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CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

IN THE TRADITIONAL RIGHTS COURT  
OF THE  
REPUBLIC OF THE MARSHALL ISLANDS

<p>IN RE THE MATTER OF THE APPLICATION FOR CITIZENSHIP FOR BETTY JAMES,</p> <p>BY BETTY JAMES PETITIONER.</p>	<p>CIVIL ACTION NO. 2024-00557 HCT/FPS/MAJ</p> <p>OPINION &amp; ANSWER OF THE TRADITIONAL RIGHTS COURT</p>
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To: **Hon. Witten Philippo, Associate Justice of the High Court**  
**Mr. Alonso Elbon, Counsel for Petitioner**  
**Assistant Attorney General Davina Nathan, Counselor for the Republic**

**I. Introduction**

This is a petition to the High Court by Betty James (“Petitioner”), who is applying for citizenship by registration. Petitioner is claiming *alap* and *senior dri jerbai* rights as an 11<sup>th</sup> generation offspring of a male ancestor, Lowodbako, who migrated to Kiribati more than 100 years ago during the German times and stayed.

**II. Issues / Questions**

This Court is tasked with answering the following questions according to Marshallese custom and traditional practice:

1. Can a *botoktok* inherit *alap* rights to customary land? If your answer is “yes”, why? If “no”, why?

2. Can a botoktok inherit *dri jermal* rights to customary land? If your answer is “yes”, why? If your answer is “no”, why?<sup>1</sup>

For the reasons set forth below, this Court finds the petitioner currently does not hold *alap* or *dri jermal* rights to customary lands depicted on the *menmenbwij* submitted and marked as Petitioner’s Exhibit “A”.

### **III. Analysis of Relevant Factual Findings**

#### **A. Can a botoktok inherit *alap* or *dri jermal* rights on customary land?**

For brevity, the questions have been combined as they are closely related. This Court finds the questions are general in nature and therefore requires us to address them directly, in general, and then apply the answer to the petitioner’s specific situation based on the *menmenbwij* and letters from Leroij Neimat’s two *manmaronron*, Iroj Jimata Kabua and Iroj Lanny Kabua, and from Alap Alvin Jacklick.

It should be noted that each situation is determined generally, by the category or type of customary land and the eldest surviving members of the *bwij* and *botoktok*, as well as other factors that may cause the normal inheritance pattern to change. Jack A. Tobin, *Land Tenure in the Marshall Islands* at 11-47 (1956).

**B. A botoktok can and cannot inherit *alap* and/or *dri jermal* rights on customary land. This Court elaborates on the following patterns as most relevant and applicable to the petitioner in this case.**

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<sup>1</sup> Order Certifying and Referring Questions to Traditional Rights Court, In Re the Application for Citizenship of Betty James, Civil Action No. 2024-005S7 (HCT, Sept. 17, 2024).

### Alap Rights Title

1. **Yes**, a *botoktok* can inherit alap rights on customary land based on the principle that “...every *Marshallese is, as may be seen a potential alap*” and if and when the *botoktok* is in the immediate succession line according to custom. Jack A. Tobin, *Land Tenure in the Marshall Islands* 17 (1956). For example, in the High Court Civil Action No. 2018-006, *Rilometo and Rilometo v. Kabua v. Botla and Moore* (Jan. 7, 2022), this Court recognized a blood descendant, Intervenor Jiwao Moore, as the *alap* on Enekokot Island, Amo Atoll, an *imon bwij* – land that is principally inherited through the matrilineal line. *Id.*; Amata Kabua, *Customary Titles and Inherent Rights* 16-21 (1993). In that case, the reigning *bwij* line became extinct, and in the absence of a younger *bwij* in the succession line, the alap title was then transferred to the eldest child of the eldest male or *botoktok* until a new *bwij* line was established with the birth of a female. Intervenor Jiwao Moore’s ancestress, Winrak, established a new *bwij* line from a *botoktok* of an older lineage. *Rilometo and Rilometo v. Kabua v. Botla and Moore*, HCT CA 2018-006, TRC Opinion & Answer, slip op. at 6-7 (Jan. 7, 2022); *Tokjen v. Lodge-Lobju and Lodge-Ned*, HCT CA 2018-294, Opinion & Answer of the TRC, slip op. at 12, (Oct. 2, 2020).
2. **Yes**, a *botoktok* can also inherit alap rights when the customary land is designated as a *ninnin* land - “...*land that is transferred by a parent (father) to his children*” and “...*the old or ascending lineage may not take these rights away from them.*” Tobin, at 27 (1956).
3. **No**, a *botoktok* cannot inherit alap rights on *bwij* land because the primary inheritance pattern of Marshallese custom is matrilineal and the rights of *botoktok* are subordinate to those of the female line and if and when the *bwij* becomes extinct. *Langidrik v. Dolar, et al.*,

HCT CA 2005-241, Opinion & Answer of the TRC, slip op. at 3 (Oct. 27, 2016); Tobin (1956); Kabua, at 2 (1993).

### **Dri Jerbal Rights and Title**

4. Similarly, a *botoktok* can inherit *dri jermal* rights on customary land. *Langidrik v. Dolar, et al.*, HCT CA 2005-241, Opinion & Answer of the TRC, slip op. at 3 (Oct. 27, 2016); *Kotton v. Tarilang, et al.*, HCT CA 2018-10, slip op. at 3 (Jan. 23, 2020). There are also situations in which even this inheritance pattern may be disrupted, such as in the case of an adopted child. *Rilometo and Rilometo v. Kabua v. Botla and Moore*, HCT CA 2018-006, TRC Opinion & Answer, slip op. (Jan. 7, 2022). In the case of *Langidrik v. Dolar, et al.*, HCT CA 2005-241 (Oct. 27, 2016), the TRC said the custom dictates “...*bwij* lands originate from a woman, and her children will inherit the *Alap* right...and the children of her sons will inherit the blood title...*Dri Jerbal* title.”
5. However, as in the case of an adopted child, if that child has a *kalimur*, and the members of the *bwij* and *botoktok* approved of the title being passed on to that adopted child, then that adopted child can inherit the *dri jermal* rights and title. This was the case in the *Moore* case. Defendant Kabua, the offspring of an adopted child inherited *dri jermal* rights by virtue of the adoption and the *kalimur* that was approved by the *bwij* and *botoktok* family members. *Rilometo and Rilometo v. Kabua v. Botla and Moore*, HCT CA 2018-006.

### C. Relevant Custom

1. **Menmenbwij:** Petitioner's menmenbwij – a family genealogy – marked as Petitioner's Exhibit "A" (Exhibit "A"), alleges she is 11 generations removed from Lowodbako, her ancestor of alleged Marshallese descent.

- i. Exhibit "A" bears the signatures allegedly of Iroij Jimata Kabua and Alap Alvin Jacklick, both of whom did not appear to verify their signatures on the document, or other persons familiar with their signatures and who can verify them, such as the notary public who notarized the document.
- ii. According to Exhibit "A", the petitioner claims land rights on the following wetos "...Lellal im Jobwad, Jaluit, Buni, Tuwa#1, Tuwa#2, Moniolap, Lokutak, and Jenrok."<sup>2</sup> This Court finds several issues with Petitioner's Exhibit "A":
  - a. The name of the *alap* is different from the name printed on the *menmenbwij* initially submitted with the Petitioner's application, marked as Petitioner's Exhibit "H";
  - b. The *alap*'s name on Exhibit "A", Alvin Jacklick, or Arata Nathan (unsigned) – depicted in Petitioner's Exhibit "H" – does not appear to be in the *menmenbwij* itself;
  - c. Not all the named wetos correspond with those listed on Petitioner's Exhibits "B" and "C", or in Petitioner's Exhibit "I" that was also submitted with the Petitioner's application.

For this reason, it is not clear to this Court who the *alap* for the family depicted in the menmenbwij as Alap Alvin Jacklick's name does not appear anywhere in the menmenbwij itself.

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<sup>2</sup> Petitioner's Exhibit "A".

Because the *menmenbwij* is the basis for the Petitioner's claim, at this time, this Court is unable to confirm it is a validly made document in accordance to the custom.

## 2. Customary Law Authority

- i. The Supreme Court affirmed the High Court's adoption of the TRC decision in *Nashion and Sheldon v. Enos and Jacklick*, 3 MILR 83, 91 (2008) which recognized Ann Sheldon as the proper person to hold and exercise the rights and title of *alap*, and Tabwi Nashion as the proper person to hold and exercise the rights and title of *dri jermal* on the *weto*, *Lokitak* in Jaluit. This Court therefore finds the petitioner cannot hold *alap* or *dri jermal* rights on *Lokitak* in Jaluit as alleged in this petition because the Supreme Court has already made those determinations.
- ii. Likewise, the High Court denied Teinauea Tiare Yee On's petition for citizenship by registration based on inconsistencies in the *menmenbwij* and *kalimur*. Teinauea is of a 4th generation descendant far removed from a man of alleged Marshallese descent. The TRC was unable to verify both documents as the *alap* of the family depicted in the *menmenbwij* was not the one who signed and verified the *menmenbwij* it, nor was her name and lineage depicted in it. *In re the Application for Citizenship by Registration by Teinauea Tiare Yee On (Opinion & Answer of the TRC) CA 2024-01336 (11/22/24)*. Similarly, this Court finds that in the absence of testimonial evidence by Alap Alvin Jacklick, the alleged *alap* of the family depicted on Exhibit "A", we are unable to verify whether or not he is part of the family depicted on the *menmenbwij* because he and his lineage do not appear anywhere on the it.
- iii. Additionally, the High Court denied petitioner Karua Tamuera's petition for citizenship by registration stating, among other reasons, that as a 13<sup>th</sup> generation

descendant far removed from Lowodbako, the “...*connection is too remote to establish [permanent] land rights in the Marshall Islands*” because “...*land rights through the male diminish over time and conclude with the seventh generation.*” *In Re Petition for Citizenship by Karua Tamuera*, HCT CA 2010-114, Order Denying Petition for Citizenship by Registration Based Upon Descent, slip op. at 5 (Apr. 25, 2013); Jack A. Tobin, *Land Tenure in the Marshall Islands* 20 (1956); Amata Kabua, *Custamary Titles and Inherent Rights* 2 (1993).

#### IV. CONCLUSION

Based on the above stated reasons, this Court concludes that Petitioner Betty James currently does not hold *alap* or *dri jermal* rights on the wetos depicted in the *menmenbwij*. She may, however, be able to seek consent from her Irojilaplap, Alap and Senior Dri Jermal to live and harvest from the land as an alleged blood descendant of a Marshallese man.

**Dated: 17th April 2025.**

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Grace L. Leban  
Chief Judge, TRC

*/s/*

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Nixon David  
Associate Judge, TRC

*/s/*

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Claire T. Loeak  
Associate Judge, TRC