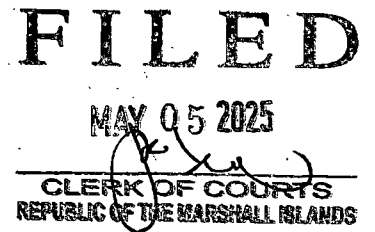


IN THE TRADITIONAL RIGHTS COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL



PATRICK LANGRINE, in his capacity as)
Secretary of Finance,)
Plaintiff)
v.)
ALBERT AMOS and JENIS TEN)
Defendants)

Civil Action 2022-00609

OPINION & ANSWER OF
THE TRADITIONAL
RIGHTS COURT

MEMBERS OF THE PANEL :

Grace L. Leban
Presiding Judge, TRC

Nixon David
Associate Judge, TRC

Jasper Lanki
Associate Pro Tem Judge, TRC

PLACE OF HEARING :

Ebeye Courthouse
Ebeye, Kwajalein Atoll &
Majuro Courthouse
Majuro
Marshall Islands

HEARING DATE(S) :

August 21-22, 2024

INTRODUCTION:

On March 17, 2023, this case came before the Traditional Rights Court pursuant to a Referral Order, as mandated under Rules 4 and 5 of the TRC Rules of Procedure, dated January 15, 2009. This matter concerns a dispute over *alap* rights and who the proper person is to receive the alap payments for Wonmak Turok (South) on Wonmak Island, located in the Kwajalein Atoll.

According to both parties, Wonmak Turok is comprised of the *wetos* known as Labo, Mejto, Motaelon, and Aeboj. These *wetos*, collectively referred to as Wonmak Turok, are acknowledged to be under the ownership of the Loeak *Mojen* (domain), and that Iroiylaplap Christopher Jorebon Loeak currently holds and exercises the *Iroiylaplap* right on Wonmak Turok.

PARTIES' CONTENTIONS

Defendant Albert Amos contends that he is the rightful person to exercise the *alap* rights on Wonmak Turok (South), Kwajalein Atoll, Republic of the Marshall Islands. He further asserts that the lineage of Liodrik became extinct upon the passing of Abija. Defendant Amos acknowledges that, under Marshallese custom, when a maternal lineage is extinguished or becomes extinct, the interests are inherited by the descendants of the male line or the *botoktok*. He claims that upon Abija's death, all rights were transferred to the eldest patrilineal descendant, Lemto. Lemto's first born child was a female, Larok. Defendant Amos asserts that Larok, became the *alap*, as a *Toor in Botoktok* or descendant through the male line, and that her daughter, Roselin, is now the current inheritor and holder of alap rights on Wonmak *weto*.

Defendant Jenis Ten asserts that she is the rightful person to exercise the *alap* rights on Wonmak Turok, Kwajalein Atoll, Republic of the Marshall Islands. She argues that when the

bwij became extinct upon the death of Abija, the eldest male descendant of the bwij was Ikirtok. Therefore, Eodrik is the rightful and proper person to hold and exercise the alap rights after Abija, and that Eodrik is the eldest member of the new bwij and not Larok.

QUESTIONS CERTIFIED TO THE TRC PANEL

The questions certified to the Traditional Rights Court for determination are as follows:

- I. Who is the proper person to exercise *alap* rights, titles, and interests on Wonmak Turok, Kwajalein Atoll, Republic of the Marshall Islands? and
- II. Who is the proper person to receive compensation from Wonmak Turok under the Land Use Agreement between the Landowners of Kwajalein Atoll and the Government of the Republic of the Marshall Islands, executed on May 11, 2011?

ANSWER TO THE QUESTIONS

- I. Albert Amos
- II. Albert Amos, based on the agreement(s) in the Land Use Agreement (LUA)

FACTUAL FINDINGS UPON WHICH ANSWER IS BASED

The TRC panel, having reviewed all the evidence and information provided by witnesses in the case, reached a conclusion and based its answers on the evidence provided through the testimonies of the witnesses and exhibits admitted before this court.

Exhibit A, the family tree of Liodrik, indicates that Wonmak Turok is bwij land and the rights passed down through Liodrik's lineage or bwij under the guidance and authority of the Loeak *Mojen* (Domain). Both defendants agree that the bwij became extinct after Abija, who was the only child of the eldest female named Likokole, daughter of Lijokane, who was the eldest daughter of Liodrik. After the bwij became extinct with Abija, it is appropriate that the alap rights be passed to Ikirtok and Nilep, children of Liodrik's younger granddaughter named

Lijiboke, daughter of Lijokane. However, the court notes that before Abija exercised the alap rights on Wonmak Turok, Lemto had assumed that role and held the alap right, as evidenced in Exhibit B, the 1959 Land Determination of Kwajalein Atoll.

Exhibit B shows that under Wonmak Turok, the Irojlaplap is Albot, the Alap is Lemto, and the Dri Jerbal is Samuel. The court believes that Lemto had to have held the right because he belongs to a generation preceding Abija, Ikirtok, and Nilep, and is of female descent. He is the brother of Likokole and Lijiboke, making him the uncle of Abija, Ikirtok, and Nilep, as shown in Exhibit A, the genealogy chart of Liodrik. The Land Determination also indicates that Samuel, son of Lemto, held the Senior Dri Jerbal right, being of the son of Lemto and *Toor in Botoktok* or a descendant of a male, while Abija, Ikirtok, and Nilep, descendants of a female or of the bwij, were in-line to inherit the alap rights and would succeed their Alap at that time, who was Lemto. After Lemto, succession passed to the next generation, and Abija, of female descent, inherited the rights and became Alap.

After Lemto, the rights passed on to the next generation, in which Abija, who was the most senior being a descendant of a female and of the bwij, inherited the Alap rights on Wonmak Turok. Ikirtok and Nilep predeceased Abija and thus did not exercise the alap title. With their passing, there were no other children of the bwij or female members or the bwij after Abija and it can be stated that the bwij became extinct (*elot bwij eo*) when Abija passed.

According to Jenis Ten's closing argument, she stated that Larok did not exercise Alap rights because Abija was still alive but served as Dri Jerbal. The court agrees. However, the court also recognizes that after Abija, the bwij became extinct, and succession passed to the Botoktok or male descendants. Therefore, and as stated in P.L. 2023-67, Section 105(1)-(4), it is proper that Larok should be Alap, given that she is of male descent (through Lemto),

who is of female descent (Neibabar), daughter of Liodrik. Larok belongs to a generation preceeding Ikirtok and Nilep's children. According to the family tree, Lemto had two male siblings: Larok, the eldest, and Kajuju, the youngest, but with no offspring, succession then passed through Lemto's lineage or children who are *Toor in Botoktok*. After Abija's passing, the court acknowledges that Alap rights passed to Larok and her siblings, who are the offspring of Lemto, as Lemto is the uncle of Ikirtok and Nilep and closer to the bwij being the son of Neibabar. Ikirtok and Nilep are grandchildren of Lijokane, the older sister of Neibabar.

In Liodrik's family tree, Abija, Ikirtok, and Nilep are of the bwij (of female descent) but their offspring are *Toor In Botoktok* of male descent and thus hold the title of Dri Jerbal. However, Eodrik and Moss, who are children of Larok, this court recognizes that they are also entitled to inherit Alap rights because a new bwij (*Jidrak in bwij*) started with their mother, Larok. Larok and her siblings are *Toor in Botoktok* (of male descent). At this same time, a new line of female descendants (*jibtok*) was established through Larok and her offspring. With respect to the children of Ikirtok and Nilep, they are Toor in Botoktok as offspring of the male or Jiblok.

Witness Mr. Kimo Ten, testifying for Jenis Ten (his mother), stated that under Marshallese custom, offspring of last male Alap descendants from the eldest lineage or bwij will inherit Alap rights, or in other words, the children of Ikirtok and Nilep, as Abija had no offspring, will be the ones to exercise the alap rights after Abija. He further testified that after Abija's passing, Eodrik inherited Alap rights on Wonmak Turok. Kimo stated that Eodrik held the Alap rights due to her lineage being *Jidrak in bwij* or that a new bwij forms and starts with her. The court does not agree with this statement. If Eodrik started the new bwij, her

offspring would have inherited Alap rights and not Eodrik herself because she, being the offspring of a male, is *Botoktok*, other than if she inherits the alap right being a child of Larok, who formed a new bwij. Although Eodrik inherited Alap rights as Larok's daughter, her lineage is defunct. A new female descent line was established through her line. Larok inherited Alap rights because the lineage became defunct with Abija, and the rights passed from female to male descendants or the *Botoktok*. At that time, it was proper for Larok to exercise Alap rights, being the daughter of the most senior male descendant of the bwij, Lemto, who was of female descent. With a new bwij formed with Larok, her offspring will inherit Alap rights being children of a female or of the bwij. (Kabua, *Customary Titles and Inherent Rights*, 1993; Tobin, 1956)

The court acknowledges and honors the appointments and arrangements by the Iroij who own Wonmak Turok for the *Kajur*, their people, and those they appoint as they are *Iroij im Jela*. The court also recognizes that from the time of Irojlaplap Anjua Loeak to the time of his younger brother, Irojlaplap Kotak Loeak (2011–2018 / Exhibit D & Exhibit C), they recognized Albert Amos as the alap for Wonmak Turok. During the time Albert was Alap for Wonmak, Jenis Ten's younger brother, Donald Phillip served as Senior Dri Jerbal. The court recognizes that in 2011, Albert Amos signed the Land Use Agreement (LUA) as Alap of Wonmak Turok, and Donald Phillip signed as Senior Dri Jerbal. This confirms the court's position that Albert Amos, in accordance with Liodrik's genealogy chart, is the proper person to hold and exercise the Alap rights today.

The court also acknowledges the changes that were made, shown in **Exhibits G and H**, indicating alterations in Alap recognition, with John David Bettere Pam being recognized in 2021 and later Jenis Ten in 2022. Under Marshallese custom, yes, the Irojlaplap can make

changes with respect to the titles held by his *Kajur* under the principle of "Iroij im jela", however, there must be a substantial explanation or reason for such changes, as stated in P.L. 2023-67 Section 107(d). The court finds there was insufficient evidence to show that there was good cause or reason to have changed the arrangements by the previous Iroijlaplaps who had recognized Albert Amos as Alap of Wonmak Turok. Therefore, the court finds it proper that Albert Amos should exercise Alap rights on Wonmak Turok today and receive the Alap land payments for Wonmak Turok, in accordance with the Land Use Agreement between the Iroij and landowners of Kwajalein Atoll and the Government of the Republic of the Marshall Islands.

RELEVANT CUSTOMARY LAW & TRADITIONAL PRACTICE

1. *Elot bwij eo* - When there are no females or matrilineal descendants alive in the family lineage, the bwij becomes extinct or 'elot bwij eo', and therefore the inheritance of rights will change from the bwij (children of a female) and be passed through the male or descendants of a male, *Toor in Botoktok*.
2. *Jidrak in bwij* - After "e lot bwij eo" or a bwij becomes extinct, the alab right passes from the bwij (children of the female) to the botoktok (children of the male). However, if a woman is born from the male's descendants, a new lineage is born, calling this lineage 'Jidrak in bwij', therefore the alap right reverts back to the bwij and shall be passed through this woman's lineage (her female children).
3. *Jibtok* – children of the female or of the bwij.
4. *Jiblok* - descendants through the male line or *Toor in Botoktok*.

APPLYING THE CUSTOM TO FACTUAL FINDINGS

Based on the facts of this case, Abija was the last Alap and **the bwij became extinct** as there were no females in his generation. His two younger brothers who were also of the bwij (children of the female), Ikirtok and Nilep, both passed away before Abija. Therefore, the

line of succession or inheritance pattern changed to the *Botoktok* (male or descendants of the male). The most senior *Botoktok* (male descendant) was Larok, daughter of Lemto, who was Abija, Ikirtok, and Nilep's uncle. Consequently, the Alap rights passed to Larok, Lemto's eldest. Concurrently, a **new bwij** was also **formed** with Larok resulting with her offspring inheriting the alap rights today. Now, we can consider Ikirtok and Nilep's children as **Jiblok** or Toor in Botoktok and Larok's children are of the bwij or **Jibtok**.

WITNESSES FOR DEFENDANT ALBERT AMOS:

1. Patrick Amos
2. Jekni Jekkein

WITNESS FOR DEFENDANT JENIS TEN:

1. Kimo Ten
2. Iroiylaplap Christopher
3. Atte Lang

EXHIBITS FOR DEFENDANT ALBERT AMOS:

1. Exhibit A - Family Tree of Lieodrik
2. Exhibit B - Land Ownership Publication for Kwajalein Atoll 15 October 1959
3. Exhibit C - RMI Check History 4/12/22
4. Exhibit D - Melim (Consent) from Iroiylaplap Anjua Loeak, September 19, 2011
5. Exhibit E - Melim (Consent) from Iroiylaplap Kotak Loeak, January 3, 2018
6. Exhibit F - English Translation of Exhibit E
7. Exhibit G - Certificate of Traditional Successor of Iroiylaplap Kotak Loeak, Jan 22, 2021
8. Exhibit H - Iroiylaplap Recognition & Approval of Kotak Loeak, Feb 22, 2021

9. Exhibit I - Customary Law (Succession of Customary Title, Right, and Interest)
(Ralik Chain) Act, 2023

EXHIBITS FOR DEFENDANT ALBERT AMOS:

1. Exhibit 1 - Genealogy Chart
2. Exhibit 2 - Certificate of Death, Eodrik Sam
3. Exhibit 3 - Certification of Traditional Successor by Jeni Ten, Feb. 22. 2021
4. Exhibit 4 - Iroijlaplap Recognition of Approval by Kotal Loeak, Feb. 22, 2021
5. Exhibit 5 – LUA Signature pages for Wonmak Turok and other lands on Kwajalein Atoll
6. Exhibit 6 – Certificate of Death, Kotak Loeak
7. Exhibit 7 – Certificate of Death, Anjua Loeak

OTHER FACTS CONSIDERED BY PANEL

The Court acknowledges the information provided by the witnesses in this case stating that Eodrik Sam and Moss are the children of Ikirtok and Larok. Based on and because of this fact, the Court recognizes that it was proper for Eodrik Sam to have held both these rights, Alap and Senior Dri Jerbal, inheriting the alap right from Larok and the Senior Dri Jerbal right from Ikirtok.

Dated: April 11, 2025

/s/ Grace L. Leban
Presiding Judge, TRC

/s/ Nixon David
Associate Judge, TRC

/s/ Jasper Lanki
Associate Pro-Tem Judge, TRC