom, to assign workers or give the land away. (*Anjouij v. Wame*, 5 TTR 339 (1971)).

Evidence as to the type of land Namok is was limited to the testimony given by Irojilaplap Jibas. No other members from his iroj bwij were present to attest to Namok as a *kotra* land. We find that if Namok is *kotra* land, then Irojilaplap Jibas has the authority to assign the alap and dri jermal rights and title to Teinauea. (*Id.*; *Tobin*, 1956 at 57). However, as stated, petitioner never claimed Namok was *kotra* land given to her as *tolemour* in her petition or Rule 2 Statement to this Court. And as stated, this would be in direct conflict with her claim under the *Kalimur*. The petitioner solely based her application on being a sixth-generation descendant of Koonat who migrated from Mili Atoll to Kiribati more than 100 years ago.

V. CONCLUSION

After reviewing the documentary and testimonial evidence, we conclude that Teinauea is a fourth-generation descendant from a Marshallese male. As such, she has *ajri* rights as a patrilineal descendant of Koonat's *menmenbwij* to live and harvest from the land. She does not have any alap or dri jermal rights as a fourth-generation descendant of a

¹ Petitioner's Rule 2 Statement at 2 (filed Sept. 23, 2024).

Marshallese male, but with the permission of her current Irojlaplap, Alap and Senior Dri Jerbal, she may reside in the lands belonging to the *menmenbwij* of Koonat's family.

In addition, this Court finds Teinauea's *menmenbwij* is not from Namok. We are also unable to determine, at this time, whether Namok, as a *kotra* land, was given to Teinauea as a *tolemour* gift, or given to her four ancestors named in the *Kalimur*. Therefore, we are unable to determine and confirm that Teinauea holds the alap or dri jermal rights on Namok because of the two conflicting claims on how she is or became a beneficiary of those rights and titles.

In conclusion, Teinauea may live and harvest the land of her ancestor Koonat, with the permission of her Irojlaplap, Alap and Senior Dri Jerbal, either as a Marshallese or iKiribati citizen. The fact is, as a fourth-generation descendant of a patrilineal lineage, she has ajri rights to continue living on the family land(s). This is consistent with the Marshallese custom of reciprocity, which compels us to look after each other and respect one another in love.

Dated: _____ November 2024.

/s/
Nixon David
Associate Judge, TRC

/s/
Atte Land
Associate Judge, TRC

/s/
Claire T. Loeak
Associate Judge, TRC