



BUILDING UNDERSTANDING SERIES

Fa'a Samoa, Sovereignty, and Self-Determination in American Samoa: Past and Present

Primer Transcript (Part 1)

Introduction

Adi: Saludos everybody, my name is Adi Martinez-Román and I'm Co-director of [Right to Democracy](#), an organization that is working to promote democracy, equity, and self-determination for the five U.S. territories, Guam, Northern Mariana Islands, American Samoa, Puerto Rico, and the U.S. Virgin Islands. And I'm here with my Co-director, colleague, and friend, Neil Weare. Neil, could you introduce yourself?

Neil: Hi, Talofa everyone. So excited today to join Adi and some of our really good friends for the first in our [Building Understanding series](#). The title of this episode is Fa'a Samoa, Sovereignty, Self-Determination in American Samoa, Past and Present.

This is a series we're going to be doing on each of the five territories, working to bring together in-depth knowledge about the political, legal, and cultural development of each of the territories, so that folks within a territory, across territories, and across the United States as a whole can learn more about these underlooked areas. And we're excited to have two real experts to join us for this journey today.

Ken Aiono is going to be the moderator for our program today. He is a former teacher and researcher at the University of Hawaii and the community college. He has taught the Samoan language and culture at the University of Hawaii in the 1980s and 1990s. Folks may know him best for his four times a week radio show, "Who's Who of Samoa Worldwide" on Radio Samoa, which is the longest running Polynesian language radio program in the United States going all the way back to 1986.

He's interviewed prime ministers, former governors of American Samoa, and today he's going to be interviewing our colleague and board member **Charles Ala'ilima**. Charles Ala'ilima is an attorney and board member for Right to Democracy. He worked in private practice for decades in American Samoa. He's a former district court judge, former prosecutor, former defender. He's worn all the legal hats there are to wear in American Samoa. We've been privileged to work together for a number of years.

I'm excited to have them both joining us here today as we kick off this Building an Understanding series. So with that, I'll go ahead and hand it off to you, Ken, to share more about yourself and talk a little bit more about what we're here today for.

Ken: Thank you, Neil. Thank you, Adi, for inviting me to be part of this great and important discussion. And, you know, many have tried in the past to discuss these types of issues, and it's a very difficult issue.

But most of them have stayed away because not only is it a difficult issue, it's also a very controversial and sensitive issue to a lot of American Samoans. I have worked in the media and print and television, radio for 40 years, and I'm honored to be part of this discussion. And if anyone should know about American Samoa, I'm just very lucky to call him my friend. Attorney, High Chief Leiataua, Charles Ala'ilima. And he has done everything in the legal world. He has been a prosecutor, a defense attorney, judge, corporate counsel, union promoter, civil litigator, and many commercial initiatives in American Samoa and also outside of American Samoa.

He has represented individuals and corporations from the United States and foreign countries such as Japan, Korea, New Zealand, Australia, Bangladesh, Philippines, and Croatia, just to name a few. And before I take too much of the time, I would love to hear from my friend and attorney, High Chief Leiataua, Charles Ala'ilima. Thank you very much.

Thank you very much. My name is Leiataua Charles V. Ala'ilima. I was born in American Samoa. I was raised initially in Western Samoa in the island of Upolu, then up in Hawaii, where I went to school. I also then went to college in California and came back to the University of Hawaii when it was first started and was in the fourth graduating class of the University of Hawaii in 1979, after which I signed up to the office of the Attorney General in American Samoa and became the Assistant Attorney General involved in prosecution and prosecutions and in civil and in immigration litigation. After that, I was a judge in the High Court of American Samoa, starting as district court judge, and then as acting associate justice of the High Court of American Samoa, after which I left that position and became a counsel for the Development Bank of American Samoa and also then started my private practice.

And as noted, I was involved in just about everything that would come across at the table as a lawyer, because down in American Samoa, it is a very small bar with a very small group of people. So you cannot specialize, but the issues that come up in American Samoa are very unique because American Samoa's place in the middle of the Pacific Ocean involves it in many, many things that you would normally not find in the U.S. or in a U.S. state. So the issues that come up are varied. One of the works that I did quite a bit was in the issue of land tenure and attempting to try to integrate the communal land tenure system into a structure that would be compatible with the laws of the United States. So that's a brief introduction. I'm now in a semi-retired position and taking my time now to try to at least give back to the community.

And I would try to introduce this video that was prepared by the Right to Democracy that deals with the 125th anniversary celebration that we have just recently had in American Samoa of its incorporation into the United States.

Neil: And while we get that video teed up, I just want to add too that we're recording this video now, but we welcome questions and feedback when this airs. We'll have information at the end on how you can provide that to us. You can send us an email at

info@righttodemocracy.us. We'll share that information again at the end. So if you have questions or feedback that come from this, we'd love to hear more from you.

125th Anniversary Video

Hon. Pulaali'i Nikolao Pula: We pay tribute in April to the wisdom and foresight of our forefathers who voluntarily and enthusiastically signed the Deeds of Cession. They were not forced or coerced or threatened to align themselves with the United States of America.

They chose to form a union with the United States of America then and now the greatest nation on earth. In the Deeds of Cession, the United States promised to protect our lands and our culture and the United States kept their word and showered us with blessings of our associations with the world's greatest democracy. Our political road has been of continual maturity.

In the first half of the last century, a council of chiefs merely provided advice to the naval governor. But starting in 1948, we started to elect [Faipule](#) to a newly civilian governance, the [Fono](#) in preparation for the transition of civilian government in 1951. By the end of 1970s, American Samoa was electing its own governor and the Fono was enacting the laws of the territory.

The days of providing advice were in the rear view mirror and Samoans were back in the driver's seat. Our long journey to political maturity in the American system is not over. We are truly a self-governing territory and our best days lie ahead.

There is no American Samoa without the United States and there is no United States without American Samoa. We each bring something absolutely wonderful to each other.

President Trump: American Samoa, you are a very special place. Happy Flag Day. Today marks the 125th anniversary of American Samoa becoming a treasured part of the United States of America. And our great American flag has flown over the islands ever since.

It's a beautiful flag and the islands are as beautiful as you can get. The chiefs who first chose to raise the stars and stripes over Samoa gave their descendants the greatest gift of all, the gift of being part of the greatest country in the history of the world. We are truly proud of the contributions that American Samoa makes to our nation.

You are a special place and your beautiful islands are a beloved part of the United States. Congratulations on this historic milestone and happy Flag Day and God bless America.

END OF VIDEO

Ken: Hi, Chief. We'll just see, watch the video about the 125th celebration flag day. And there were some issues there. But for our audience, can you take us, kind of explain to us the foundation and the nature of the relationship with the United States and American Samoa? You know, maybe briefly how that came about, whether it could be the cession and can you explain that to our audience?

Charles: Well, thank you. I don't know. Just kind of framing this thing because it's a very complex and long subject. We could frame this fairly easily.

And this is what this program is about, is how do we view our relationship with the United States versus how does the United States view its relationship to us? Us meaning the people of American Samoa. The framing that we'd have to do is what powers does the United States have and what powers do the people of American Samoa have in the current relationship that exists? These issues are not just things that happened back in 1900. These relationships are very important to debates that are now happening in American Samoa over things such as seabed mining, which is a hot issue right now, fishing access, meaning our fishing, our economic fishing zones, citizenship, and also how do we protect custom, land, and culture under the relationship that we have with the United States? I believe that the ultimate question for American Samoans is whether we want to remain under the U.S. flag as part of the United States or not.

To be able to answer that question, though, we need to better understand our history. And that is what this subject that we are going to be talking about today involves. And it takes the history of Samoa back to ancient times to understand what the present is.

Key Terms: Fa'a Samoa, Sovereignty & Self-Determination

However, I think it's very important to get definitions down so that people understand what we're talking about. The conversation here revolves around three different areas.

First is, what does Fa'a Samoa mean? Because a lot of what we talk about deals with, well, we want to protect our Fa'a Samoa. Number two is the issue of Sovereignty. What is sovereignty? And what does it mean? And number three, Self-Determination. And what does that mean for American Samoa? Each of these issues, I think we need to discuss and be able to deal with. And as you say, these are weighty issues, especially on the issues of Fa'a Samoa.

But as to what it means, it focuses on the importance of family and community and maintaining collective harmony. What's important also in Fa'a Samoa is who makes those decisions for collective harmony. In Samoa, and this is as I have grown up, our Samoa is very family-oriented. Oriented primarily with the families down at their village levels and maybe up at their county levels. This is the essence of Fa'a Samoa is to have a very local decision-making process by family members and to seek consensus to make decisions.

Now, in 1918, in the history of Samoa by this man named Watson, he kind of gave a pretty good description of what this Fa'a Samoa means.

He says, in all times known to Europeans, the chiefly authority was curiously limited by the power of Samoan communalism. Laws were hard to maintain. Punishment of offenses, unless the actual offense seemed bad in the eyes of the community, were difficult.

He says, Samoans are a natural race and rules as such have no great respect to them. As will be shown in his discussions subsequently, native communities were basically independent of

each other and were combined only for mutual protection or by reason of conquest. The territorial extent of any native government was therefore never definitely fixed and was subject to such alterations as might arise from changes in leadership or from hostilities, which are the natural outcome of personal or local ambitions.

What this means, I think, he recognized that in the issue of fully controlling Samoa, nobody did. It was a collective decision and it's a distributive collective decision that people make as problems come up, they collectively work together to try to resolve them. That may go against the whole idea of rules and laws, but the Samoan customs and traditions prioritize harmony and resolutions that try to harmonize. We see that in the way we talk. We have our chiefly languages, which is language of harmony and diplomacy, as we talk among people that may be in disputing situations. I've seen that in the way we do councils in villages and how families operate. So, the issue of Samoa is important to understand that.

Now, we go to the issue of sovereignty. Sovereignty in international law, sovereignty refers to a supreme authority of a state over its own territory and people.

Sovereignty is basically something that is more European centric. The sovereign is basically a king who is deigned by God to have the authority over the land and the peoples within that land. This is something that is very different from the way Samoans view, but from the Samoan view of harmony and living together.

So, the ideas of sovereignty, which have now been accepted as being these kind of nation states, demand that we then go and find a king or a sovereign, and the sovereign could be a king or it could be something else that basically identifies a whole group of people within a nation-state. And this is where the system of sovereignty gets confused with Fa'a Samoa, because Fa'a Samoa is not a sovereign idea. Fa'a Samoa is an idea of family, and family extends well beyond just whatever the international community says: "is this is a country?", "that's a country".

Fa'a Samoa is basically our families - wherever they are. Self-determination, and again this is something that is set up in the United Nations, is a legal right of people to decide their own destiny in the international order - and it applies. American Samoa is considered a non-self-governing territory, and basically, which is defined as people whose people have not yet attained full measure of self-government.

Self-determination is what the people in this unit, which we call American Samoa. American Samoa is not the Fa'a Samoa. The Fa'a Samoa is something well beyond this jurisdictional group of government. It's well beyond its government, but within the context of people that are living in American Samoa, the question is: What do they want for purposes of realizing their right to control? In the case of self-determination, the issue is going to be, do we want our rights, our self-governments to be within the federal system of the United States, or outside the federal system of the United States? And in this particular case, that is an important issue that has to be decided by the American Samoan people.

Chronology of American Samoan History

Ken: Well, we've got a lot of ground to cover. Let me write some brief overview of the timeline and some of the topics we'll be discussing and getting to it. And I'd like to tell our panels, you know, in American Samoa,

- (1) the pre-contact of Christianization in the 900 to 1880s,
- (2) the Western Intervention, the Deeds of Session in 1886-1904, and
- (3) Navy rule and the Mahmood movement in 1904-1950, and then
- (4) the American Samoan political development in 1950 to 2010, and
- (5) the current context in the 2010 to present.

Segment #1: Pre-Western Contact to Christianization

Charlie, American Samoan history doesn't just start in 1900 with the United States. It goes all the way back thousands of years. Can you walk us through some of that early history with us?

Charles: Thank you for that question, Aiono. We go back to the time of our legends, Tagaloa, Nafanua and Vaea and these legends. Those legends start with the idea of Tangaloa, a supreme god that created the Samoan people.

Samoan mythology basically shows that Samoans were interconnected with many, many people. Archaeology also shows that Samoans and Polynesians in general were a mixture of cultures from all parts of the Pacific. Starting with the Lapita people, who were people coming out of the northern areas in Micronesia and initially from the Philippines of Formosa, coming down and settling in Samoa and Tonga, meeting up with the Fijians and the other people of the Melanesian societies, who were coming from the other direction, and also then intermix with people that would be coming through the central parts of Indonesia to mix with Samoans or mix with Polynesians.

Polynesians also then extended themselves out into the Pacific Ocean and it would be easy to say that the Polynesian culture is really not a separate race of people, but rather a mixture of many races taking the best of all and being able to go around the entire Pacific Ocean well before the Europeans even got out of their hovels up in Europe. So I would say that the idea that somehow Samoans are a separate race is just not correct, even in our own societies.

Now, with respect to how the Polynesians organized themselves, I believe the record shows that the Samoans, Polynesians had a kind of what they would call a Tui system. The Tui system basically was a structure of governance that recognized the highest authority within the islands. I don't know the details of how the Tui system worked, but if we look at the way it was, the structure of Samoan society, the Tui system basically did a geographical control over a certain island or in larger islands, the divisions of the islands up into various geographical areas, and that those were under Tuis.

So you had a Tui Tonga who basically controlled some of the Tongan islands. You had a Tui Manu'a who controlled the Manu'a islands, and the bigger islands were under other tuis, were divided up among other tuis. When you look at the Hawaiian islands and their history, when Captain Cook first came, the Hawaiian islands were ruled, each island was ruled by a tui.

Now, during the prehistory, there was a lot of, they were all interconnected, they were all intermarried, particularly between Tonga and Samoa. And so, in some point in time, the tui Tonga, starting first, I believe, with the Tui Manu'a, Tui Manu'a created an empire going out and trying to control other islands. Then the Tui Tonga, a number, hundreds of years later, expanded his empire.

And then when he expanded an empire into Samoa, he basically took over the tuis of Samoa, other than the Tui Manu'a. For some reason, he did not want to go out and take over the Tui Manu'a. Now, what happened was, after hundreds of years of control by the tui Tonga, the Samoans in Samoa revolted against the tui Manu'a and declared their independence.

But they did not actually, when they did fight the Tui Manu'a, I mean the Tui Tonga, and kick him out, they did not restore the old tui system. What they did was they created a new kind of system involving, which eventually evolved into what we call our Tama'āiga. Our Tama'āiga system is something fairly unique to Samoa.

Our Tamainga system, basically, was based upon relationships with families, extended families, so that we are extended families or large families, aiga potopoto, have connections in all villages and all parts of Samoa, so that they have family chiefs that basically rule, control areas, villages, and counties. These chiefs became a group that belonged to one family or another family, and that when there was a need that comes that they needed to unite to do something together, they united under a person that they called their tama'āiga to be able to deal with issues that arise that are more island-wide rather than dealing with their particular areas. And this is where the Samoan concept of ali'i & faipule becomes so important, because the ali'i & faipule represents the basic structure of Samoan society.

They were the chiefs of those villages and counties who basically were parts of these larger families called the tama'āiga, under the tama'āiga, but they were really the ones that controlled. And even tama'āiga, when a person became a Tama'āiga, he had to go get the approvals from his family members over in the villages and counties to the chiefs as the person who could organize, when needed, the whole family together to deal with matters that are more of an island-wide basis. Now, the tama'āiga were always fighting, and in the time of the missionaries, there were a lot of wars that were happening between the communities.

And with the arrival of the missionaries in 1830, particularly John Williams, there was basically the creation of this, or there was the effort to convert, and Malietoa, who did decide that he would convert to Christianity.

Now, when the Europeans came in, they came in with the European idea. They went looking for a king. They wanted to say, let's go find somebody who's the king of this island, declare him the king, and basically then say: "you are king, we will support you."

I think they did this in Hawaii, with Kamehameha, and they basically supported Kamehameha, who then went about conquering the rest of the islands, and conquering the rest of the Tui's in the islands of Hawaii. I think that the various great powers that came to Samoa were doing the same thing. They came in. Samoa was actually quite lucky that they were the last area that was really being colonized in the Pacific, because they were outside the trade routes. They did not have to suffer as much of the indignities that European colonialists did on other countries between 1500 and 1800.

The British in Samoa wanted to support a king, and the king that they wanted was the first one to convert to the London Missionary Society. They wanted to make Malietoa the king, wanted to create Samoa in the image of a sovereign country under a king. This has a lot to do with the Germans. They made their deals with others, particularly, I think, with Tupua. The Americans' only concern was the port in Pago Pago, and they were dealing with Mauga. Even though Mauga was not a Tama'āiga, Mauga, the paramount chief of Pago Pago Harbor, was considered or dealt with as if he were king of Samoa.

This is because - in the mentality of the colonialist – , we need to have a king. “I made a deal with the king, or you're the king”. America used those deals that they were making with Mauga as if he were the king of Tutuila, and therefore had the right to make these deals.

Initial Relations with the United States and Samoans' role in deciding their future

Ken: All right. I know we're going to overlap some of these issues, back and forth in some of our discussions, but the United States have had an interest in Tutuila, American Samoa, especially the harbor in Pago Pago, long before the 1900 Deeds of Cession.

Can you talk us through some of the important developments leading up to the Deeds of Cession? How were Samoans either included or excluded from deciding their own future? How have these events been interpreted, whether differently by the United States or by our leaders in American Samoa? Can you talk us through that?

Charlie: This is an interesting issue. As I talked before, America's interest was in, basically, in the harbor in Pago Pago, and, in 1839, they made a general agreement about recognizing the rights of American citizens in Samoa. In the 1870s, they actually made a treaty of friendship with America, with the United States. In 1878, in that case, Le Mamea was representing Mauga in that discussion, in that settlement.

But in the end, in the 1880s, there was a general agreement between the local representatives of Germany, Britain, and the U.S. to recognize some kind of kingship under Malietoa, but this didn't resolve the tama'āiga tensions over governance or the growing big power disputes, meaning Germany, Britain, and the United States were also supporting the various tama'igas in these tensions. In 1889, those tensions, local and big power tensions, led to the harbor in America, in Apia, being filled with boats from Germany, Britain, and the United States, and they were about to go to war over the islands. God intervened and the hurricane wrecked the U.S. and German ships, and that kind of left Britain with the upper hand, and then they created what they call the Treaty of Berlin, in which they said, okay, we are going to create a Samoan-type monarchy under the sovereignty of Malietoa

Now, this did not sit well with the other tama'āiga, particularly the tama'āiga Matā'afa, and they continued a rebellion. U.S. British troops did send troops to support this monarchy, but after 10 years and increased tensions between Germany, which was rising up, they determined that the Malietoa kingship was a failure. In 1899, the three powers, without the input from Samoans, said, we're going to end the united sovereignty of Samoa, meaning all of Samoa, that was put under the sovereignty of Maale Atoa, and we're going to divide the Samoan islands between the U.S. and Germany.

But they didn't divide it in accordance with the way Samoans operated, they divided it in accordance to what they wanted. So, the Germans got to get their plantations that they had built up in the bigger islands, and they took control of Upolu and Savai'i and Manono and Apolima, and the U.S. got what it wanted was the right to come into American Samoa to take control of Tutuila and Manu'a. Now, in dealing with the people of American Samoa, remember Mauna was already wanting to be part of the United States at that time.

So, when the captain of the U.S. Navy came in with it to establish the U.S. sovereignty over the United States, he came into the harbor and was welcomed by Mauga, and Mauga, knowing that he was not just the only person you needed to deal with, because he was only the paramount chief of the Ma'opūtasi, he then helped Tilly identify the rest of the paramount chiefs who would go on then to sign the Deeds of Session of Tutuila and Aunu. In doing so, the Deeds of Cession clearly said that the United States is gaining full sovereignty, that they are deeding sovereignty over the territory of Tutuila. The chiefs at that time understood what was happening because what happened was those chiefs that wanted to stay under their families, their tama'aiga left.

It's the people that left, Talamaivao, who had a big interest in land in the western district in the Leone area and out to Amanave, he left, and he left his rights to whatever land he had to his children who remained. And the same thing with Seumanutafa, Seumanutafa, the Apia chief, who had some interests, lots of interests in American Samoa, in Tutuila Island, left voluntarily. And they moved their titles back to Upolu and Savai'i because the Germans were dealing with the Samoans through their tama'aiga.

America did not do that. America then dealt with just the county chiefs of Tutuila. The same thing with Manu'a.

They did not deal with any tama'aiga, they dealt with the Tui-Manu'a Elisara, who was still there. The Tui Manu'a, Elisara, then at the end of his, upon signing the deed, said, my title Tui Manu'a dies with me. And from that point on, it was understood that the chiefs that were under him would remain, but that the Tui Manu'a would no longer be a political title that has sort of sovereignty over Manu'a Islands. In the 1920s, one of the Tui Manu'a descendants tried to re-establish his authority in Manu'a. The Navy was very clear, no, the Tui Manu'a was only a political title and did not have the right to claim all the lands of Manu'a as Tui Manu'a land.

Tripartite Convention (1899) - U.S. claims sovereignty over American Samoa

Ken: Chief Leiataua, can you touch or maybe explain a little bit more about the treaty in 1899?

Charlie: Yes. Thanks. The treaty is called the Tripartite Convention of 1899 and it was the agreement made by the United States, the United Kingdom and Germany that basically set aside the government that had been established in 1889, saying that Samoa was going to be treated as one sovereignty, and basically said that they would now divide the islands up between Germany and the United States.

And so that they said, the Samoans themselves were excluded from this discussion. They were not involved in the idea that somehow they had lost their sovereignty. So the Americans, when they came in, they did not make a treaty with Mauna or the chiefs of that island.

They already had a treaty which said: “We will recognize whatever America comes up with in American Samoa as being part of America's or the United States' right in these islands”. So when their Deeds of Cession were signed, they were only giving the rights to the land, the chiefs were agreeing that they were giving their lands to the United States under the sovereignty of the United States, but that that was not the basis for United States exercise of sovereignty. **And this is why we have this sort of misunderstanding, I guess, best way you could put it, that we have the American Samoans thinking that the Deeds of Cession are the fundamental document that obligates America to us, whereas the United States is saying, no, the obligating document is this tripartite 1899 agreement that we made with Germany and Britain that says we can now exercise control.**

So this issue is fundamental to the misunderstandings that I believe American Samoans have and the United States has of which document is the fundamental document that controls America's control of American Samoa.

The U.S. view was shown by the fact that the executive order that allowed the U.S. Navy to come into the United States or come into the Tutuila Harbor to take over American Samoa was not made after the cessions were done, but it was done before. So America already understood that it controlled Samoa no matter what happens with whatever cessions, whatever deeds that the Navy captain got from the Samoans. **And this is the basis for the United States understanding of its control of American Samoa.**

So while we do have an idea that it was freely given, the rights were given by these deeds of cession, the reality was (in the American way of looking at it) though that tripartite agreement is what gave them the authority over American Samoa, not the Deeds of Cession.

1900 and 1904 Deeds of Cession

Ken: Leiataua, can you talk about specificity in the deeds of cession or, you know, what does it entail? Can you explain that to our audience and especially to our people in American Samoa?

Charlie: The question is the deed is since it's stated as a “deed” and not a treaty, the deed of cession basically says: “we give up whatever rights we have to a piece of land or piece of property to the United States”. The extent of that deed is that they take it, whatever we have, including our sovereign rights that are possessed by us by virtue of our owning this land, “we are deeding those rights over to you”.

And that what you'll get in return is that you will protect the individual rights of all people living in Tutuila to their lands and property in said area, said district, that district being the islands of Tutuila and Aunu'u. And the question that comes out from this is basically: “What is the United States protecting when they talk about protecting the individual rights of all the people there?” And it's the interpretation of what that means that gets to the point of, well: “We are desirous to protect our custom and culture”. The rights of individual rights of all

people meant “all” people, because by the time the Americans took over, there was a lot of land that had already been, those land that had already been deeded or owned by Americans and other foreigners. And these are what they call the freehold lands. So the question was: “What are you respecting?” You're respecting the rights of everybody. But the most important part of that Deed of Cession was that - while we will respect the rights and customs - the American law will remain supreme, meaning that we are giving you the right to assert your rights to your customs and culture. But, if it interferes with what we want as Americans and our American laws, then our laws are the ones that will apply, take priority and supremacy over the other rights, so that the indigenous rights exist below the authority of the United States exercised through Congress or exercised through the U.S. Constitution or by the acts of the president.

In 1904, the [Tui Manu'a signed the cession of the Manu'a Islands](#), doing the same thing, which is basically surrendering all his rights in the Manu'a Islands to the United States. In this case, they actually did not just say islands, they identified the latitude and longitudes of the area that the United States was going to be taking over. And, in deeding those lands, the Tui Manu'a, basically, again, the courts said: “The rights of the people, the chiefs will be respected. But, again, the final authority will be the laws of the United States.”

So the questions that come up when there are disputes is: Which take priority: the desires of the United States or the cultural and customs and traditions of the American Samoan people?” The answer would be: it is the laws of the United States that would take, when there is an area of conflict between those two, the laws of the United States will apply.

U.S. Minimizes Legal Significance of Deeds in Federal Litigation

Ken: So that means that it also, in terms of culture, in terms of land, so the land in American Samoa will ultimately, the ultimate decision would be made in a federal court. Is that what you're saying? If it goes that far?

Charlie: Well, [President Theodore Roosevelt, in his declaration](#), basically said, we'll respect it. Respect is not an obligation. They will respect the customs and cultures. But, in the event that those two come into conflict with the U.S. law, which is specific, the U.S. law will prevail.

Ken: So what he's saying is that. A lot of American Samoans don't know that because most of them, when I talk to them, they believe that American Samoans had the right and had the ultimate authority on not only the culture, but land. So that's not true then?

Charlie: That is not true in their current state and it was shown in recent court cases, where they tried to argue that there is a legal right to control the fishing grounds. That went up to the federal court and the federal court says: “No, the United States law is supreme.”

In the [American National Marine Fisheries Service case](#), which was decided in 2021, the Hawaii District Court concluded that the U.S. needs to, is required... the Deeds of Cession require the U.S. to preserve American Samoa cultural fishing practices. And therefore, they should have considered that before they issued their ruling on how far the fishing is going to be allowed within American Samoan waters.

That was the Hawaii District Court. That decision was reversed by the U.S. Ninth Circuit. And basically, it said: “No, the U.S. has the absolute right to do this.”

And even, you know, they said: “You can cite the cessions, but they, the Deeds of Cession, but they were not going to be used to determine the rights of the United States to control the waters of American Samoa.” And then the Supreme Court did not take up that issue as to whether the Deeds of Cession established binding and enforceable obligations on the United States and its agencies. So basically, the District Court said: “Yeah, you should consider the Deeds of Cession.”

The Ninth Circuit said: “No, you don't have to listen to that. The U.S. laws and agency laws are binding.” And then the Supreme Court said: “Yeah, we're not going to take up that issue as to whether or not the Deeds of Cession mean anything.”

And so in that context, so in essence, the court approved what the Ninth Circuit said was that the U.S. can do what it needs, do what it wants. And the idea that the U.S. says: “the deed is just the Samoans giving us the right to the land, right, to take control of the land.” But it is not, it's not an agreement.

American Samoa says: “Oh, no, it's an agreement that's enforceable by law.”

So basically, I'd like to just turn this over to Neil, who has more of the details on that particular issue that was raised in the fisheries case.

Neil: Thanks, Charlie. And what's really significant and important about this case is that in this litigation, there was an opportunity for American Samoa to state its view of the law and what the Deeds of Cession meant. And the United States had to respond to that position to explain what its view of the law was. And they did this through this back and forth with the complaint and answers from the United States.

And in those court filings, American Samoa declared, quote, “in 1900, the United States government entered into an agreement with the chiefs of Tutuila and Aunu'u known as the instrument of cession”. The United States responded to that and specifically said that the United States view is the **cession is not an agreement, but rather an instrument simply ceding property and rights to the United States**, as Charlie explained earlier. Let's go to the next slide.

So in the same filing, American Samoa declared their view, quote, “the United States government promised to respect and protect the individual rights of the people and their lands. Similarly, the United States government promised the right of chiefs in each village and all people concerning the property recognized their customs shall be recognized.” **The United States came back and responded directly to that, denying that the United States made any promises in the deeds, denying that American Samoa was ceded to the United States on the condition that the U.S. protect and respect the rights of the natives.**

So you often have the United States content to not directly address the nature of the relationship between American Samoa and the United States. But here in this litigation, they had to specifically answer the claims of American Samoa and what they viewed the law to be. And the answers they provided, I think, would be disturbing to many people in American Samoa who may have a different view of what that nature of the relationship is.

So what this litigation makes clear and what the record of the United States makes clear is that its view, the United States view, is that sovereignty is not based on the 1900 or 1904 Deeds of Cession, but rather this unilateral treaty in 1899 that the United States entered into with Germany and Great Britain.

So that's reflected in the American Samoa v. NMFS litigation. It's reflected in the official U.S. State Department manual, which says that American Samoa was ceded to the United States by a treaty entered into by the United States, Germany, and Great Britain in 1899, ratified February 16th, 1900, **before** the Deeds of Cession. And then most recently in the 10th Circuit, the United States Department of Justice, again, making clear the United States position that American Samoa became a territory in 1900 after citing specifically the 1899 Tripartite Convention.

So this is a difference in views between the United States position and between many in American Samoa. It's not necessarily that one is correct over the other, but this clear disagreement exists and is a continuing source of important conversation and debate around these issues.

Ken: Neil, can I ask you a question then to explain something?

Neil: Sure.

Ken: You know, as a legal expert, Neil, you said there are two views on that, and neither is right or wrong. But what is the view that is going to survive in the courts?

Neil: Well, the view that's been adopted by the courts has been this view that the United States acquired sovereignty over American Samoa unilaterally through the 1899 Tripartite Convention, and that, **in the Deeds of Cession, as the United States argued, there were not promises made that were legally binding, and that the United States was free to address issues of fishing in American Samoan waters without having to look at, consult, or follow any of the promises made in the Deeds of Cession.** And so this is a stark difference in how the relationship is viewed between the United States and American Samoa. But so far, when the rubber hits the road, federal courts have sided ultimately with the view of the United States on those issues.

Ken: And that's important, because I want American Samoa to know that, because in the past, many of them, many of us don't know that, that many American Samoans believe that they have final authority on their land and their assets, their oceans. And apparently what they're saying is that's not true.

Neil: That's the view of the United States, and that's why conversations around the nature of the relationship and self-determination remain important today.

Ken: It's important to explain that in detail, because it's been for years. There's always that prevailing thought or narrative in American Samoa that they have final authority over their land. And I think this is a good time to educate many people.

Cross-Territorial Perspectives - Puerto Rico and its relationship to the U.S.

Adi: Thank you, Neil, for explaining this, and Ken, for the observation of the importance of the local perception of these negotiations and these documents. It really makes me think about our perceptions in Puerto Rico, about our relationship to the U.S.

In a very summarized way, Puerto Rico was acquired by the U.S. after their war with Spain, and they signed a treaty with Spain that gave the United States Guam, the Philippines, and Puerto Rico. And it was like that until 1952, where Congress, by law, authorized us, [the law was of 1948](#)¹, but the Constitution was signed, approved by the people of Puerto Rico, our Constitution, and sent to Congress to be ratified.

And it was ratified and sent back, with some edits, by the way. And for the longest time, many Puerto Ricans thought that that Constitution meant a new relationship, bilateral relationship, a commonwealth relationship with the U.S. But this perception was actually broken down by a Supreme Court decision of 2016, by [VaelloMadero vs ELA](#)², where the court was really clear in stating that the Constitution, as great as it was, did not change the relationship with the U.S. So, it's very common for the territories to have these misunderstandings because it has been a tendency [for the United States] to base their authority, their unilateral authority, in the original treaties with the power countries, the imperial countries, that were “in charge of the world” back in the beginning of the 19th century. Something similar can be said that happened in the Northern Mariana Islands, where most of the people really believe that the relationship is renewed or based in their Covenant.

But when you look at the discussions that have been had in Congress, they actually say that the relationship, “let them think that that relationship is based on this covenant when they are still going to be a non-incorporated territory of the U.S”. So it is a very deceitful, I have to say, way of handling this relationship. But that's how it has happened in a very common way with the other territories.

Perception of the Deeds of Cession and American Sovereignty + The Insular Cases

Ken: Let's shift gears to what happened after the Deeds of Cession. How was the shift to becoming a US territory understood by our people at the time? What rights did they understand it to include? And how was the governance structured also? And there's another piece to that. How did legal developments in the US and other territories impact that relationship or our relationship?

Charlie: Yeah, we'll start with the basic issue.

What did establishment of US sovereignty mean for the question of whether American Samoans would be citizens? During this time, the US was engaged in discussing what we're going to do with this requirement that if the US acquires sovereignty, that a person born in that sovereign US territory under the 14th Amendment would become a US citizen. The Supreme Court had decided a case called [Wong Kim Ark](#), which said if you're born on US territory, that you would become a full US citizen under the 14th Amendment of the United States Constitution. And that seemed to be okay as long as you were in the continental United States.

¹ *1950

² *Puerto Rico v. Sanchez Valle

However, in 1898, when US started to acquire all these different places through conquest in the Spanish-American War conquest or through treaties and deeds, and the US was acquiring people of, let's say, different color, the US had to kind of try to figure out what to do because at that time, the United States was extremely racist in their view of people of brown skin. And what they came up with was an idea that somehow these island territories would no longer be considered as people in those island territories would somehow be treated differently. And so, in this case, they came up with the idea that the people of the territories would be subject to Congress's determination of whether or not they should be citizens or not, and not citizens by right of being part of the United States.

Now, I believe that most of the American Samoan chiefs that signed these Deeds of Cession thought that they were going to be US citizens by right, by the fact that they signed the Deeds of Cession and gave the land to the United States. It took a while for the United States to even accept the Deeds of Cession because I think they were trying to figure out what are they going to do with all these people that they don't really want to be part of the United States, and in fact, considered them "savages" and would not be able to understand the US system. So what they did, during World War II, they needed Puerto Ricans... to draft Puerto Ricans into the, or World War I, sorry, they needed Puerto Ricans to be drafted so they said: "Okay, you'll be citizens now. You're drafted."

Ken: Well, Neil, you're the legal expert here. Of course, all of you are. But in this area, can you explain a little bit about the Insular Cases for our audience?

Neil: Yeah, it's really important to look at the Insular Cases, both for what they said and for what they didn't say about issues like citizenship and the foundation really of the Insular Cases themselves in the colonial legal framework they established is this racist view that people in the United States had at the time towards people who lived in these island territories. You had the Solicitor General of the United States in arguments before the U.S. Supreme Court saying, quote, "savage and half civilized people" in island territories could be discriminated against because they were not part of the United States in a constitutional sense. And then you had the justices, while not directly addressing the issue of citizenship in the holdings in the case (["Downes"](#) is about oranges from Puerto Rico), they expressed concern that the children, whether savages or civilized, might become citizens of the United States, even calling these hypothetical people, quote: "utterly unfit for American citizenship". The issue of citizenship did come closer to being resolved in a 1904 case on the next slide, [Gonzalez v. Williams](#).

And this involved a woman, Isabel Gonzalez, you see on the right hand side of the slide, who moved from Puerto Rico to New York and U.S. immigration officials tried to keep her out of the United States. On the view of the United States that she was not a U.S. citizen, she argued and Federico Degetau, the resident commissioner at the time, supported her view that she was, in fact, a U.S. citizen since Puerto Rico had become under the sovereignty of the United States. And you had the Solicitor General in that case tell the Supreme Court, quote: "the attitude of the United States simply is that dangerous or feeble defectives among our island inhabitants are not to be admitted in this country as if they were citizens". Again, expressing these directly racist views.

Ultimately, you had the Supreme Court dodging the question, saying that she was not an alien and so could not be excluded, and at the same time refusing to recognize, quote: "that a citizen of Porto Rico... is necessarily a citizen of the United States". And so with this

decision by the Supreme Court, it left unresolved whether people born in these island territories have a 14th Amendment right to citizenship, the same as those born in territories prior to 1898, the same as those born in states. And that is a question that the U.S. Supreme Court has left unresolved to this day. It's not been answered. And these are some of the questions that continue to float around that we'll be talking more about a little bit later.

And these questions around citizenship, it didn't just impact American Samoa. It also had important impacts in other territories like Puerto Rico. Adi, do you want to share a little bit more about the experience of Puerto Ricans on these issues of citizenship? During this early period of their relationship with the United States?

Adi: Yes, sure. So Puerto Ricans were considered only U.S. nationals up until 1917, where we were granted citizenship through a congressional act. And so a law made by Congress saying that people born in Puerto Rico would be considered citizens. And the law was not clear in any way about the character of that citizenship in terms of it meaning any change in the relationship with the U.S. But that was solved in the case that reached the Supreme Court, [Balzac v. Puerto Rico](#), in which the Supreme Court clarified that the granting of citizenship by the U.S. Congress did not in any way change their relationship with the U.S. Puerto Rico still was an unincorporated territory, and that giving us that citizenship did not signify a willingness of Congress to incorporate us in the union.

And so it was this narrative that, of course, foregoing the fact that there had not been any opportunity for self-determination and foregoing the fact that they were granting citizenships to have us be drafted for World War I that was happening during those years. It happened that we were granted citizenship by act of Congress by law, and that that granting did not mean that the Constitution would apply to us directly, but that we would remain in a unilateral relationship where the U.S. was the complete sovereign over us. So we wouldn't get political rights. We wouldn't really get similar rights as citizens that live in the United States, in the states themselves. So that's kind of like the context of what happened. And it is still the law of the land.

Navy Rule in American Samoa

Ken: It's important for people to really understand the scale and scope of the navy's rule in American Samoa, or the U.S. Navy rule in American Samoa, which lasted more than 50 years. That's something that we don't too often think about today. But for 50 years, it was really little to say in the day-to-day rules that governed our relationship with the United States. Leiataua, can you walk us through what that navy rule looked like from 1900 to 1951?

Charlie: When the navy first took over, they basically said they just wanted to establish a naval station in Tutuila, and it was called the U.S. Navy Station in Tutuila when they took over in 1900. Now, they still had to deal with the issues of how we're going to deal with Samoan issues. So they did set up a court, and the court was to deal with disputes that Samoans had among themselves that they couldn't resolve.

Initially, what happened was that the navy commandant, in dealing with Samoan issues, would normally try to get the paramount chief involved. So there was an issue involving a dispute between chiefs in Maoputasi. They would go and get Mauga to sit with his chiefs and try to resolve and say, take care of this problem between these people here.

That's what happened, and whatever decision Mauga came up with in that dispute, they take care of it, as long as it didn't involve interfering with the navy's operations. The navy did set up a form of dispute resolutions, and also they set up a way to sort of control the chief system by establishing a registry of Matais. In 1906, they said, we're going to open up the issue of who is going to be a chief to registration process, so that when they opened it up, they said: "Okay, chiefs, all of you come in and register, and those who don't register the titles, that title is not going to be recognized by the government".

The other thing they said was you could only register one title. I mean, one person, one title, and you cannot use the title if you do not have it registered. Now, this kind of goes against a lot of what Samoan thinking is, but that's what they wanted to do to basically maintain control to know who they're going to speak to if there is a problem within the Samoan community. It was basically to say, who do we talk with? So, they said that's the, so that's what they did.

Now, there were some titles that managed to get, that happened to be "nofu-lua" meaning there were two people holding it that they got through. One was Fanene title in Pago Pago there were two and they managed to somehow get those two titles registered, and what had happened was Samoans actually were trying to register the Mauga title back in later on because there had been two Maugas, but the courts ruled that no, there's only one paramount chief title, not two, and the families cannot, so they would not recognize that. This is really important because in this way, the Samoans were able to be controlled in terms of who gets to be the titles.

Now, initially, the decisions that the court was making, the naval court was making as to who became a chief was left to the paramount chief of each county. So, if there was a dispute between titles in a title in Ma'opūtasi County, well, that would go to Mauga. If it was a dispute up in A'oloau, that would go to Fuimaono, and he'd make the decision.

However, and this is a very important issue, was that when the Mau movement in Western Samoa started, the Navy started to get a little nervous and they passed a regulation saying from now on to "advance the civilization" of Samoans, we're going to require that those areas where you're disputing a title, you come to the court and the court will make the decision. Again, the court will make a decision based on four factors.

The first factor that they had put in the original Navy order was loyalty to the United States government. And in that way, they were going to basically ensure that the chiefs that were going to be part of the islands of American Samoa would be persons whose first requirement is loyalty to the United States.

Now, those criteria became the basis for the current law that exists where the high court makes a decision when there's a dispute as to who's going to have the title. That criteria has been statutorily made, but they've gotten away the loyalty issue and they've put other things in priority. But that was the reason why the Navy courts took control of the title process and the title dispute process so that the Navy courts made that.

Now, the Navy did have a council of chiefs who would advise the naval governor and that council of chiefs eventually became sort of like what is now the "Samoan Affairs". Basically, they were supposed to be councils to the governor to tell him what should be done in the Samoan way.

So, these things that you see now in our structure of our government dealing with Samoan things have their origins back in Navy times when the Navy was trying to create laws that would at least get some order and exercise some control over who would be chiefs and to ensure that the loyalty to the United States during that difficult period of the Mau would be, the control would be and remain with the United States now.

American Samoans understood themselves to be American citizens

the Mau Movement, the Bingham Commission & Continued U.S. rebuffs

Ken: Leiataua, you already established that American Samoans believed that with U.S. sovereignty, they would be recognized as full U.S. citizens. Can you walk us through how that belief was challenged by the actions of the federal government?

Charlie: Now, I think Samoans always recognized that there was this Mau movement in German Samoa at the time, or in New Zealand Samoa at the time, which became the impetus for creating the independence movement that eventually evolved in an independent Samoa because of the close connections. There was also an interest in American Samoa in the Mau movement because people were connected. However, the Mau movement, and they did actually have a Mau movement in American Samoa, but it was not the type of Mau movement that was looking for independence.

What it appeared to be was a Mau movement that was saying: “Hey, let's get some civil government down here and let us be part of America, fully part of America.” And so what was created when the U.S. sent the Bingham Commission to determine whether or not American Samoans, whether Congress would grant American Samoan citizenship, the Bingham Committee came down and they were presented with a number of people who they said were representatives of the American Samoan Mau movement, not the Western Samoan Mao movement. **The American Samoan group who testified basically were saying, we thought we were citizens and said, you know, so “why aren't we citizens of the United States?”** At that point, at that time also, Mauga was also saying, you know, “Why aren't we”, you know, “why don't we have a civil government rather than being under the Navy?” These were things that were being talked about in the Samoan society.

So the Mau movement that in American Samoa was not really, as they would say, an effort to become, to go away from the United States and become independent. It was to get more representative government down but within the federal structure.

So when the Bingham Committee came to American Samoa to hear in 1930, to hear the testimony of various people, they heard from Chris Young, who was a descendant of the Tui Manu'a.

And his statements recorded were: “[E]very person in American Samoa requests the commission to make necessary recommendations to Congress to have the people of Samoa to be a true American citizen.” We have a statement of Chief Nua, also well recognized High Chief in the Manu'a Islands, saying, “I desire that the people of American Samoa should be true citizens and receive American citizenship to be equal and true Americans.” We have the statement of Taula, one of the high talking chiefs of Manu'a. “I desire that American Samoa should be true American citizens and receive American citizenship to be equal with true Americans.”

These are chiefs that still have existence today with their, those titles still exist.

We have Chief Fanene, well recognized chief in Tutuila, saying, yes, we are, we are requiring, we are requesting that we be recognized.

We have Chief Liu, I think that's a mistake, it's Liu, who says the same thing.

Chief Gale'ai, well-respected chief of Manu'a. The Mau wants citizenship, which shows you that the Mau in Tutuila was very much different from the Mau of Samoa.

The decision of the Bingham committee, their unanimous conclusion, we shall make a report to the Congress of the United States that full citizenship be granted to the inhabitants of Tutuila and Manu'a. **These statements made by these chiefs were people closer in time to the 1900 and 1904 Deeds of Cession. And this is what they understood** in the, when the United States denied, well, in the, in 1937, American Samoans were actually barred from trying to naturalize, from the right to naturalize.

In 1938, the Hawaii delegate says: “oh, American Samoans are not ready for citizenship.” In 1946, [Bingham wrote](#) that this effort is to deny American Samoans citizenship is a blot on the record of the United States. They have failed, right, to, you know, so Bingham himself was just very, very disappointed that American Samoans were not citizens.

Neil: So, Charlie, thanks for walking through that history in American Samoa on citizenship. And here you have in 1947, the Secretary of Interior, Harold Ickes, writing a letter to the editor, expressing really his outrage on the failure of the United States to address the call of American Samoan leaders for civil government on the one hand and citizenship on the other. Going so far as to accuse the U.S. Navy of withholding Fono petitions from ever even reaching Congress. If we go to the next slide, you'll see an example of one of many Fono petitions from that time period. Here's a Fono resolution from 1947 saying that: “we again petition that all those who resided in American Samoa since 1929 when the deeds were approved by Congress shall become citizens of the United States.”

This was the repeated call of the Fono, repeatedly rejected by Congress. And if you go to the next slide, there's a series of probably more than a dozen pieces of legislation that Congress actually considered during that time period. Two of them actually passed in the U.S. Senate by unanimous consent.

So one branch of Congress actually supported recognizing this call from American Samoans to be recognized as U.S. citizens. Where it continuously failed was in the House, based in large part due to opposition from the U.S. Navy that didn't want recognition of citizenship because they believed it would diminish their power to control the local population. And here on this slide, you have some of the most racist statements from the record.

If you read through the congressional record of that time period, these kinds of statements are really just everywhere. We had this one member of Congress saying: "What I'm opposed to is taking American citizenship and flinging it out to a group of people absolutely unqualified to receive it". Another saying they cannot take the "responsibility of American citizenship", calling them "unsophisticated" and saying not to extend or recognize citizenship quote: "until they're able to appreciate the privilege."

These kinds of racist statements had no place then. They have no place now. And yet, here we are, 2025. Had Congress at the time in the 1930s done what the Fono and the people of American Samoa had called for, this conversation wouldn't even be happening today. And yet, here we are again, based on this express racism from congressional leaders at the time that prevented the action from happening that was repeatedly called upon by American Samoa's leaders.

Charlie: I think to add to that, Neil, the issues that the Samoans were trying to get across is: "We want to be part of the United States. We want our government to reflect that we are part of the United States. So give us a government within the United States that recognizes our rights and is within the federal system." This is just something that either they could not, Congress could not understand or could not get in their minds to try to grant to American Samoans for whatever reason, whether it's the Navy wanting to maintain control or the racism that was in Congress.

Neil: And Charlie, if you could talk a little bit more too about how the leaders at the time **didn't view there to be a conflict between the idea of citizenship and on the one hand, and the protection of land and culture on the other.**

Charlie: So the idea that somehow, and I think what was, the Navy was trying to explain the reason why they shouldn't do it.

And I think the idea was, oh, somehow by not becoming a US citizen, you are protecting your land and your custom and culture. This is something that was ingrained. I don't think in the minds of the chiefs and the generation that signed the Deeds of Cession, but subsequent generations who did not have that direct knowledge of what was going on have been persuaded that somehow the ability to, the lack of citizenship is actually a protective thing of theirs rather than a denial of right or second class status.

And that explanation has now become a underlying problem or an underlying justification that a lot of Samoans now are trying to use to justify not becoming citizens. Now, the argument as to whether or not citizenship is going to hurt custom and culture, well, as I said before, Fa'a Samoa is not an issue of citizenship. Fa'a Samoa is blood relations and family connections.

And basically when we do have our customs and traditions, we look at family relationships. We do not look at the person's passport. So in that sense, this idea that somehow citizenship protects, non-citizenship protects custom and culture in American Samoa is just, does not comport to how Fa'a Samoa is actually practiced.

Nobody, you know, goes to a function, a family function or a church dedication or anything like that, that is part of customs and culture or a chief's installation with the idea that: "oh, we're going to look at your citizenship to determine whether you can participate or not." They

look at your blood, they look at your genealogy to determine whether you are you part of the family? And then you determine whether or not you are entitled to speak within the family. Again, it's that same, you know, idea of what our idea of Fa'a Samoa is and our idea of Fa'a Samoa is not based upon what your nationality is.

It's based upon what your family relationship is. Would you agree with that, Ken?

Ken: That's a sensitive issue also and been discussed for decades. And my question is, how did Faleomavaega and the current delegate from American Samoa and the current governor of American Samoa, Pula Nikolao, come to the same conclusion that having no citizenship protects their rights in terms of culture and land? Because you're saying something totally opposite. How did they get to those conclusions?

Charlie: From what I can see is that it depends on the situation that they're facing. When back in the 70s, the question was whether or not jury trials should come to American Samoa under the constitutional right to a jury trial applies to American Samoa. Faleomavaega at that time argued, he was in Washington at the time, and he argued strenuously that the jury trials will destroy our custom and culture, doing the same thing that they talk about when they argue the same, making the same arguments with regard to citizenship, constitutional right to citizenship.

The court said these fundamental rights need to be applied unless you can show it's totally against anything, what they call anomalous. In the jury trial situation, the court basically said, no, you give the person a jury trial unless you can show something that says they can't be granted a jury trial. They weren't able to show that, so jury trials come to American Samoa.

I was involved when the first jury trials were being started up as a young attorney, and I had to work with trying to figure out how to conduct jury trials in American Samoa. But now 40 years later, jury trials are exactly a part of the system, and our Fa'a Samoa hasn't fallen apart. And what's funny is that we had even more changes in our customs and culture when Samoa adopted Christianity, a big change. The Fa'a Samoa didn't fall apart. When Americans took over Tutuila and Manu'a, the idea of Fa'a Samoa did not fall apart. These are bigger changes than this idea of national citizenship. So, they've never really clearly explained why.

The other thing is there's an inherent fear that they've grown up with, that somehow they're going to lose their family rights in American Samoa, their customary rights in American Samoa if they become citizens. And it's not a fear because there are a lot of American Samoans who are citizens in Tutuila and are involved. Our congresswoman is a citizen. Our governor is a citizen. It's very difficult to understand that. But that's what we hope this education program does, is give people that idea that: "Hey, what do you fear?"

Ken: Let me ask a quick question. This has also come up many, many times in the past. And I interviewed an agent from immigration. And both of you, Neil and Leiataua, you're both scholars and legal experts in this field. He told me that not every American Samoan national can become citizen. And he said if that person commits a crime, some sort of a heinous crime, that if he wants to naturalize to become citizen, he is automatically rejected. Is that wrong?

Charlie: My information is you would naturalize just as you would naturalize a foreigner. So there may be, you would not be, you would be rejected. Now, the thing you have to realize is that there is no such thing as an American Samoan national. There is a U.S. national.

A U.S. national is anybody that owes their allegiance to the United States of America. And that's everybody, citizen or non-citizen, right? It owes their allegiance to the United States of America. Only American Samoans under the statute have the title U.S. national, but not U.S. citizen.

And so that means that a U.S. national from the States can come to American Samoa, say I'm a U.S. national, and vote in the, for governor, lieutenant, once they establish residence, vote for governor, lieutenant governor, congresswoman, and their faipule.

Ken: So what are you saying about this person as a U.S. national from American Samoa? Applying for citizenship, but there shouldn't be no laws that all crimes are permitted.

Charlie: It would be for the discretion of the immigration office, and some discretion cannot be...

Neil: I would add that Charlie and I have spoken to a number of American Samoans who've had their applications rejected without ever having been convicted of any crime. Simply even having an allegation of a crime against you, or checking the wrong box on the form, or not passing the test that they make every person give.

We just spoke with an American Samoan woman yesterday who said you know: "there's this impression that it's a really easy, quick process". And she said it took her several years to eventually be naturalized, cost her thousands of dollars. She had to hire an attorney to help her navigate the process. And, again, all of this when people in other U.S. territories, people born anywhere else in the United States, automatically recognizes citizens under the Constitution.

American Samoans are the only people born on U.S. soil who are required to swear an oath to the United States as part of the process, to pay a fee, to go through this process that many find demeaning. And you can't even go through it from American Samoa. we've represented individuals in American Samoa who say, I want to be a citizen, but I don't want to leave my home and family. I don't want to relocate to Hawaii or Oregon or Alaska. I shouldn't have to. But the way the system is set up, they are required to do that. There's no guarantee of success. And it can take years. It can take thousands of dollars. And that's something no one born on U.S. soil should have to go through.

Cross-Territorial Perspectives - Puerto Rico, Race, and Citizenship

Adi: Yes, I just wanted to comment that from the perspectives of Puerto Ricans, it is very offensive. I mean, racist language is always offensive. But the fact that in the 30s, they were still saying those things as reasons not to give you, Samoans, citizenship, when they had already, through law, imposed citizenships in other territories, three other territories, that were inhabited by people that had been already called savages, uncivilized, incapable of participating in U.S. institutions.

Puerto Rico, like I said, became, got citizenship in 1917. And then you have the Virgin Islands and the Guam people were given citizenship also. And we are talking about majorly Puerto Ricans, which is a mix of races, but considered Latin American or Hispanic.

And you have a highly, the biggest Black-inhabited jurisdiction of the U.S., which is the Virgin Islands. And of course, in Guam, you have the Chamorros and other people that live there from other races and nationalities. But my point is that, my wonder is like: why such a resistance to include American Samoans in those years?

And also, the other thing that I wanted to comment is that I agree with you, Charles, that citizenship does not change identities, like the connection of citizen and culture is, I don't see it either. I mean, we were first colonized by the Spanish. So our indigenous people, and I have to say, I am part indigenous, Taina from Puerto Rico, because I did my DNA, that's how I know it. But we were practically erased in terms of our language. And we are a culture that speaks Spanish, that has indigenous culture in it. And Afro, Afro-Boricua people and slaves that they brought from Africa, and other places from the world and Europe that came to become what Puerto Rico is now.

When the U.S. came and they gave us citizenship, none of that changed. The authority they exercised, the unilateral authority they exercised on top of in our lands, and in our lands was, comes from another source, from the pretensions of being the owners and the unilateral power conceded by having us as an incorporated territory under the territorial clause. It doesn't, it didn't come with citizenship.

We didn't lose our language at that time, which is Spanish, because of citizenship. And, and I have to say, I'm very proud that there is a whole movement of reviving our indigenous and Afro roots right now happening against all that influence of U.S. culture that we have, because we're part of the U.S. So just wanted to do those comments, because for us, when we see what happened to American Samoa, and when I participate in discussions with much respect with the people of American Samoa that have these doubts and fears, when we have these cross-territorial discussions, we can kind of like clean up that, those clouds that create those doubts.

Ken: You know, I think part of it is a lot of education campaign to inform, properly inform people, because you have, you, Neil, and Leiataua, you have addressed those issues, you know, simply and very clearly, because **every time that the referendum was done, there were two issues that American Samoans, quote, the reason why they don't want to become automatic citizens, and that is they want to keep their culture and they want to keep their land. And from what this discussion has come to is that that never changes if you become citizen. In fact, it's probably has changed more than right now than if you were a citizen.** And the other thing too, that you need to educate people that, like I mentioned, not every American Samoan can be automatic citizen also, you know, not everybody who applies, not every American Samoan who applies can become citizen also, because that is the narrative that's being carried around by the current leaders of American Samoa that, oh, don't worry, you know, you can apply to become citizen anytime, when in fact, not everybody, not every American Samoan.

Part 1 - Close

Adi: Well, Ken and Charlie, this has been such a fascinating conversation, an interesting conversation. There is so much to learn from American Samoa and from the dialogues that will happen with other territories with this material. So thank you.

Thank you so much. I think it is a moment that we can pause. It has been quite a few minutes in this conversation, and we will reconvene in a few days to finish this conversation and take it up to the present and how these issues that we have been talking about are very much relevant to the lives of Samoans today. So thank you so much.

Ken: Thank you.

Charlie: Thank you.