



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**CUSTOMARY LAW (SUCCESSION OF
CUSTOMARY TITLE, RIGHT AND INTEREST)
ACT 2015**

Introduced by:

SENATOR MICHAEL KABUA

Approved:

PRINTED NAME

SIGNATURE

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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
37TH CONSTITUTIONAL REGULAR SESSION, 2016**



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Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**CUSTOMARY LAW (SUCCESSION OF CUSTOMARY
TITLE, RIGHT AND INTEREST) ACT 2015**

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**CUSTOMARY LAW (SUCCESSION OF CUSTOMARY TITLE, RIGHT
AND INTEREST) ACT 2015**

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1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
2 37TH CONSTITUTIONAL REGULAR SESSION, 2016



3 Republic of the Marshall Islands
4 *Jepilpilin Ke Ejukaan*

5 **CUSTOMARY LAW (SUCCESSION OF CUSTOMARY**
6 **TITLE, RIGHT AND INTEREST) ACT 2015**

7 **A BILL FOR AN ACT** to declare as a matter of customary law the generally
8 established principle of customary succession of title, right and interest, in and to
9 land, inherited from birth, and transferred through the matrilineal and, in certain
10 instances, patrilineal descent; and, to distinguish a certain case law establishing a
11 customary law and traditional practice precedent by the High Court and Supreme
12 Court of the Republic of the Marshall Islands as null and void on the ground of
inconsistency with this applicable customary law and traditional practice and to
provide for matters connected therewith or incidental thereto.

13 **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**

14 **§1. Short title.**

15 This Act may be cited as the "Customary Law (Succession of Customary
16 Title, Right and Interest) Act 2015."

17 **§2. Declaration of customary law.**

18 Sections 3, 4, 5 and 6 of this Act are declarations of the customary law made
19 pursuant to Article X. Section 2 of the Constitution of the Republic of the
20 Marshall Islands.

1 **§3. Succession of Customary Title, Right and Interest.**

2 Customary title, right and interest to land are passed down horizontally by
3 matrilineal descent through the female members of the bwij, starting from
4 the eldest to the youngest.

5 The bwij shall become extinct (“lōt”) when there are no more female
6 members to continue the lineage, and, the title, right and interest to the land
7 will pass through the male members of the bwij. The offspring of the male
8 members of the bwij, in this instance, are otherwise characterized to by the
9 term, “Jiblok.”

10 The first female born of a male member of the original bwij shall be the
11 progenitor of a new bwij, an occasion referred to as “toor in bōtōktōk”, who
12 shall pass down the title, right and interest to land through her female
13 offspring.

14 Any female offspring of the eldest daughter, or of the younger siblings of
15 the eldest daughter, of a male member of the original bwij shall be
16 characterized as “Jibtok.” These female offspring shall inherit the title, right
17 and interest to the land from their mother, to pass down and continue the
18 new matrilineal descent, and their male descendants shall become the
19 reigning titleholders on a particular land.

20 In the event of incapacity of a titleholder, the title shall be exercised by the
21 immediate successor to the title, or by another person designated by the
22 titleholder, with written notice to the bwij and, if the title is a Kajur title,
23 with the written consent of the Irojlaplap.

24 The chosen designee of the titleholder may only act for and on behalf of the
25 titleholder during the lifetime of the titleholder. Upon the demise of the
26 titleholder, the title shall revert back to and continue with the immediate
27 successor to the titleholder, in accordance with customary law and
28 traditional practice.

29 **§4. Case Law Distinguished and Declared as Null and Void.**

30 The current case law resulting from an Opinion of the Traditional Rights
31 Court in the case of Dribo v. Bondrik v. Edmond v. Riklon (High Court Civil
32 Action No. 2002-067/Supreme Court Appeal No. 2008-009) which establishes
33 a customary law and traditional practice precedent, is hereby distinguished
34 and declared null and void, and any Alap title, right, or interest deriving

1 therefrom are of no force or effect in law unless the same is in conformity
2 with the rules of customary law applicable thereto.

3 No person recognized as Alap or Senior DriJerbai pursuant to said decision
4 shall, after the effective date of this Act, assert or exercise any title, right or
5 interest in or with respect to the subject matter of that suit that may only be
6 asserted or exercised by only such person as shall be entitled thereto
7 according to the rules of customary law and traditional practice regarding
8 the proper succession of title as set forth herein.

9 **§5. The Alap Title on Certain Lands.**

10 (1) In accordance with the customary law practiced on Kwajalein and in
11 the Kabinmeto group of islands and atolls, Irumne Bondrik and his
12 customary and traditional successors, shall hold the Alap title, right,
13 and interest on the following Bwiji, Bötöktök and Katlep lands:

- 14 (a) Monnenweto, Ebeye, Kwajalein Atoll (Bötöktök);
- 15 (b) Mwinbitrikweto and Mwinluialweto, Eonene, Kwajalen Atoll
16 (Bwiji);
- 17 (c) Loranweto, Ebadon, Kwajalein Atoll (Katlep);
- 18 (d) Mojaweto and Kejelabweto, Lae Atoll (Bötöktök);
- 19 (e) Komle Island, Kwajalein Atoll (Bwiji);
- 20 (f) Meik Island, Kwajalein Atoll (Bwiji);
- 21 (g) Kidenen Island, Kwajalein Atoll (Bwiji);
- 22 (h) Nene Island, Kwajalein Atoll (Bwiji);
- 23 (i) Enerein Island, Lae Atoll (Botoktok); and
- 24 (j) Monbon Rearweto, Kwajalein Atoll (Bwiji).

25 (2) Enewetak Island, Kwajalein Atoll is reserved for the exclusive use of
26 the Iroijlaplap ("Mo Land"), who shall choose the caretaker ("Dri-
27 Alal") for such land.

28 **§6. Iroijlaplap Authority in Approving or Revoking Any**
29 **Title Transferal.**

30 Notwithstanding the provisions of §439 of 24 MIRC Ch. 4, the following
31 subsections shall govern any power of attorney issued by a Titleholder, with
32 regard to his title, right and interest:

1 No legal or statutory power of attorney or customary authorization for a
2 Titleholder shall be valid except for one given by the Titleholder to his
3 immediate successor to the title, or another person designated by the
4 Titleholder, and, if the title is a Kajur title, approved in writing by the
5 Irojlaplap, if applicable, in accordance with the principle of “iroijimjelā”.

6 Any transferral or gifting of title, right and interest to lands by a Titleholder
7 through the customary land awards of Katlep, Kitre or Kallimur shall be
8 effective only upon written notice to the bwij and, if the title is a Kajur title,
9 with the written consent of the Irojlaplap, if applicable.

10 Any written approval by the Irojlaplap of any legal or statutory power of
11 attorney or customary authorization given by a Titleholder to his immediate
12 successor, or another person designated by the Titleholder, may be revoked
13 by the Irojlaplap for cause. Said revocation shall be in writing. The effect of
14 such revocation by the Irojlaplap shall render said instrument null and
15 void.

16 The principle of “iroijimjela” shall mean that a decision of the Irojlaplap is
17 entitled to the greatest weight in evidence and is presumed to be reasonable,
18 proper, and in accordance with customary law and traditional practice,
19 unless it is established by clear and convincing evidence that it is not. The
20 principle of “iroijimjela” shall be applied consistently in all cases where
21 succession to the title, right and interest in and to land is in question or
22 disputed.

23 §7. Effective Date.

24 This Act shall take effect on the date of certification in accordance with the
25 relevant provisions of the Constitution of the Republic of the Marshall
26 Islands and the Rules of Procedure of the Nitijela.

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**CUSTOMARY LAW (SUCCESSION OF CUSTOMARY
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SIGNATURES

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DATE: _____ **INTRODUCED BY** _____
Print Name *Signature*

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DATE: _____ **INTRODUCED BY** _____
Print Name *Signature*

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
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**CUSTOMARY LAW (SUCCESSION OF CUSTOMARY
TITLE, RIGHT AND INTEREST) ACT 2015**

BILL SUMMARY

This Bill proposes to The purpose of this Bill is to distinguish and declare as null and void the current case law precedent resulting from an Opinion of the Traditional Rights Court in the case of Dribo v. Bondrik v. Edmond v. Riklon (High Court Civil Action No. 2002-067/Supreme Court Appeal No. 2008-009). This Bill once enacted will ensure that the land titles, rights and interests regarding certain lands within Kwajalein and Lae Atolls are in conformity and consistent with the established Customary Law and Traditional Practice applicable thereto.

The application of the Customary Law and Traditional Practice as related to these certain lands has been inconsistently applied and misapplied by the TRC particularly with regard to Alap succession and the principle of "iroijimjela." This is an injustice suffered by the members of the bwij who are directly affected by this case law. Absent a statute explicitly setting forth the customary law and traditional practice, the outcome of future court decisions, based on opinions of the TRC, could create more case laws that may be contrary to the established Customary Law and Traditional Practice.

The Nitijela has the inherent authority to declare as invalid decisions of the High Court and the Supreme Court of the Republic of the Marshall Islands. As early as 1986 the Nitijela exercised that right in P.L. 1986-20, this is evident in Title 39 of the Marshall Islands Revised Code, Sections 201 & 202. The foundation for the Nitijela's authority is found in Article X, Section 2(1) of the Constitution of the Republic of the Marshall Island. Section 2 is "**Declaration of the Customary Law.**" As stated in Section 2(1) ". . . it shall be the responsibility of the Nitijela, whenever and to the extent considered appropriate, to declare, by Act, the customary law in the Republic of the Marshall Islands or in any part thereof."