

CUSTOMARY TITLES AND INHERENT RIGHTS
A General Guideline in Brief

By
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Majuro
Republic of the Marshall Islands
February 11, 1993

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While the book does not cover the entire range of Marshallese customs and the applicable principles, it is fervently hoped that the very basic and simple customary principles herein can initiate the first step into the learning of Marshallese customs. It is primarily an introduction to these customs.

In this light, the book is dedicated to those desirous of taking this first step with great hope that it will be useful and helpful to them.

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CUSTOMARY TITLES AND INHERENT RIGHTS

GENERAL GUIDELINE IN BRIEF

PART A. PRIMARY PERMANENT AUTHORITY OF THE BWIJ

Section 1. Identification of Controlling Matrilineal Clans

The titles and land rights are possessed by two traditional categories, e.g., the iroij, which signifies the royal lineage of inheritance and kajur, the commoner lineage of inheritance. The bwij, from which the jowi, the symbolic clan name and identification of a clan is derived, establishes the avenue through which the primary permanent authority on the land rights are determined, possessed and passed on down matrilineally to the succeeding generation of descendent heirs. Every person born by a Marshallese mother is born with a jowi, which he or she inherits from the mother. All jowis have land rights, thus no child is born without that basis of land rights.

Section 2. Passage and Vesting of Bwiji's Authority

The possession and conveyance of the permanent authority on such land rights through the customary avenue of the bwij is indisputable; and it passes on to the appropriate successor, unless otherwise prevented by an act of the head of the bwij for reason of serious offense committed against the head, or against the bwij generally, by that successor. In such event, the successor second in line takes his place. It should be noted, however, that the rule of interrupted succession only applies to

the second generation successor and not to the younger brother and sister of the head of the bwij who are deemed to be of the same generation. Thus the permanent authority passes from generation to generation of the bwij and is customarily vested in the iroijlablab and the alab as the two top executives of the bwij's authority.

PART B. SUBORDINATE LAND RIGHTS HOLDERS OF THE PATRILINEAL CLANS

Section 1. The Botoktok

The subordinate land rights holder with delegated authorities on such rights are vested in the iroijerik and the drijerbal.

The title, iroiierik, is commonly referred to the sons and daughters of the iroiijlablab and of the male members of the bwij. In the Ralik Chain the offspring in this category are clearly referred to as bwirak for the male and libwirak for the female. The term drijerbal applies to the sons and daughters of the alab and of the male members of his bwij. These landowners under the iroiij and kajur categories are the patrilineal heirs of the reigning bwij's. They are the descendants of botoktok lineage and after three of their generations, the land rights of their descendants are normally diminished; unless otherwise reassigned or restored to them by the iroiijlablab for the reasons of extinction or expulsion of the reigning bwij's.

Section 2. Types of IroiJerik and Qualification

While the term iroiJerik is used for the patrilineal offspring of the iroiJ bwij, it is also commonly used for the lesser, or lower, ranking members of the bwij. The authority and land rights of an iroiJerik of the bwij will not gradually diminish or fade away. In determining the matrilineal bwij qualification of the iroiJerik, he or she must be closely related to the iroiJlablab and his or her jowi must be identical to that of the iroiJlablab.

Section 3. Types of DriJerbal and Qualification

The term driJerbal is inclusive of three types: They are, firstly, the person brought into a weto to work by the alab; secondly, the patrilineal offspring of the bwij, and thirdly, the lower ranking members of the bwij. In this order, the first type of driJerbal has no permanent land rights and can be removed by the alab at his pleasure; the second holds land rights that continue to diminish as time passes; and the third has permanent land rights.

PART C. TRADITIONAL HIERARCHY AND RESPONSIBILITIES

Section 1. Ranks and Offices

The traditional hierarchy of the Marshallese people insofar as their land tenure system is concerned begins with kajur matrilineal and patrilineal bwijs up to the iroiJ matrilineal and patrilineal bwijs with rank determination on a seniority basis of each bwij. Thus the division of authority and responsibility was

made in accordance with ranks and titles in the order as follows:

- a. Iroiylablab -- Elder and Senior Head of the Iroiyl Bwij.
- b. Iroiierik (Ratak Chain only) -- Patrilineal offspring, etc.
- c. Alab -- Elder and Senior Head of the Kajur Bwij.
- d. Driierbal -- Worker and senior patrilineal offspring, lower ranking members of the bwij.

Section 2. Authority and Responsibility of Iroiylablab

The iroiylablab holds the greatest and final power, and has the over-all responsibility to maintain peace and harmony among the people, to protect life and rights of the people, and to promote advancement of their livelihood. He settles disputes among the people; takes land for reassignment for the landless; and has other numerous responsibilities incidental to his position.

Section 3. Authority and Responsibilities of Iroiierik

The iroiierik assists in the supervision of matters pertaining to the land under his or her responsibility and serves as a traditional conduit between the iroiylablab and the alab. He performs other numerous duties incidental to his position.

Section 4. Authority and Responsibilities of Alab

The alab holds the responsibility of managing the land under his bwij and has the overall authority to place, remove and assign workers on the land and looks after their well-being. He performs other duties assigned to him by the iroiylablab.

Section 5. Authority and Responsibilities of Drijerbal

The drijerbal has the right and bears the responsibility to work the land and to do other duties as may be directed and delegated by the alab.

PART D. HIERARCHIAL TITLES OF THE IROIJ BWIJ

Section 1. Royal Titles and Ranks

The hierarchial titles of the iroi j bwij significantly accord the holders unquestionable regality, leadership, and the ultimate authority in the administration of the land under a dominion. In determining and measuring the wholesomeness and dignity of the regality and authority of a ruling member of the bwij, the jowi identification is a necessary requirement. Jowi plays an important part in the determination of ranks and titles, particularly when such are compared between two rival bwij. However, the application of rule by jowi was at times in the past disregarded, or bent by the rule of conquest, or decreed inheritance and assignment of the sovereign power to a different jowi by the iroi jlablab. Such a decree is usually necessary when the ruling bwij becomes extinct, or wishes to confer iroi jship to its patrilineal offspring. Some of the titles are as follows:

- a. Iroi j (M)/Leroi j (F) Pwiew is the highest royal title which confers the supreme authority over a dominion. A pwiew is an offspring of an iroi j father and leroi j mother of identical jowi, or of

different royal jowi; and

- b. Iroij (M)/Leroij (F) is second to pwieo and has the highest authority in the administration of the dominion. An Iroij/Leroij is an offspring of leroij mother and either a bwirak, or kajur father; and
- c. Bwirak (M)/Libwirak (F) is an offspring of an iroij father and libwirak, or kajur, mother and usually serves the dominion in the capacity of an iroijerik; and
- d. Bwirak (M)/Libwirak (F) in Ikmouj is an offspring of a bwirak and libwirak, and also may serve in the capacity of an iroijerik; and
- e. Bwirak (M)/Libwirak (F) Rakrak is an offspring of a bwirak, or libwirak and a kajur, and in some cases he can also serve as an iroijerik if so delegated by the iroijlablab and the alab.

Categories "c" and "d" are possible candidates eligible to take the reins of an iroijlablab when the bwij of the iroij has become extinct.

PART E. JOWI OF THE BWIJS

Section 1. The Jowis

Since time immemorial, the bwijs were given jowis to distinguish a clan from other clans and to insure a clear

and incessant matrilineal flow of inheritance and the inherent land rights of a bwij and its succeeding generation.

Except for the rare cases of incest by the iroijs and leroijs to protect their royal blood and regality in their descendants, jowi has also served to prevent marriage among close relatives to protect against mental and character deterioration of the bwij and to insure their vital and competent existence.

From the stem of the eight original jowis, after a long span of time, many other new jowis branched out to reach the numbers known today. Four prominent jowis emerged from the original jowis to rule over others following an extended period of struggling and contesting for power through warfare. In the southern part of Ralik chain, Errepra Jowi conquered that dominion while the Ijjirik Jowi established their dominion in the northwestern part, except Enewetak. In the Ratak chain, the Drimwejor Jowi controlled the entire chain, but in later years lost Mejit and bequeathed to their offspring of the Ranno Jowi all of Ratak, except Arno. As time passed, Errepra bwij, by close relative marriage, came off with the first supreme jowi of Iroijs, from which iroijs pwieo came to rein. If not all, some of the existing jowis are as follows:

- | | | |
|---------------------|---------------|----------------|
| 1. Errepra * | 2. Ijjirik * | 3. Rābrib * |
| 4. Kalo * | 5. Jejer * | 6. Rukwajlen * |
| 7. Rikibinaeloñin * | 8. Erruwaja * | 9. Iroijs |
| 10. Rimwejor | 11. Ranno | 12. Mokauliej |
| 13. Look | 14. Raur | 15. Ritobal |

16. Rikoro	17. Raej	18. Jibuklik
19. Rikjet	20. Rilobaren	21. Rimae
22. Rilujenramo	23. Jowa	24. Jelaplap
25. Riluwut	26. Rilikinbulujo	27. Ribako
28. Ribikarej	29. Tilan	30. Ribit
31. Rimekijko		

* Denotes the Original Jowis. All the rest are Second Generation Jowis.

Section 2. Common Origin of Jowi

The designated name of a jowi is often derived from the name of the bwij's domicile or origin and the name of its island or atoll is used. The bwij's domicile or origin customarily referred to as Kabijuknen as compared with the terms Lamoran, which connotes a homeland where the bwij have lived and grown up from generation to generation along an extended period of time under their patrilineal heritage. For example, the jowi name of Raur is a derivative as described hereinabove, and indicates that the bwij by that name comes from Aur Atoll.

PART F. LAND ENTITLEMENT AND REWARD

Section 1. Types of Entitlement and Reward

For any outstanding deed, the iroiylablab reserves the right to give recognition and award wetos, islands, or atolls in the traditionally categorical entitlement and reward as follows:

- a. Morijinkwot -- The highest land award in recognition of valor, and a male award only; and
- b. Koraelem -- The second in place land award in recognition of perseverance in bailing the flagship outrigger canoe of the iroiylablab, and a male award only; and
- c. Molentak -- The third in place land award in recognition of loyalty, and a male or female award; and
- d. Jowaienbwe -- A land award in recognition of astrological skill, and a male award only; and
- e. Menuwora (Tolemour) -- A land award in recognition of medicinal skill, and a male or female award; and
- f. Elmmdrik -- A land award for extraordinary performance of service to the state, and a male or female award; and
- g. Jalitak -- A land award for outstanding performance of security guard service, and a male award only; and
- h. Monkalotlot -- A land award for nursing and caring for the dying head of the bwij, and a male or female award; and
- i. Monato -- A land award given for nursing and tutoring an iroiyl child, and a female award only; and
- j. Ninnin -- Land given by the head of bwij to his children at the consent of the bwij and iroiylablab; and
- k. Bakolapekuk -- A land award given to compensate for

the wrong done by an iroiij or leroij to a kajur, and a male or female award; and

l. Kitre -- Land given to a spouse at the consent of the bwij and the iroiijlablab, and a male or female award; and

m. Enenaje -- Land given to an iroiij of different dominion, or an alien interest, and a male or female gift; and

n. Mejalial jen-kabinramo -- a land award given to a female for personal service to her iroiijlablab.

Section 2. Katlep

Katlep is an act of giving land rights by the iroiijlablab to settle a bwij on a piece of land. It also means the land itself where the land right was decreed by the iroiijlablab. On the other hand, the alab is privileged to give Ninnin and Kitre subject to the approval of the bwij and the iroiijlablab. The two terms also each mean the land given under the category.

Section 3. Primary Types of Entitlement and Reward

The traditional nomenclature of entitlement and awards is essential in determining the dignity and strength of the bwij land rights as existing in fact and defining the extent to which they continue to pass from generation to generation. The two top entitlement and awards, e.g., the Morijinkwot and Koraelem are commonly perceived to be permanent insofar the recipient bwij is concerned and can only be revoked if the bwij as a whole is found to have been engaged in activity that is clearly an act of

sedition or treason. Otherwise, the bwij's land rights awarded under these two categories are very much permanent and should continue to be in effect through the descending generations of rightful heirs. However, although the land rights of the bwij are protected under the sacrosanctity of the two highest rewards, the individual members of the bwij remain subject to lose his or her land rights upon conviction of a serious offense to the iroi, alab, or the bwij itself.

Section 4. Secondary Types of Entitlement and Reward

The other entitlement and rewards do not accord the same protection of the bwij's land rights; however, it is extremely rare and most improbable that the bwij is removed from the land for the reason of serious but less offense than sedition, treason, etc. Nevertheless, any individual member of the bwij by virtue of the general rule of punishment is subject to expulsion from enjoying the land rights upon conviction of a serious offense to the iroi, the alab, or the bwij itself.

PART G. ORIGINAL ASSIGNMENT AND INHERITANCE OF LAND RIGHTS

Section 1. Inheritance of Entitlement and Reward

The awardee of land rights under Morijinkwot, Koraelem, or other male entitlement and reward has the privilege and deserves the right to decide and decree the heirs of his rights whether matrilineally or patrilineal, i.e., whether such rights will go to his sister's children or his own. To the contrary, the female awardee has no choice but to pass on down such rights to her

children who carry the jowi of the bwij.

Presuming a Morijinkwot is awarded, it is then imperative that the awardee choose his successor, or successors, and so inform the iroiylablab of his choice for formal confirmation. There are only two choices of successor open to him, e.g., the bwij which includes his brother, sister, etc., or his children who are of a different bwij than his own. In the event there is no close matrilineal and patrilineal relatives to succeed him, then, upon his death, the land rights revert back to the iroiylablab for reassignment. In ancient times, it seems likely that such inheritance by these awards passed on down to the rightful bwij. This line of inheritance was prevalent in the Ralik Chain while the practice in the Ratak Chain was to the contrary. The patrilineal offspring of the awardee were usually the acceptable heirs of the award. However, as the customs evolved up to the present time, a new principle has been popularly adopted throughout the Marshall Islands asserting that the awardee be the sole authority to decide the fate of inheritable rights, whether it should be matrilineally, or patrilineally inherited.

Section 2. Allowance for Patrilineal Inheritance

The general rule of patrilineal inheritance applies on all of the land entitlement and rewards, if, among the matrilineal successors as described above, there is no female to pass on to her children the authority on these land rights. However, in the absence of a female heir, the authority over the

land rights is determined on a seniority basis of the botoktok bwij of a particular jowi and the highest ranking patrilineal heir takes the reins of authority. Such authority by the patrilineal heirs will continue until, in later generations, a female heir is born to bear children to whom the authority will automatically be passed on.

On the other hand, if the benefactor of the land rights and authority is a male and having sons, these rights flow from him to the sons either as a whole or in a subdivisional apportionment among his sons. The same holds true with regard to daughters, instead of sons.

However, the general trend insofar as the iroi bwij is concerned is that the last iroi in a bwij would be inclined to subdivide his rights among his daughters. History reveals that the descendants of the third generation, in this case the offspring of his daughters would tend to instigate the resorting to warfare as they would struggle for power among themselves. The old saying in the Marshallese traditions is that the offspring of female (basically sisters) hate each other. By the design of the culture itself, this adage seems to hold true at times. However, the important thing to remember is that one should not completely take the view that patrilineal heirs are a distinct group of persons. This is because a person holding land rights through the matrilineage of the mother, also holds land rights patrilineally from the father. In other words, a Marshallese is both a matrilineal and a patrilineal heir.

PART H. INVARIABILITY OF THE LINE OF PERMANENT AUTHORITY

Section 1. Bwij's Rights Supersedes Patrilineal Seniority

As discussed earlier, the invariability of the matrilineal succession of the permanent authority on land rights is consuetudinarily upheld to maintain the incessant flow of that authority from generation to generation, subject however, to cause by perpetration of serious offense. While there is a member of the bwij living, no patrilineal heir has the right to possess that authority despite his or her seniority rank. In the event that the matrilineal successor is a juvenile, a close patrilineal relative will take the reins of authority, but takes it in trust for an interim period until the rightful successor becomes of age.

The general rule is that the older generation ranks higher than the younger one and it applies to a bwij of the same jowi and not to another bwij of a different jowi. Thus, even if the patrilineal relative of the older generation is living and the uncle and mother of the young rightful heir are deceased, the seniority consideration is mooted because the patrilineal relative is of a different bwij and jowi.

PART I. SERIOUS OFFENSES OF CUSTOMS

Section 1. Offenses and Punishment

Listed here below are some of the serious offenses and types of punishment commonly rendered to perpetrator or perpetrators under

the customs and are in order as to the degree of their seriousness:

- a. Treason and Sedition -- punishable by death; and
- b. Murder -- punishable by death, ostracism, or banishment; and
- c. Incest -- punishable ~~and~~ by ostracism and banishment; and
- d. Coveting -- punishable by banishment or divesting of land rights and privileges, or opprobrium; and
- e. Physical Harm to Superior -- punishable by divesting of land rights and privileges; and
- f. Negligence of Land and Customary Responsibilities -- punishable by divesting of land rights and privileges.

Section 2. Authority to Execute Punishment

The authority to pronounce and execute punishment for the members of the iroijs' bwij, his patrilineal heirs, or the alab and the matrilineal members of his bwij is vested in the iroijslablab. The authority to pronounce and execute punishment for the members of the alab's patrilineal bwij is vested in the alab; although as a matter of courtesy the advice and consent of the iroijslablab is at times sought.

Section 3. Transfer and Installation of Land Rights and Authority

When the land rights are divested from a ranking heir to the less ranking one, or from an older bwij to the younger bwij,

or from the bwij to another bwij, a new regime of authority is installed. In the context of the custom, the occurrence is called bwilok which literally means: cut-off, or break off.

PART J. COMPARISON OF BWIJ AND BOTOKTOK RIGHTS

Section 1. Permanent and Interim Rights

As previously stated, bwij connotes a matrilineal clan and botoktok the patrilineal clan. In some cultures, the two clans are of the same family tree with their members consisting of parents, uncles, aunts, brothers, sisters, cousins, nephews and nieces who are entitled to enjoy equal rights and privileges on the land. In the Marshall Islands, to the contrary, the custom specifies that there are two distinct categories of land ownership and primarily gives the bwij's members permanent land rights and authority over those rights and the botoktok member interim land rights that last for a few generations.

The customary allocation of such rights between the two related clans in the eyes of foreigners seems to discriminate against the patrilineal inheritors who are deemed to be part of the same family tree. It should be remembered, however, that insofar as this particular family tree is concerned the custom treats them as patrilineal offspring but treats them differently as matrilineal offspring in the matrilineage of their mother's bwij and jowi consideration. The members of each bwij retain and enjoy their land rights and authority on land of their origins called Kabijuknen on their mother's side and their rights and

privileges on the land referred to as Lamoran on their father's side.

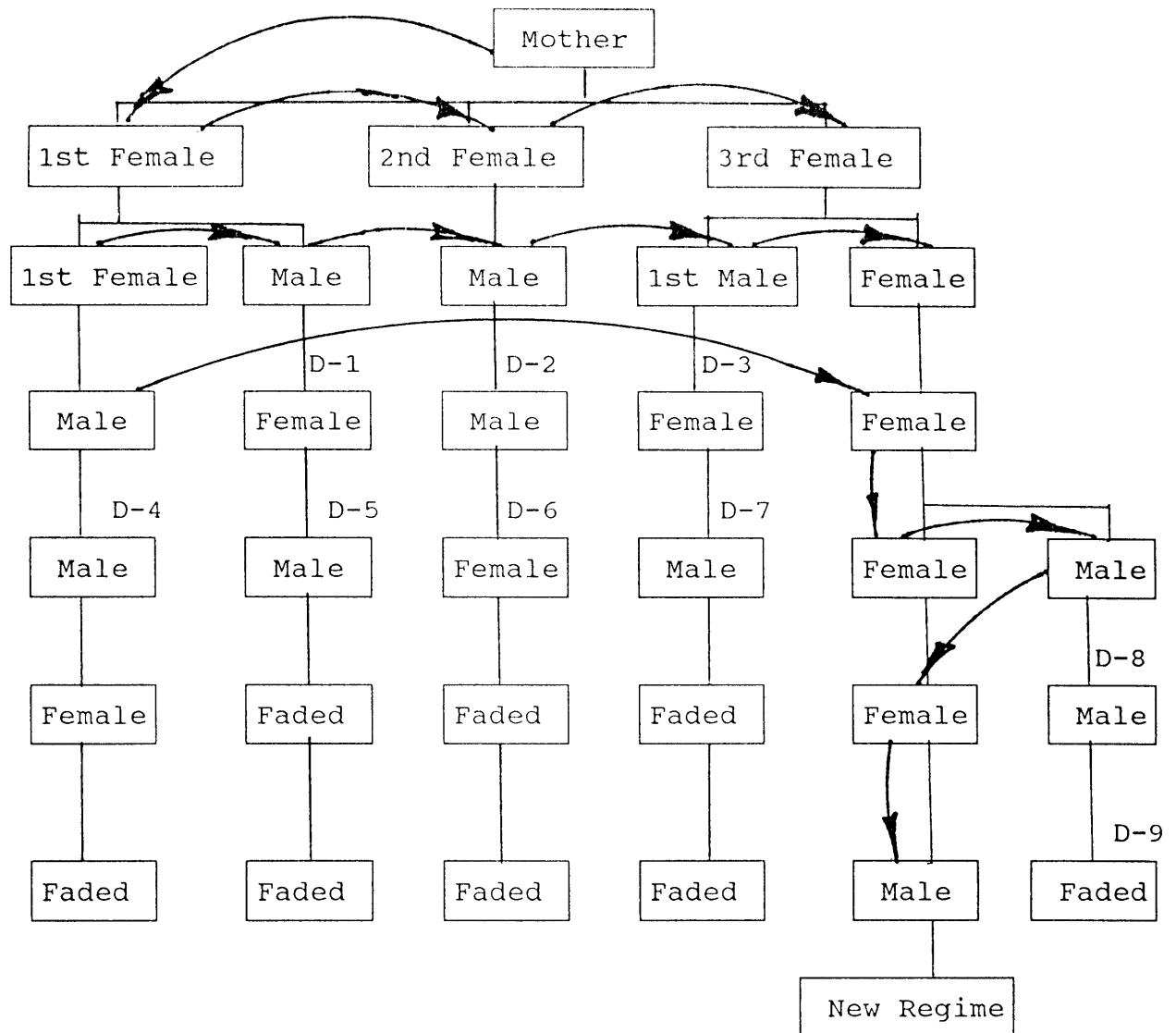
Except for the fact that the patrilineal inheritance fades away, the authors of the custom might have been satisfied that such customary arrangement would accord a balanced treatment to all concerned. At a glance, women and their female offspring retain the land rights and men and their male offspring are destined to move out. Perhaps this was intended from the beginning as the formalization of the governance of the Marshallese society evolved.

PART K. ILLUSTRATIVE LINE OF SUCCESSION:

Section 1. Bwij's Line of Succession, C. F. Botoktok's

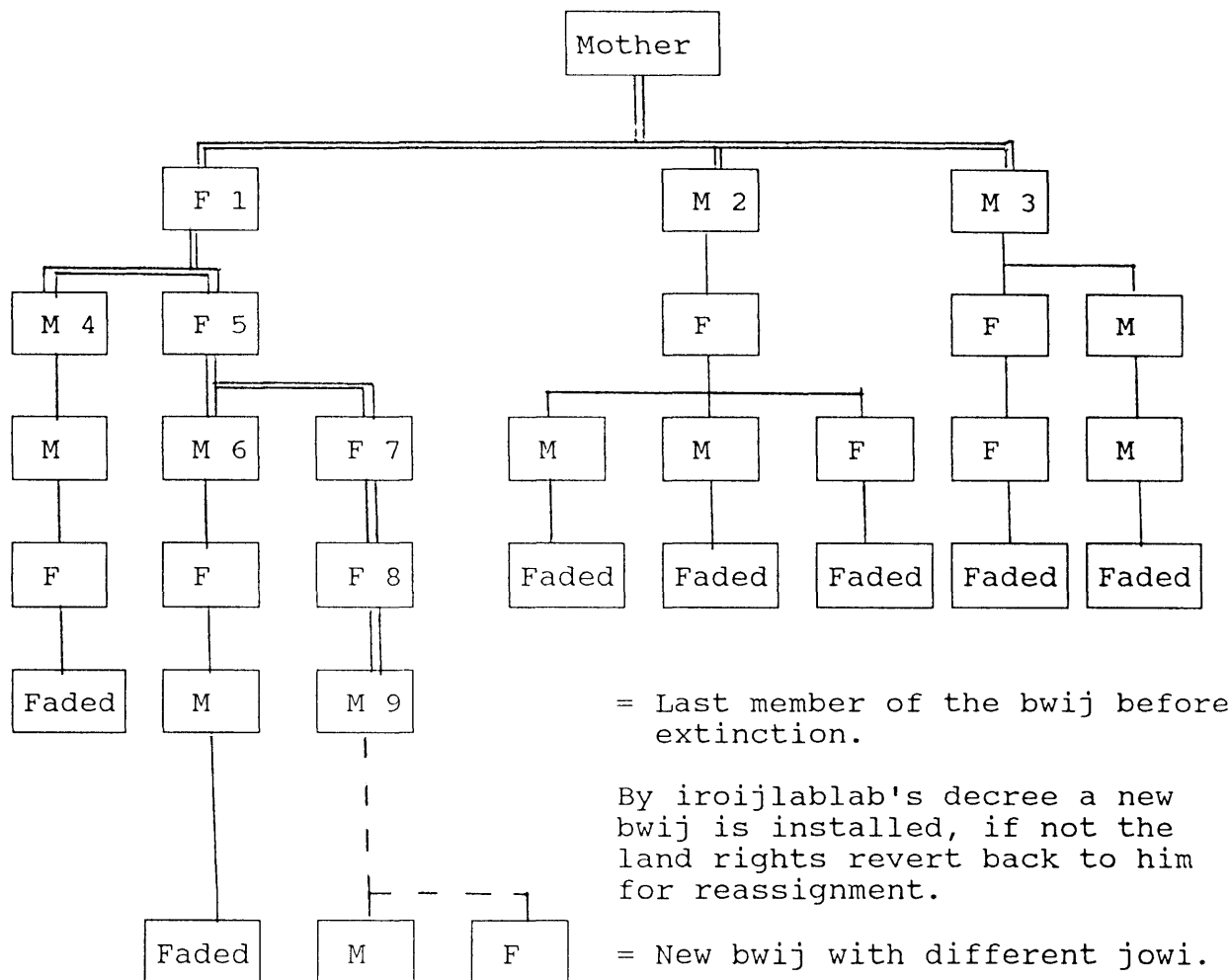
The line of succession to convey the authority from a deceased or expelled holder to the appropriate successor extends horizontally to the next in rank of the same generation, or vertically to an appropriate successor of the younger generation. The rule should be observed closely when the bwij is survived by more than one reigning daughter. The problem of contesting for the reins of authority begins to occur when the first daughter passes away and it is usually between the son of the first daughter and the second, or third daughter, and in some cases, female cousins. Such an often cruel state of contest and dispute is caused by the long-time absence of the second, or third, daughter from the land. Such an extended period of absence is usually due to reason of marriage, or residence elsewhere with a

father on a separate atoll. In fact, such absence should not deprive any rightful heir from resuming her position and rights in the bwij, provided, however, that she continuously maintains dialogue and assists in the bwij's obligations from time to time. The general rule is that one who left their land and ignored their obligations for more than twenty years might lose their land rights. The analogical diagram below depicts the bwij's line of succession in detail:



Note: Arrows represent jowi flow of the reigning bwij.
 "D" numbers represent seniority of botoktok lineage.

Bwij becomes extinct and transfer of land rights by iroi jlablab to a new bwij of close relatives will be in order, if not, land rights revert back to him for reassignment to another far distant bwij of his choice.



The last female here above is the mother of a new regime as decreed by the iroiylablab.

Section 2. Establishment of Bwij Regimes by Division of Land Rights

When there came to be numerous members in the bwij, resulting from a large number of female heirs, the situation usually becomes tense and can flare up dissention and contention that lead to open armed conflict between and among the offspring of the older sisters and the younger ones. The offspring of the younger sisters tend to feel that and their chances of taking the

reins of authority in their land is indeed remote unless they rebel to gain that power. In fact, almost all of the wars fought in the islands were basically agitated by the desire and ambition of the younger bwijis to gain some power. To prevent resorting to warfare, or in lesser cases, the virulent dissention and contention, the iroiylablab at certain occasions divides the land among the older and younger heirs of the bwij. Thus, each can separately and independently reign on their assigned portion of the land. Dividing the land to install new and separate regimes is an act better termed as katlep and not necessarily a bwilok, as the latter implies punishment for a serious offense.

PART L. CHANTS FOR EXPRESSION AND RECORDATION

Section 1. Use of Chants

Aside from being used in Nitijela deliberations, chants, particularly those of a few phrases and of poetic composition, were officially used to publicly express views, sentiments, regret, or complaints. Chants are usually recited on occasions of battles, death of iroiylablab, national celebrations, hardship, launching and beaching of war canoes and other important occasions. In fact, all of the empirical knowledge and cultural philosophies, whether in the art of navigation, weather forecast, astrology, medicine, including common sense and rule of life itself, were recorded in chants memorized and passed down to the descending generations. Unfortunately, many, if not most, of

them are lost or have become meaningless for having been excessively coded and difficult to understand.

Section 2. Analogical Chants

Listed hereunder are a few popular chants with the last one being interpreted and elucidated:

1. Waging war to the North, waging war to the South, only one remains is Ratak to be destroyed.
2. Jetnil shall never be moved out when coconut tree takes roots.
3. Cut firewood to warmly kindle relaxation; this is the sole island for rustication.
4. Jobi shall never fall on the seashore of Tobal for he is agile and manly; evade and set sail, evade and set sail, he knows the sense of alertness.
5. Who shall oppose it in its going and escaping and piercing and breaking the earth's stratum; haul it in, haul it in, haul this wire rope.
6. His father prepared him and passed away during the calmness of the swirling southerly wind, which if it blows to uproot him, this man will never break.
7. Assertion:

Where shall I escape to for I know not of the ocean; you scold me I am severely chewed up; why, aren't there enough weaving strands for this fine mat?

Response:

The paddle rudder is lowered on the windward side

of the canoe, you hold the end of the outrigger.

Interpretation:

A nephew launched a chant during beaching a war canoe, complaining that his uncle, Launa, scolded him severely more than enough and wanted to know why. Uncle responded that the nephew's error was severe and warranted correction as in the case of putting the paddle rudder on the opposite side of the canoe from its usual place; and that the uncle held the responsibility to steer or guide the nephew in the right direction.

Section 3. Some Proverbial Idioms

1. Makajkaji jaljali batbat.) Haste makes waste.
Haste is proved to waste time.)
2. Ajiri in uak.) Assignment of important responsi-
Responding child.) bility to a child, or ignorant.
3. Elkwoj pein ak.) Refusing a gift from an iroij; or
Bend the frigate) ranking higher-up.
bird's wings.)
4. Jere ak eo.) Pay attention to the iroij, or the
Look up to the) leader.
frigate bird.)
5. Kujen jebar.) Ranking noble.
Cat of the lagoon side.)
6. Mimij Karuo.) Extra caution.
Double security.)
7. Jalimar jab uñnar.) Disloyalty deserves no
One in bush begs not.) consideration.
8. Iuwen lōrere manit.) Travelling without adequate
Travel of custom bender.) preparation.

9. Berberjin, berberjen,) We are the same not-
berberjinma wot kwe.) withstanding one stays
Stay here, stay there, it) here and one there.
matters not as we are same.)
10. Lijman juri) Cessation of hostility between
Ranking lady steps on.) two warring chiefs by demand
) of their mutually related high
) ranking lady.
11. Boke drikrik lojkoj mel.) Lower ranking iroi j can
Small knot breaks axes.) break one if ignored.
12. Tooj in erwan.) No class person elevated
Ostentatiousness of a fool.) is prone to ostensively
) show off.
13. Bejbetok.) Stranger with no land
Pandanus seed carried in) rights.
by the sea.)
14. Dreka in jinimi.) Base, or foundation long
Mother rock.) established.
15. Momoenjin.) An expert in this place.
Rock hind of this place.)

PART M. MAINTENANCE OF PEACE BY CONCISE AND CLEAR SET RULES

Section 1. Customary Principles and Empirical Knowledge

In ancient days, taciturnity seemly characterized the mode of life and affairs of the people and state under a dominion. Although normal trends of conversing within the members of families prevailed, at times it is inhibited by the presence of the elders, the heads of bwij and more so when a sense of no confidence is felt by the common membership. The untrained and inexperienced segments of the families would turn silent for the reason of their limited purview, particularly when the exchange of views would turn into a discussion of substantive and important matters and issues. Of course, the custom was and is

still the unwritten law of the Marshall Islands extended down through memory with certain key words or brief phrases of expression invoking each of its various underlying principles and their proper application.

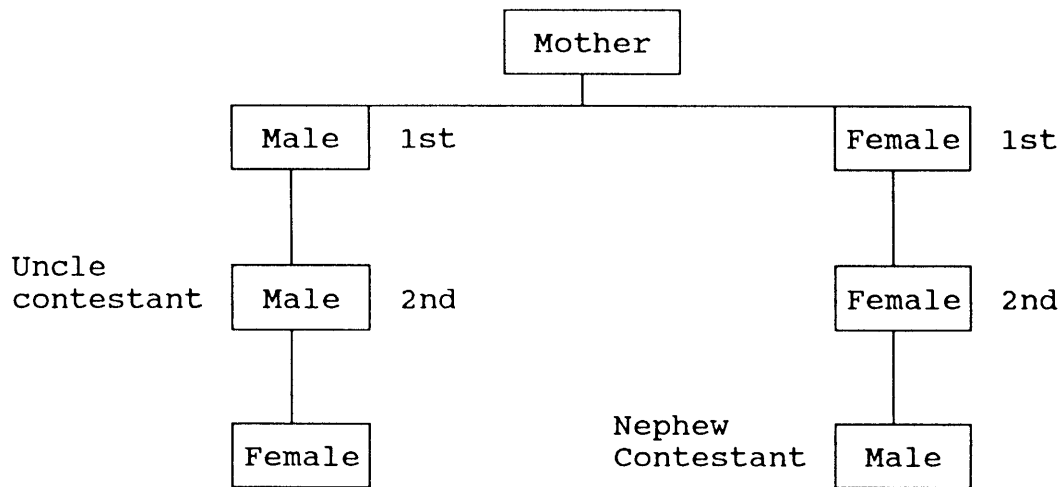
Above all the bwij's' forums, the reigning iroiylablab would establish his state assembly of ranking and highly knowledgeable nobles to decide and advise him on plans for the common objective of euphoria and to settle matters concerning governance and the governed. The assembly is called the Nitijela-Kewe-jela, which literally means the Pit-of-Knowledge-deserves-knowledgeable. Here is where the state and community plans, customary principles and empirical knowledge are developed, examined, shared, debated and decided. The participants in the debate would launch their individual views and sentiments in well thought out chants to be responded to by chants. Thus, the meeting is brief and decisive as having been influenced by implication of a clear customary principle, or by the well-received philosophical chants. The idea or the objective was that with the clear set rules of the custom, unfounded reason for a legal contest would not occur; thus, a peaceful society is maintained.

Section 2. Application of Customary Principles

As an example, consider an extremely simple case in the customary purview of a patrilineal uncle, or cousin, of the older generation attempting to take away the reins of authority, by virtue of his seniority, from a nephew, or cousin, of the bwij and of the younger generation. Let us presume that the land

rights authority was decreed to the bwij whose jowi is Jejer, and that uncle, or the second male, is the plaintiff in this case.

To clarify the relationship of the two contestants the following genealogy is offered:



In the eyes of the custom, only two questions would be significant to decide the case and are usually asked of the person who infringes on the bwij's rights.

- a. What is your Jowi? (His jowi has to be different.)
- b. Was there a bwilok? (If he answers "no", the case is closed.)

From this point, let us explore further on other possibilities. Presuming the plaintiff responded "yes" to question "b", what then? Here, the matter of proof would be important. If the principle of bwilok is proffered, it would mean that the first female of the bwij, the aunt of the plaintiff, must have been deprived of her bwij's rights for, perhaps, a reason of serious offense to the mother. This would

be most unlikely, or could it be an offense of incest? If the first female is a proved perpetrator of incest, the deprivation of her rights is in order. If innocent, she continues to hold the rights.

Another possible response by the plaintiff might have been that this was not a bwilok but a case of ninnin. If it was indeed a ninnin, then it would have required the consent of the bwij and in this case, the first female should have been with the authority to grant the ninnin.

A third possibility would have been the case of an Imonkalotlot, which would give land rights to the plaintiff for having taken care of his father alab, the first male, during his illness until his death. However, such grant of rights would have also been subject to the approval of the first female in the genealogy.

At times, such situations in each of the cases of Bwilok, Ninnin and Imonkalotlot are made complex and difficult to resolve when a strong-character iroiylablab desultorily and perfunctorily affixes his signature approving a Bwilok, Ninnin or an Imonkalotlot decree with an unscrupulous alab desiring to transfer the bwij's rights to his own children. This situation commonly occurs especially when the iroiylablab suffers the age sickness of senility. However the case may be, the general rule is that without the consent of the bwij, any desultory transfer of rights should not prevail.

Invariably, consent is what underlies and cements the

rubrics of the customs, which clearly were intended for the effective maintenance of peace and harmony in the Marshallese society. This is, indeed, contrary to the Western legal concept, which is premised on confrontation and the adversarial system.

VOCABULARY

Alab	Älap'	Head of clan, elder
Bwij	Booj'	Clan
Bwilok	Boo-leok'	Revocation and reassignment of rights
Bwir	Bwir'	Offense, err, mistake
Bwirij	Bwi'-rej	Land, dirt, soil
Bötöktök	Bō-tök-tök'	Bwij's patrilineal offspring
Drijolit	Ree'-johlit	Heir
Ebeben	Ābeben	Generation
Ebokake	Abokake'	Diminish; fade
Edro	Er-rō'	Responsibility
Emän	Emään	Male, man
Iroi	Iroi'	Lord
Jemen	Je-men'	Father of
Jiblok	Jib-lok'	Referrance to son
Jibtok	Jib-tok'	Reference to daughter
Jimwe	Jee'-mwe	Right
Jinen	Jee-nen'	Mother of
Jolit	Johlit'	Inheritance
Jowi	Jo-wee'	Clannish designation name
Kāān	Kāān	Forest, crop trees
Kabijuknen	Kä-bee-juke'nen	Matrilineal homeland
Kajur	Käjur'	Commoner, might
Karkar	Kär-kär'	Title, rank, relationship, character
Korā	Kerā'	Female, woman
Kotan-wato	Ko-tän-wātoh	Land boundary disputing
Lāmorān	Lā-moh-run'	Patrilineal homeland
Lia	Leea'	Banished, ostracized
Mānjebarbar	Mahn-je-barbar	Last born
Māānje	Mahn-je'	First born
Manit	Mānit'	Custom
Maron	Mā'-rohng	Authority, ability
Nejin-kora	Ne-jin'-korā	Daughter, female offspring
Nejin-man	Ne-jin-mān'	Son, male offspring
Riklok	Riklok	Diminish
Wato	Wā-toh'	Land parcel, land lot
Wutloklab	Woot-leok-lab'	In-between first and last born