The Northern Mariana Islands Judiciary

A Historical Overview

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Preface

As with any major work, this book is a product of the effort, collaboration, time, and contributions of many people. This book would not be possible without the effort and patience of the contributing authors: Arin Greenwood, Dirk H.R. Spennemann, Dirk Ballendorf, Dan MacMeekin, former Judge Timothy H. Bellas, retired Chief Justice Jose S. Dela Cruz, and Mia Giacomazzi. This project is the idea of the current Supreme Court justices: Chief Justice Miguel S. Demapan, Justice Alexandro C. Castro, and Justice John A. Manglona. Justice Manglona in particular dedicated considerable time to help preserve the history of the court system through publication of this book.

Several people were interviewed for background information for this book, including retired Chief Justice Dela Cruz, former Justice Jesus C. Borja, former Judge Herbert D. Soll, and retired Director of Courts Margarita M. Palacios. We would also like to thank the members of the Northern Mariana Islands Judiciary Historical Society and the NMI Council for the Humanities for their support and help. Three law clerks from the CNMI Supreme Court deserve recognition for their significant contributions. Arin Greenwood set the book in motion by organizing the work, finding the contributing authors, and writing the first chapter. Mia Giacomazzi contributed as an author and assisted with editing. Steven Gardiner wrote chapter seven, contributed to the editing process and shepherded the book through publication. Four Supreme Court legal interns also assisted with this project. Julie Marburger helped locate book illustrations, and helped research the final chapter along with Josh Harrold, David Roth, and William Young. Law clerks Daniel Stafford and Daniel Guidotti also contributed as editors.

While it is certain that more people than mentioned have helped with this book, everyone is appreciated for their contributions. The University of Hawaii-Manoa and the CNMI Historic Preservation Office generously gave permission to use many of the images in this book. Finally, all of the members of the CNMI Judiciary, past and present, should be acknowledged for their hard work and dedication in ensuring that the Northern Mariana Islands is a society in which the rule of law governs.

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Law and Justice in the Marianas During the Spanish Era
(1521-1898)

CHAPTER 1

By Arin Greenwood

The Mariana Islands had their first European contact in 1521, when a Spanish-sponsored search for a new sea route to Indonesia's Spice Islands brought Ferdinand Magellan to Guam.[1] This journey should have been spectacularly successful for Magellan the explorer – on it, he found the present-day Straits of Magellan, named the Pacific Ocean, became the first person to sail around the world, and discovered the Philippines and other islands for Spain. After managing to suppress mutiny by his scurvy-riddled crew, however, Magellan died in the Philippines from battle wounds. For Spain, this trip was still an undeniable success, beginning a strong reach into the Pacific that lasted until the end of the Spanish-American War in the late nineteenth century.

In 1565, Spain formally claimed the Marianas – including Guam, Saipan, Rota, Tinian, and the ten other islands making up the insular chain. Spain did not, however, show interest in the islands until 1665 when King Philip IV – just before he died – and his wife Queen Maria Anna decreed that a Jesuit mission be established on Guam. The first Jesuit missionaries charged with bringing Christianity to the islanders arrived in 1668 and renamed the islands "the Marianas" after the queen who championed their mission; the islands had previously been called the "Islas de Ladrones" – Isles of Thieves – by Magellan. Of course, each island also had a local Chamorro name.

The Jesuits – and later, the Augustinians, who in 1769 replaced the Jesuits as the Marianas' clergy – were sent to the Marianas to bring to the islands both Christianity and Spanish social mores. They brought church-sanctioned marriages and demure clothing to replace what seemed to the Spanish a horrifying godlessness, nudity, and unacceptably lax dedication to monogamy.[2] While in the Mariana Islands, the clergy baptized, educated, indoctrinated, befriended, and beleaguered the local population, which today forms one of the most devoutly Catholic populations in the world.

In the beginning, the Jesuits – who were well received by a surprisingly large part of the population, including Tinian's famous Chief Taga – acted as both missionaries and administrators. But after the less amenable portion of the Marianas' population staged uprisings against some of the Jesuits and the small group of soldiers there to protect them,[3] Spain's first of fifty-seven governors assumed control over the Marianas administration in 1676. At this time, Spain also expanded the

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1 Generally, well-known historical facts such as this one have been culled from a variety of sources, including local historian Don A. Farrell's *History of the Northern Mariana Islands*, and Alexander Spoehr's *Saipan, The Ethnology of a War Devastated Island*.

2 Francis X. Hezel's account of the early period of Jesuit-Chamorro relations, *From Conversion to Conquest: The Early Spanish Mission in the Marianas*, can be found on the Micronesian Seminar's website, *www.micsem.org*, along with numerous other texts relating to Micronesia.

3 On page six of *From Conversion to Conquest: The Early Spanish Mission in the Marianas*, Hezel writes that six Jesuits and fifteen catechists (religious teachers) were killed during the first eight years of the Jesuit mission in the Marianas.

number of soldiers who would enforce this new administration.[4]

With only minimal oversight by Spain (as well as by Mexico and the Philippines, which were, during separate times, given authority over the Marianas by Spain), each governor was more or less free to execute upon the Marianas and its residents the policies and practices he devised, be they for the good of Spain, the islands, or himself.[5] How that enormous authority was used varied considerably from governor to governor, depending on the governor's own disposition and the amount of interest Spain was then taking in the islands. The variance in authority also depended on factors such as typhoons, disease, and local resistance.

Whether the governors pursued their ends ruthlessly, mercenarily, humanely, or bellicosely was essentially a matter of personal predilection. For example, if there ever was a leader who killed in the name of religion, it was Governor Joseph de Quiroga. As Francis X. Hezel describes it, Quiroga was appointed in 1679 to "punish all Chamorro resisters and put an end to the costly rebellions once and for all."[6] Quiroga was merciless in his quest to subdue the islanders and is described as having "carried out with religious zeal his duty of forcing the Chamorros to accept Christianity."[7] In 1681, Quiroga was briefly replaced by Governor Antonio Saravia, who stopped the policy of killing Chamorros who refused conversion. Saravia also granted Spanish citizenship to Chamorros who took an oath of allegiance to the Spanish flag.

Damian de Esplana, who became Governor when Saravia died in 1683, is reported to have been described by Jesuit priests as "God's punishment to the Marianan people."[8] After determining that the Northern Island Chamorros were too disparate to effectively convert, hispanicize, and control, the Jesuit missionaries exhorted Governor Damian de Esplana, who was re-appointed in 1690 (Quiroga interrupted Esplana's leadership with his own brief re-appointment in 1688), to begin the ultimately devastating mission of forcibly relocating to Guam every Chamorro in the Marianas. Esplana successfully relocated Mariana Chamorros to Guam in 1740, except for several hundred holdouts on Rota. By this time, disease and war had reduced the Chamorro population from an estimated pre-Spanish 30,000 - 40,000[9] to fewer than 4,000.[10]

It is an interesting historical side note that in 1767, Spain's King Charles III – who came to dislike the Jesuits during his rule and expelled them from all of

4 Hezel discusses this transfer of authority with more detail on pages seven and eight in *From Conversion to Conquest: The Early Spanish Mission in the Marianas*.

5 Before around 1849, "justice had been administered in the Marianas by the governor, who usually was acquainted with legal matters." Brunal-Perry, *Nineteenth-Century Spanish Administrative Development in the Province of Guam*, 1:82.

6 In *From Conversion to Conquest: The Early Spanish Mission in the* Marianas, on page seven, Hezel writes that Quiroga received articles of instruction from the Captain General of the Philippines exhorting him to fulfill this mission.

7 Don A. Farrell, *History of the Northern Mariana Islands*, p.168.

8 *Ibid*. at 170.

9 There are varying estimates of the pre-Spanish population of the Mariana Islands. Writing that it is "unthinkable" that the pre-Spanish Chamorro population was greater than 40,000, and was more likely less than 40,000, Hezel acknowledges the wide range of population estimates on page thirty-one of his book, *From Conquest to Colonization: Spain in the Mariana Islands 1690 to 1740*.

10 Francis X. Hezel's book, *From Conquest to Colonization: Spain in the Mariana Islands 1690 to 1740* provides an excellent and detailed account of this period.

Spain's colonies – signed a royal decree ordering the Marianas' Jesuits to be seized and led away as prisoners to a waiting ship.[11] However, "because ships called at Guam so infrequently, it was not until 1769 that a small Spanish schooner, the *Nuestra Senora de Guadalupe*, arrived with the king's decree."[12]

The Chamorros who survived into the mid-1700s were largely hispanicized. Once the Spanish succeeded in moving the Chamorros to Guam, fighting between the islanders and the Spanish more or less stopped. Island life – which consisted mainly of religious rituals and hard work, broken up by cockfighting and visits from typhoons, foreign ships, and the Manila galleon which every year (when the weather wasn't prohibitively dangerous) stopped by Guam carrying goods and money – was under less pernicious control by the Spanish governors. During the latter part of the Spanish era, the governors could be ruthless in their greed and monopolization of the Marianas' resources, but they were less bloodthirsty.

Some governors instituted formal political, legal, and administrative institutions on the islands. This happened even on Saipan, to which Chamorros were permitted to return beginning in 1865.[13] The institutions that were created, however, were rarely permanent.

The rapidly-changing laws and administration of the Marianas paint a picture of islands that no one quite knew what to do with.[14] In 1828, the captain general of the Philippines, Mariano Ricafort, issued a set of administrative edicts – the Bando de Ricafort – which were designed to reduce corruption and waste and make the Marianas' economically self-sufficient. These failed. In 1844, Spain tried to reform the Marianas' judicial system, partly by decreeing that judges must have training in the law. A Spanish judge with legal training was sent to the Marianas in 1849, but "he left the Marianas within a few years of his arrival."[15] Justice was then the governor's charge once again, except that Spain decided (against the governor's expressed wishes) to establish the islands as a penal colony during the late 1850s.[16] Though in 1868 Spain ordered that certain civil liberties would apply to residents of the Marianas, the early 1870s were exceedingly "chaotic and agitated" due to the influx of more prisoners, especially *deportados*, who were political prisoners sent to the Marianas from the Philippines.[17] Reform was again on the table in the 1880s, when the Spanish Penal Code and a system of local administration – including local justices of the peace – were extended to the Marianas.

11 The text of King Charles III's decree stated: I invest you with all my authority and all my royal power to descend immediately with arms on the Jesuit establishments in your district; to seize the occupants and lead them as prisoners to the port indicated inside of 24 hours. At the moment of seizure, you will seal the archives of the house and all private papers and permit no one to carry anything but his prayer book and the linen strictly necessary for the voyage. If after your embarkation there is left behind a single Jesuit either sick or dying in you department, you will be punished with death.

12 *History of the Northern Mariana Islands*, p.190.

13 The returning Chamorros found a group of resident Carolinians, who in 1815 had been granted permission by then-Governor Mendilla to live in the Marianas when the Carolinians' own islands were destroyed by typhoons.

14 The information about the nineteenth century reforms comes entirely from Omaira Brunal-Perry's *Nineteenth Century Spanish Administration On Guam*. Other accounts bear out the picture of an always-shifting judicial and legal system.

15 *Nineteenth Century Spanish Administration On Guam*, p.82.

16 *Ibid*. at 82-83.

17 *Ibid*. at 83-85.

It is this later system that George Fritz, the first administrator of the Marianas during the German era, wrote about in *the Chamorros: A History and Ethnography of the Mariana Islands*. In this fascinating (if not entirely accurate) book, Fritz provides a description of local politics during the Spanish Era that shows law and order, on the whole, to be under the regulation of local administrators, but with meta-control by the Spanish, especially the Spanish clergy:

> At the head of each community was a *governadoreillo* (little governor), a native who served as representative of the state, a justice of the peace and notary. At his side were the *barangay* (district supervisors). They occupied honorary positions and received small pay. The *polistas*, able-bodied men from 15 to 50 years of age, were obligated to work assignments of fifteen days annually for community and state purposes.
>
> This obligation could be increased or decreased according to the discretion of the local rulers. In reality, most *polistas* worked mostly for the village mayor and the supervisors.
>
> In the administration of justice, the whole population was dependent upon the benevolence of the mayor. Since the Spanish officials benefited in a large way from the same advantages as did the native officials in a smaller way, abuses were seldom discovered. Feared by all because he was knowledgeable of community conditions, the priest, often the only Spaniard, reigned above all.[18]

In *Reports Concerning The Mariana Islands, The Memorias of 1890-1894*,[19] there is also reference to a public jail,[20] prosecutor and judicial building,[21] and judge whose jurisdiction included the entire province and who was a member of the Council for Public Instruction. There is also a government prosecutor, who was the *registrador de la propiedad* (land registrar) and, at the same time, was a member of the councils for jails and adjudication and *composicion* (settlement) of lands. Each *pueblo* had a justice of the peace and a substitute. The judge was also the province's notary public, since this position was not covered.[22]

The *Reports* also include an observation which perhaps shows that Spain brought the institution of Christian marriage and its corollary of adultery to the Marianas, but never managed to import any institutions that would less brutally resolve the disputes arising out of them:

> What is properly called *crime* is almost nonexistent in the province, because, fortunately, the number of what are called *crimes* is so

18 Georg Fritz, *The Chamorro: A History and Ethnography of the Mariana Islands*, at 1:76-77.

19 Marjorie G. Driver, a former associate professor at the University of Guam and former curator of the Micronesian Area Research Center's Spanish Documents Collection, translated this and many other accounts by the Marianas' Spanish-era clergy.

20 *Reports Concerning the Mariana Islands: The Memorias of 1890-1894,* at 1:18.

21 *Ibid*. at 2:40, 47.

22 *Ibid*. at 3:47.

> small. There is no propensity for it, because these inhabitants are of a peaceful nature and, in their own way, are respectful toward the authorities and fearful of the law. The situation is such that to bring an end to serious matters that arise, the contenders let their machetes fly. Most crimes have been committed by natives of other provinces, generally those who have been discharged from the penal institution and have settled here. If a crime has been committed by a native of the island, the reason, for certain, has been an illicit love affair, concubinage, or adultery.[23]

The Spanish Era in the Marianas ended in the late nineteenth century, when the United States defeated Spain in the Spanish-American War. At that time, Spain had already been divested of much of its empire and sold its remaining colonial possessions. In 1898, the United States bought Guam, and Germany bought the fourteen Mariana Islands north of Guam. These transfers were effected in 1899, marking an end to Spain's tenure in the Pacific. Visiting any church in the Marianas on a Sunday shows, though, that the passing of over 100 years has done nothing to mitigate the incredible success of Spain's original mission, which was to bring Christianity to the islands.

23 *Reports Concerning the Mariana Islands*, p. 79-80.

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The German Colonial Period
(1899 – 1914)

by Dirk H.R. Spennemann

CHAPTER 2

When Spain lost the Spanish-American War of 1898, Germany was eager to become the leading power in Micronesia, both for reasons of pride and because it was thought that copra – dried coconut, a valuable commodity – could readily be produced there. Germany already owned the Marshall Islands, which it had bought in 1886. In 1899, Germany bought the Caroline Islands, Palau and the Marianas – with the exception of Guam – from Spain in exchange for 25 million pesetas (some 81 million U.S. dollars in year 2000 terms).

With the signing of the purchase agreement on July 18, 1899, Germany obtained legal title to all of Micronesia except Guam (which was sold to the United States). On the same day, the German Emperor Wilhelm II signed three Allerhöchste Ordres (highest Imperial decrees) placing the Caroline, Palau and Mariana Islands – the so-called Inselgebiet (Islands Territory) – under German Protection and regulating the administrative structures: Saipan became a district office subordinate to Pohnpei, which in turn was subordinate to the Governor in German New Guinea. A third document extended the rule of German law over the islands, rooting the legal status and affairs in the Islands Territory in the relevant domestic German legislation. The Spanish government formally handed over the administration of the Northern Mariana Islands on November 17, 1899. On that day the rule of German law took effect.

At any given time, the German administration was small with few staff. Thus, these individuals exerted much greater influence on the political and social shape of the colony than would have otherwise been possible. This was especially the case with the first administrator, Georg Fritz. Fritz was a forester by training who had lived for a considerable period in South America. On his return to Germany, he studied financial administration and, upon graduation in 1894, worked at various locations for the financial administration of the Grand-duchy of Hesse-Darmstadt. His fluency in Spanish, his overseas experience, and his fiscal management skills recommended him for the position of district administrator. What may have been a surprise were Fritz's radical (for the time) ideas about including local islanders in the administration of Saipan, and his relatively progressive ideas about environmental conservation.

Law and Citizenship

As with other German colonies, the colonized peoples in the Marianas were given the status of "colonial subjects," under the protection of the German empire; that is, Germany would represent their interests overseas and against other

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Georg Fritz

nations. On one level they were part of the empire, and on another level they were not: two different sets of laws applied for "whites" and "coloreds." For the "whites," German law applied, regardless of nationality, while "coloreds" were treated as German "subjects," unless they were "subjects" of other colonial powers.

Unlike German citizens, "subjects" were not permitted to vote, hold positions in parliament, or travel to foreign countries without government approval. This prohibition included a ban on traditional inter-island travel between Saipan and Guam, which were by then formally foreign countries; this inter-island travel continued, however, despite many efforts to terminate the practice. Though "colonial subjects" could theoretically become naturalized German subjects, this occurred only in a single instance: Pedro Ada in 1905. Oral history asserts that José (Josef) Ada, one of Pedro Ada's children, was also naturalized, or at least had a German identification document of some kind, but this cannot presently be confirmed. The most common way for foreigners to acquire citizenship was through formal, civilian marriage to a German subject.

"Micronesian marriages," i.e. *de facto* marriages without a marriage certificate, occurred between German settlers or colonial officers and Chamorro and Carolinians on Saipan. This did not lead to citizenship for the Chamorro or Carolinian spouse or the children arising from the marriage. Unlike the Spanish period, formal marriages were notably absent in the Marianas. In Samoa, the only other German colony in the Pacific, formal and recognized "interracial" marriages were not uncommon, while they were virtually unheard of in the Marianas and elsewhere in Micronesia. In part this was due to the low density of German settlers with a long-term commitment to the islands. Moreover, as colonial control from Berlin became more restrictive, formal marriages were not merely frowned upon, but prohibited.

Developing a Body of Legislation

The district administrators and governors were empowered to promulgate regulations governing various aspects of life in the areas under their governance.

While this option was meant to fill major gaps in colonial administrative practice, in particular with respect to police registration of residents, quarantine regulations, how to deal with impecunious foreigners, and matters of credit to indigenous peoples and the like, some administrators far exceeded these areas. In particular, George Fritz took to legislating with gusto. As a result, a body of Marianas-specific law began to emerge that was strongly shaped by Fritz's personal ideology. Remarkable in this regard are his regulations concerning the protection of nature and wildlife, which he saw threatened by excessive exploitation.

This proliferation of legislation posed problems for the German colonial office as it impeded the ready movement of Pacific administrative staff from one duty station to the next; too many new rules needed to be learned. Further, traders with interest in more than one district rightfully complained about the plethora of local provisions and the government "red tape."

In response, following a restructuring of the administrative structure in Micronesia, the Colonial Office in Berlin gradually reduced the diversity of local legislation through standardization, mainly by extending the rules of New Guinea to the Islands Territory and by curbing the legislative powers of the local administrators.

Pedro Ada
Deputy Administrator

The Courts

While the Imperial decree of July 18, 1899 placed the Marianas under German law, the Governor of German New Guinea, as the delegate, was authorized to promulgate regulations governing the minutiae and practicalities. One of the fundamental provisions contained in the regulations Governor von Bennigsen promulgated was that no difference existed in the jurisdiction and the exertion of judicial powers over indigenous and non-indigenous peoples. Moreover, it stipulated that indigenous legal concepts and practices should be taken into account when courts were constituted and that, where necessary, local concepts should be substituted for German court procedures and structures. By January 1, 1901, however, this regulation had already been repealed and a separate court for indigenous people was created.

Nicolas Diaz (holding child), Deputy Assessor during the German administration.

In theory, there was complete separation between the legislative and executive branches on the one hand, and the judiciary on the other. In reality, however, the small number of expatriates meant that the judiciary consisted of the local administration, while the assessors and deputy assessors were drawn from the subordinate officers and the influential and "respectable" traders and settlers. Assessors were lay people, drawn from "respectable" German citizens residing locally. Their role was to advise and provide counsel, if the magistrate so required, and they had a say in the final outcome of court decisions. Deputy assessors stood in when assessors were unable to attend because of absence or conflict of interest.

Misdemeanors and minor offences were dealt with in a magistrate court, presided over by the district officer as magistrate. More severe cases, as well as appeals from magistrate decisions, were sent to the district court (Bezirksgericht). From 1900 to 1907, a district court based in Saipan passed judgment in the first instance. Two district courts were constituted: one dealing with cases involving whites and one involving only islanders.

The courts hearing cases against whites were comprised of a consular judge – in Saipan this was the district administrator – who was assisted by two to four assessors. Courts dealing with indigenous cases were comprised of the district administrator as district judge, and two assessors, both of whom were drawn from the white population.

Appeals were sent to the Imperial High Court (Kaiserliches Obergericht)

constituted at the seat of the Governor General at Rabaul. In theory, the next level of appeal was the Imperial Colonial Court in Berlin. However, such appeals never occurred from the Northern Marianas.

Unwittingly, or purposefully flaunting the directive only to appoint white assessors, Fritz appointed two Chamorros as deputy assessors for the Saipan district court in 1904: the teacher Mariano Sablan and the trader Nicolas Diaz. The colonial office objected, but acquiesced to Sablan and Diaz seeing out their periods of office. Henceforth, the decree went, only non-indigenous people were to be allowed on the bench. Fritz dutifully obliged and appointed Pedro Ada, who had recently been naturalized as a German citizen, as deputy assessor in 1906-1907. Clearly, Fritz wanted Chamorro involvement in the judicial process.

An administrative restructuring in 1907 saw Saipan demoted from a district office to a station subordinate to Yap. As a result, Yap became the locale of the district court (as of June 1, 1907). Given the distances and the lack of a station vessel, however, the magistrate court as well as the court dealing with indigenous cases remained in Saipan, and was presided over by the station chief. With the move of the district court authority to Yap, however, the experiment with indigenous assessors ceased.

Throughout the German Era, the majority of legal transactions were the registration of property and other notariate work. Criminal cases were, on the whole, few, and those that went to court could usually be dealt with by the Magistrate alone, without the need to draw on the court assessors.

Appeals against the court decisions were rare, as well. Statistics show a very high number of property changes and registrations in 1906, probably reflecting the economic impact of the typhoon of 1905 on the viability of a number of land leases. (Statistics for the case load of the courts are presented in Table 2 at the end of this chapter.)

A major piece of administrative court work was the registration of land. The initial caseload was the result of the transfer of titles from the Spanish to the German registration system. The later increase was a combined result of the success of the homesteading program initiated by Fritz and increased leases of land by German and Chamorro businesses. The homesteading program was a program by which the German government gave out plots of land to Chamorros and Carolinians who agreed to remain on Saipan and to use the land in a productive manner; it is the foundation of a program that continues today. The massive drop in these actions once the court in Yap assumed responsibility is worth noting. Also, early on a great number of administrative judgments were made, which usually carried a fine. That none occurred in 1905 and 1906 may be due to the fact that by then the Chamorro and Carolinians were used to the German expectations and rules, or may have been caused by a lessening of strict interpretation of the rules in the aftermath of the 1905 typhoon.

The judgments passed by the district courts (Table 3) were summarized in annual statistics under four headings:

Group I – Crimes and offenses against the State and public order (high treason, treason, resisting arrest, crimes and offence against public order, etc.);

Group II – Crimes and offenses against persons (vice, murder, manslaughter, kidnapping, slavery, etc.);

Group III – Crimes and offenses against property (theft, embezzlement,

robbery, blackmail, fraud, forgery, malicious damage, arson, etc.);

Group IV – Other offenses and misdemeanors.

The statistics are incomplete as some years' data cannot be obtained. What is obvious from the available data, however, is that prison terms were only rarely imposed by the Saipan district court, with the bulk of punishments based on fines. The statistics for the period when Saipan was subordinate to the Yap district court show a preponderance of fines, but also a greater willingness to impose jail sentences. No Group I crimes were committed during the life of the Saipan district court.

Law Enforcement

At the time of the German takeover of the colony, German vessels landed twelve Indonesian police troops as a precautionary measure in case the islanders objected to the "change of guard." It quickly became apparent that these troops were not needed to maintain public safety and security. As they had learned Chamorro well and did not have strong religious differences with those already on the islands, it was thought that they might make good workers. Fritz tried to redirect their duties and put them to work on one of his public works schemes, but they refused – they had been hired as police troops, not as workers. Fritz deemed them "lazy and sullen." His hopes that they might settle in the Marianas, intermarry locally, and take up a trade were also dashed. Nine of them left in 1900 for Pohnpei, and the remaining three had left for home by 1905.

While a police force or militia was not necessary from a public safety perspective, it was nonetheless seen as a useful institution. At that time the prevalent philosophy in Germany saw the military as the "school of the nation," training the essential characteristics of a "good" citizen: obedience, order and punctuality. The local militia was to instill the same qualities in the local population. A number of Chamorros and Carolinians were encouraged to join the local militia – they were well paid, with the troops earning as much as the mayors of Rota and Tanapag.

Clearly, given the peaceful disposition of the Chamorros and Carolinians towards German rule, there was no need to maintain a forty-three-man militia.

The German Administration Building, located in Garapan, Saipan.

Yet the public education effect was considered imperative. While critics, such as Hermann Costenoble, described the militia training as a "useless game," it was defended by Fritz as essential to colony-building. Some of the trained police troops were later hired to work in other German colonies, such as Palau. Fritz took some of them to Pohnpei when he took up the district administration there in 1907.

Penal Colonies

The island of Sarigan had been set aside as the prison for the Marianas. Not only local felons, but also criminals from other island groups were sent there – especially those whom keeping on the home islands would have been difficult in terms of supervision and control. In 1904, a colonial writer argued that the island was suitable as the penal colony in the German South Seas. Moreover, the Marianas could be seen as the penal colony for Imperial Germany as a whole.

The prisoners on Sarigan were, on the whole, peaceful and two wardens were sufficient to look after them. Life as a prisoner consisted of work – mainly planting and maintaining the penal colony's copra plantation. Apart from that, life as a prisoner differed little from that on the "outside" as the families were allowed to accompany the prisoners to the penal settlement, even though this could create friction. In essence, the main aim appeared to be corrections rather than punishment; there was a desire to achieve a more productive society. In 1907, Fritz wrote in the annual report tabled in the German parliament:

> Five years of experience have shown that this system of penal colony had worked out well for the natives. The convicts are kept busy doing useful work, which physically is not harmful to them, and which has moral and economic advantages for them. They work here instead of being kept in prison where their food is expensive and where they are guarded. The latter mentioned system has morally detrimental effects on the people with their inclination towards dreamy inactivity.

When Sarigan was converted into a productive plantation in 1906, it was leased out to commercial interests and the penal colony moved to Laulau, on Saipan, where the prisoners were supposed to develop a new township site.

Capital Punishment

Murder was punishable by death. However, only one murder occurred in the fifteen years of German occupation of the Marianas. Two executions are on record for the German period on Saipan, both related to that same event.

Nirailokus from Palau and Tomedat from Yap were both held in the penal colony at Laulau when they murdered their fellow prisoner, a man from Yap named Ruttam. The act had been committed because both Nirailokus and Tomedat desired Ruttam's wife. Each had been accused of prior crimes. Tomedat had previously committed a murder on Yap during the Spanish period, but had escaped punishment due to the handover between Spain and Germany; he was imprisoned on Laulau on unrelated charges. Nirailokus had been accused and acquitted of one murder, but following a charge of theft he was sent to the penal settlement at Laulau.

The trial for Ruttam's murder was carried out in early February 1907, with Fritz as district judge and Pedro Ada, Ernst Kusserow, Erhard Lotze, and Hermann Woitscheck as assessors. Dr. Dwucet (a teacher) acted as prosecutor, while office

clerk Otto Paulisch conducted the defense. Statements of witnesses and confessions by the defendants left no doubt of the accuseds' guilt. Sentenced to death, both were executed on the same day by a firing squad.

The case, which required the full bench, stretched the resources of the German administration. The case also raised concerns as to the multiple responsibilities held by the German administrators: Paulisch was both office clerk and medical orderly, and in this function had assessed both the cause of death of Ruttam, and, later, also ascertained that the two convicted were indeed dead. As the murder happened during Fritz' absence, Dr. Dwucet performed the duties of the investigating judge, supervising the investigation and determining whether (in this case, that) a case should be made before handing the case to the state prosecutor.

In this case, Fritz clearly overstepped his authority. Firstly, it is doubtful whether he actually had jurisdiction to sit in judgment of non-indigenous people. Secondly, death sentences could only be carried out with the permission of the Governor at Herbertshöhe – and in this case, no permission had been granted. Fritz justified his actions by stating that the two accused men had confessed to the murder, and that any consultation with Herbertshöhe would have merely resulted in the same sentence compounded by several months on death row. Furthermore, Fritz feared that any lenient action for murder and excesses of prisoners would reflect badly on the standing and reputation of the German government, and that the murder had caused fear among the Chamorros and Carolinians, who needed to be assured that such crimes would be punished with the full force of the law.

In this, Fritz was not alone. Other death sentences passed by the district court of Yap were also carried out without prior or sufficient consultation. We can assume that Fritz, as a German colonial officer, was convinced that he could objectively preside over any case brought before him.

Outlook

When Japan invaded and took control over the Northern Mariana Islands in late 1914, German Micronesia was still a colony in the making. Even though Germany ruled the region for fifteen years, Germany had possessed little prior experience in colonial administration, and many of the rules and regulations were developed on the spot. Likewise, the interpretation of these rules, and in particular the interpretation of jurisdiction, was often up to the individual colonial officers. This caused variation in decision-making and occasionally invoked criticism from Berlin.

On other occasions Berlin refused to comment, unwilling to commit itself to a course of action. Despite such shortcomings, the legal system during the German period was transparent to Chamorros and Carolinians alike, and if the colonial administrators in the Marianas ruled with a paternalistic attitude, they at least had the interests of the islands at heart – a substantive change from the Spanish Era. Germany had put a lot of effort into the social and economic development of its Micronesian colonies, but just when they were about to pay off, World War I broke out and Germany lost all of its overseas possessions. Japan, the new power, could reap what Germany had sown – though what Germany had sown did not, at least in the Northern Mariana Islands, include copra, as the islands had turned out not to be very good for copra production after all.[1]

1 Much of the information in this chapter is drawn from my previous work, *Aurora Australis The German Period in the Mariana Islands 1899 – 1914*. Readers desiring more information about life in

Table 1. German Legislation Regarding the Marianas

Local Regulations	
Regulation regarding the circulation of the old Spanish silver and copper money and the import of foreign coins	10 Jan. 1900
Proclamation regarding the ownership and use of firearms	16 Jan. 1900
Regulation regarding a head tax and required work	17 Jan. 1900
Proclamation regarding the sale and preparation of alcoholic beverages	17 Jan. 1900
Proclamation regarding the care and use of animals on Tinian	24 Jan. 1900
Regulation regarding the levying of a slaughtering tax	7 Feb. 1900
Proclamation regarding the schools at Garapan, Tanapag and Rota	2 March 1900
Regulation regarding the levying of a community tax on male dogs	1 June 1900
Regulation regarding the protection of forests	13 June 1900
Proclamation regarding religious holidays	3 Oct. 1900
Regulation regarding the cultivation of private property	4 Feb. 1903
Regulation regarding the introduction of a dog tax	1 Feb. 1902
Ordinance regarding the catching of turtles	13 March 1906
Ordinance regarding submissions to the Imperial district office, district court, marine registry and civil marriage registry	10 July 1906
Regionally Applicable Regulations	
Ordinance banning the sale of weapons, munitions, explosives, and alcoholic beverages to islanders	17 Oct. 1899
Authorization to document vital statistics	1900

the Mariana Islands during this period should refer to this resource.

Regulation regarding the acquisition of real estate from islanders	20 Jan. 1900
Regulation regarding the offering of credit and the execution of contracts with indigenous people regarding items of high value	10 April 1900
Regulations regarding money conversion and legal tender	20 Sep. 1900
Regulation regarding the conduct of a number of commercial activities	1903
Ordinance regarding the establishment of land registry districts	14 July 1903
Proclamation regarding the Saipan station	29 June 1907
Order regarding the immigration of destitute persons into the island territory	14 Oct. 1907
Customs regulations	10 June 1908
Regulation regarding the taxation of the non-native population	30 June 1908
Regulation regarding the registration of non-natives	21 Nov. 1908
Regulation regarding the immigration and introduction of foreign natives into the protectorate	1 Nov. 1908
Regulation regarding the publication of regulations	15 Jan. 1909
Regulation regarding the ban on the importation of and trade in used items of clothing	16 Jan. 1909
Regulation regarding the ban of supply of weapons and ammunition to islanders	1 Oct. 1909
Regulation regarding the ban of sale of alcoholic beverages to islanders	1 Oct. 1909
Regulation regarding extending credit to and the making of contracts with islanders	14 May 1910
Regulation regarding the taxation of islanders in the islands territory	7 Oct. 1910
Regulation regarding coconuts	14 June 1911
Regulation regarding the introduction of the German systems of measurements and weights	20 July 1911
Road ordinance	25 Aug. 1911

Table 2. Caseload of the District Courts of Saipan. (1901-1902, 1904-1906, 1908-1910).

	Saipan					Yap		
	1901	1902	1904	1905	1906	1908	1909	1910
Civil Cases								
Court cases	8	3	4	3	–	1	–	1
Other cases *	–	–	1	3	–	3		–
Bankruptcies	–	–	–	–	–	–	–	–
Criminal Cases								
Administrative judgments	18	2	39	1	–	3	–	3
Court cases with assessors	6	–	–	–	–	–	–	–
Magistrate cases	2	–	5	–	3	2	3	–
Appeals	–	–	–	1	1	–	–	1
Notariate Items								
Guardianship cases	–	–	1	–	2	2	–	–
Inheritance issues	–	–	1	?	–	1	–	1
Trade (de-) registrations	1	–	2	?	3	–	7	3
Land (de-) registrations	–	–	27	16	92	6	4	1
Ship (de-) registrations	–	–	1	?	1	–	–	–
Other notariate work	–	1	6	6	1	41	27	23
Total	35	6	87	30	103	59	41	33

*Includes distraints, demands of payments and injunctions.

Table 3. Judgments passed by the Saipan (1900-1905) and Yap (1906–1908) district courts against indigenous peoples

	FY	1900/01	1903/04	1905/06	*1906/07*	*1907/08*	*1908/09*
Group II Crimes against persons	Prison term <1yr	—	—	—	*5*	—	*4*
	Prison term 6-12mo	—	—	—	—	—	*1*
	Prison term >6mo	—	3	1	*3*	—	*6*
	money	—	—	—	—	*1*	*4*
Group III Crimes against property	Prison term <1yr	—	—	—	—	*?*	*5*
	Prison term 6-12mo	—	—	1	—	*?*	*3*
	Prison term 6-12mo	—	—	3	—	*?*	*12*
	money	—	—	—	—	*?*	—
Group IV Other offences	Prison term <1yr	—	—	—	—	*?*	–
	Prison term 6-12mo	—	—	—	—	*?*	—
	Prison term >6mo	—	—	4	*69*	*?*	*11*
	money	9	40	30	*31*	*2*	*89*
TOTAL	Prison term <1yr	—	—	—	*5*	*11*	*9*
	Prison term 6-12mo	—	—	1	—	*1*	*4*
	Prison term >6mo	—	3	8	*72*	*27*	*29*
	money	9	40	30	*31*	*74*	*93*

CHAPTER 3

The Japanese Era
(1914 – 1944)

by Dirk Anthony Ballendorf

Japan's forays into Micronesia began many years before Japan became the governing authority in the region. Starting in the late 1800s, Japanese traders were setting up stations in Micronesia, and the Japanese government (unsuccessfully) looked into buying the islands as part of an empire-expanding effort. When Japan declared war on Germany during World War I, Japanese troops went into the Pacific and, with relative ease, ousted Germany from its Micronesian holdings a mere fifteen years after the German administration was established. Japan took control of Saipan on October 14, 1914, and set up a military administration which, as is reported by Don Farrell in History of the Northern Mariana Islands, was primarily concerned with teaching the islands' residents Japanese language and culture, and with maintaining order.

Garapan, Saipan in the 1930's.

Japan set up a civilian administration in Micronesia in 1918, and in May 1919, the League of Nations granted Japan a Class C Mandate over the region. Though its mandate required Japan to be concerned with the islands' development into autonomous states (which was not Japan's original plan for the area; it had wanted to incorporate Micronesia into its Empire proper), Japan spent most of its tenure on Saipan importing workers from Okinawa and Korea to grow sugarcane. The Japanese Era's judicial and legal systems, then, show a predictable disregard for indigenous preservation and rights, though Japan did have a policy of allowing indigenous concepts of law and justice to exist.

The legal system and courts in Japanese Micronesia can essentially be characterized as extensive and active, and totally under the control of the Japanese government through the military authorities from 1914 to 1922, and then through the authority of the Nan'yo Cho (South Seas Bureau). On September 17, 1914,

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the acting governor of German New Guinea surrendered his sword to the British, thus turning over all German lands in the Pacific to British authority. However, due to secret agreements made between the Japanese and the British, the German islands north of the equator went to the Japanese, and by the end of October 1914, the Imperial Japanese Navy (IJN) occupied all the district centers and interned the German nationals there.

Legally, the islands of Micronesia were a war spoil until the end of World War I. During this time the Japanese were not yet certain that they would remain in Micronesia. In the Japanese Diet there was a point of view that national expansion would take place westward into China and Southeast Asia (hokoshin ron), and national budgets would be needed for an army that could support and implement such an expansionist policy. At the same time, another and opposite school of thought in the Diet held that Japan's future expansion lay to the east and into the Pacific (nanshin-ron), and for this a strong navy would be necessary, as a clash with Japan's Pacific rival, the United States, was inevitable.

The Japanese administration in Micronesia can be described in four separate phases, each with international legal implications: (1) military government following occupation, 1914-1918; (2) military control with civil assistance, 1918-1922; (3) civil government, 1922-1935; and (4) military domination of civil government, 1935-1944. It is important to distinguish these different periods in the Japanese administration because the government authority and the budget authority were different in each phase. This chapter will focus on the civil government during the 1922-1935 time period, called Nan'yo Cho.

Civil Government of Nan'yo Cho

The laws and system of courts for the Nan'yo Cho were promulgated by Imperial ordinances specifically issued for the islands since the area for the Mandates did not come directly within the legislative sphere of the Imperial Diet.[1] The governor of the Nan'yo Cho issued orders and was empowered to impose upon criminals sentences of imprisonment or detention for a period of one year, and fines of not more than 200 yen. However, under special circumstances, the governor could exceed these limits.

For judicial administration, courts of justice were established and placed under the supervision of the governor. There were two types of courts: local and higher. There were local courts on Palau, Saipan, and Pohnpei, and a higher court on Palau, which was the capital of the Mandates. On islands where there was no court, the director of the local branch office of the Nan'yo Cho was empowered to deal with certain civil cases and minor criminal cases.

The laws of the Japanese empire, such as civil, commercial, and criminal laws, as well as judicial procedure, were applied to the mandated islands with modifications that were required in view of the differences in customs, lifestyles, and social standards. Civil cases which involved only the native individuals were dealt with in accordance with local precedent.

Land rights were also dealt with at first according to local precedent and these rights were not registered. Except by permission of the governor, people other than government authorities were forbidden to enter into contracts with native

1 Information for the laws and courts during this period is taken from: Tadao Yanaihara, *Pacific Islands Under Japanese Mandate*, New York: Oxford University Press, 1940.

islanders involving the sale, purchase, assignment or mortgage of land under native ownership.

Judicial procedure in suits where only native people were involved could, with the approval of the court, deviate from ordinance regulations. Sentences of imprisonment or detention of up to one year imposed upon a native could be altered to penal servitude if circumstances warranted. Such laws were applicable to both native islanders and Japanese.

The number of civil and criminal cases where natives were involved was small; the number of civil suits was small, in part, because the islanders were unsophisticated in ideas of proprietorship and monetary transactions. Even in Saipan, where the local society was the most modernized for the time and the islanders had transactions with the Japanese on a larger scale than on the other islands, the number of civil cases was small. The following table testifies to this.

CIVIL SUITS AND EXECUTIONS ON SAIPAN
(Saipan Local Court)

Type	Year	Suits	Japanese and Natives	Japanese	Natives
Common Civil Suits	1930	35	28	4	3
	1931	55	45	2	8
	1932	66	56	4	6
Settlements Out of Court	1930	35	29	3	3
	1931	17	11	5	1
	1932	63	48	9	6
Summary Judgments	1930	56	53	3	-
	1931	92	92	-	-
	1932	79	79	-	-

Type	Year	Suits	Japanese and Natives	Japanese	Natives
Injunctions	1930	5	5	-	-
	1931	-	-	-	-
	1932	4	4	-	-
Employment of Sheriff	1930	25	25	-	-
	1931	47	46	1	-
	1932	37	34	2	1

The number of civil land cases arising between native islanders and dealt with by the Pohnpei Local Court were four in 1923 and one in 1932. These suits were mere cross claims for recognition of the right of ownership of land, and they were all arbitrated. No such suits were brought on Pohnpei between 1924 and 1931, or in 1933. The Japanese contended that the small number of criminals among the

islanders themselves was due to their "meek nature" and to the consequent scarcity of "violent deeds and criminal actions." The following table shows that there was a wide difference between the number of Japanese and native islander offenders accused of various offenses, with more than half of the charges against the native islanders due to violations of the liquor control law.

NUMBER OF DEFENDANTS IN 1936

Kind of Offense	Japanese	Natives	Total
Gambling	46	20	66
Assault	45	27	72
Theft and Burglary	161	103	264
Fraud and Blackmail	94	12	106
Usurpation of Property	22	14	36
Violation of Liquor Ordinances	150	438	588
Illegal Fishing	33	5	38
TOTAL (including all offenses)	551	619	1,170

To control local administration in places where there were large Japanese clusters, in 1932 small village/town councils were established similar to those in Japan. Such town councils could be found on Saipan, Tinian, Palau and Pohnpei. In 1922, "Rules for Native Village Officials" were promulgated to enable the islanders to share in the administration. According to the provisions of these rules, each village had a chief and a village headman. Chamorro villages had a chief and a deputy chief selected from among the most influential of their own people. These native officials were under the control of the branch offices of the Nan'yo Cho, and it was their duty to inform the villagers of the latest orders and rules of the Japanese colonial government, and also to report to the branch offices the births and deaths among the villagers.

In Palau, these appointed village councilmen were in effect "yes men" for the Japanese and sometimes were referred to by other Palauans as the hai-hai (yes-yes) chiefs. The village meetings where the councilmen reported the Japanese policies and rules for the islanders were called the uaisae (WHY-say) conferences. In Palauan, uaisae is a word of affirmation meaning "yes, I understand." Hence, the sarcasm for the role of the village councils and their members.

In many cases the village chiefs and headmen were older people who had held similar positions during the German administration. Their positions in the Japanese political system were no more than as minor, subordinate officials of the government. In the case where these appointed councilmen were also traditional native chiefs, their power was much reduced under the Japanese. When the Japanese administration wanted to mobilize laborers for public works projects, they would explain to the village councils what was needed, and then leave it to the islanders to carry out the work. This method was seen by the Japanese as smooth "indirect rule."

In fact, it undermined and weakened the traditional Micronesian systems.

Garapan town before World War II.

The functions of the village headman were not different from those of the village chief, although the former was inferior to the latter in rank. In Yap district there were ten village chiefs, but no headmen. In Chuuk, the six larger islands each had a village chief, while the smaller islands altogether had twenty-three village headmen and no village chief above them. In Palau there were thirteen village headmen and two village chiefs, and in the Marshalls there were sixteen village headmen and two village chiefs.

The village chief nominally supervised the village headmen, but actually no strict bureaucratic distinction existed between them, and a powerful village headman was concurrently honored with the title of village chief. In Pohnpei, however, the village headman stood in a definitely inferior position to the village chief. Civil administration, the courts, and the realization of justice throughout the Mandates, took on the various complexions of individual districts, sub-districts and smaller islands.

Historian Mark R. Peattie has observed[2] that if the Japanese administration in Micronesia had a major fault, it was simply that there was "too much of it." First, it was a larger bureaucracy than anything the Germans had put in place, and the Micronesians were not accustomed to such strict and often unbendable structure and restraints other than those imposed by their own cultural traditions. They were subjected to an array of "instructions and prohibitions" that "compelled conformity to Japanese values and customs and rooted out practices judged to be uncivilized."

2 Mark R. Peattie, *Nan'yo; The Rise and Fall of the Japanese in Micronesia*, University of Hawaii Press, Pacific Islands Monograph Series Number 4, Honolulu, Hawaii, 1988.

Conclusion

The establishment and operation of courts during the Japanese administration in Micronesia should be seen as a continuum of colonial experience for the Micronesians. The Japanese colonial courts were similar to those systems established by the Germans before them, although much larger in size and scope. The Japanese made extensive use of the native island peoples and their traditional systems, as did the Germans.

However, the rigidity of the Japanese rules and procedures served to undermine, erode, and ultimately – by the time the Americans arrived on Saipan at the end of World War II – destroy the Micronesian traditional behavior, which had already been eroding away during so many centuries of colonial rule.

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Legal Institutions of the United States Navy's Military Government of the Northern Mariana Islands (1944-1947)

CHAPTER 4

by Dan MacMeekin

The Context for Military Government

Military government in the Northern Mariana Islands was born of the cataclysm of World War II. The Battle of Saipan was one of the costliest of the war. The battle for Tinian was lesser in scale, but killing and destruction were rife there as well.

After the conquest of Saipan and Tinian, the Northern Islands and Rota were left to wither on the vine, not finally occupied until after Japan formally surrendered on the USS Missouri in Tokyo Bay. The American invasion force declared Saipan secure on July 9, 1944, and Tinian twenty-two days later.

Problems after the battles were colossal. One military government official remembered: "There were no houses, no government, no nothing. We had to start from less than scratch."[1] Death, injury, disease and hunger were everywhere. Most buildings were in ruins. Agriculture was devastated, industry and commerce were at a standstill. Most personal belongings were lost or destroyed; bank accounts were frozen. Nobody expected compensation for destroyed property. The destitute local populace, exhausted from dodging the fury of combat, depended utterly on the U.S. military for food, shelter, clothing, and other necessities of everyday life.

The United States invaded the Northern Marianas to better wage air war against Japan. Converting the islands into massive air bases began immediately. The islands became launching pads for long-range bomber attacks on the Japanese homeland. Tinian was soon the largest and busiest aerodrome in the world. The armed forces quarried coral to build B-29 runways, and built fuel tank farms, pipelines, roads, harbor improvements, supply depots, hospitals, ammunition bunkers, radio transmitters, print shops, barracks, kitchens, recreation areas and all the other facilities needed to support the war. Civilians were to be kept not only out of harm's way but out of the way.

The Enola Gay dropped its nuclear payload on Hiroshima on August 6, 1945. Bock's Car hit Nagasaki three days later. Japan surrendered within the week and the war was over. The huge military establishment in the Northern Marianas was no longer needed. Military men wanted to go home. Their families demanded their return. The rapid exodus began. The lack of critical personnel became a major problem for the Naval Military Government.

The Governed

The Naval Military Government of the Northern Marianas lasted only a little over three years. In that time – from the battles through the B-29 war on Japan, and then the war's end and rapid demobilization – the Military Government had to deal with several distinct populations under difficult circumstances.

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More than 200,000 U.S. soldiers, sailors, and airmen lived in the Northern Marianas for a good part of this period. By far the largest group in the Northern Marianas, the military alone gave the islands their highest population ever.

Non-indigenous civilians were the second largest group in the Northern Marianas: the Japanese, eighty-percent from Okinawa; Koreans; and a few civilians from other nations. Before the war, foreign civilians were ninety-percent of the population. At its end, some 26,000 of these surviving outsiders were interned behind barbed wire in refugee stockades on Saipan and Tinian. By July 1946, almost all of the Japanese and Koreans had been shipped home from the Northern Marianas.

The 3,100 surviving Chamorros and Carolinians – who were also behind barbed wire – were the third largest population group, a small minority in their own islands. Two years after the landings, on July 4, 1946 – still celebrated in the Northern Marianas as Liberation Day – the Chamorros and Carolinians were released from confinement.

Finally, while the U.S. armed forces had killed over 23,000 of the enemy, 1,810 Japanese military personnel had surrendered or been captured. They were prisoners of war and treated as such.

The Framework for Law

The military, like U.S. armed forces everywhere, were subject to military law. Military law applied to military personnel no differently in the Northern Marianas than elsewhere. By the time the Americans declared the Northern Marianas secure, they had only a little experience in administering occupied areas. But law and order were required in any conquered area, and the invasion plans for the Marianas included a section on law and order. Within days of the American landings on Saipan, Navy Civil Affairs officers started construction of what became Camp Susupe, behind the battle lines on the site where civilians had been sent for their own safety.

During the battles and in their immediate aftermath, military necessity and expediency were the law. Military commanders wielded absolute power and were to be obeyed without question. The Naval Military Government governed every aspect of civilian life much more closely than the authoritarian Japanese South Seas Bureau had ever done. Chamorros and Carolinians were not only awed by American military might, but were grateful for the basic necessities of life the Naval Military Government provided. Although uncertain about their future, they were little inclined to question edicts of the military authorities.

Throughout the era of the Naval Military Government, law was what military commanders proclaimed it to be. From the very beginning, Japanese legal institutions were declared of no further effect. The first military proclamation closed the Japanese courts and ended the summary judicial powers of Japanese officials. On Saipan and Tinian this was hardly necessary: the prior Japanese government and most of its records had been utterly destroyed. Judges and other officials had fled the islands or were dead.

The Naval Government was headed by the Commander Marianas, who reported to the Commander-in-Chief, U.S. Pacific Fleet and Pacific Ocean Areas. Below the Commander Marianas were the Island Commanders, also Military Governors of their islands. The Island Commander had a deputy, in charge of civil affairs, who in turn supervised an officer in charge of civil affairs.

Law in the Camp

Japanese civilians were enemy nationals. Koreans were treated as nationals of a friendly nation that had been occupied by Japan. The Koreans and the local Chamorros and Carolinians were all considered Japanese subjects.

Each civilian group was confined in a separate camp area. Camp Susupe on Saipan had a Japanese compound, a Korean compound, and a Chamorro-Carolinian compound. Camp Churo on Tinian held only Japanese and Korean civilians, including many brought from Guam. Japanese military prisoners were segregated in a prisoner of war stockade.

The Naval Military Government subdivided each camp compound into smaller units for administrative purposes. The arrangements varied by ethnic group, but each subdivision had its own leaders, first appointed and later chosen by the people in the subdivision. These leaders were responsible for seeing that the camp populations obeyed military orders, and they conveyed concerns of the population to the civil affairs officers. They also played a role in settling petty disputes among camp residents. The camps had their own uniformed police, armed with billy clubs.

Exceptional Military Courts

Admiral Chester Nimitz, the U.S. Commander in Chief in the Pacific, established a three-tier system of military courts for the Northern Marianas, with military officers as judges. The courts had jurisdiction over criminal offenses but no civil jurisdiction. Offenses by military personnel or by prisoners of war were outside the jurisdiction of these "Exceptional Military Courts." The courts exercised jurisdiction over interned Japanese and Korean civilians and over the indigenous Chamorros and Carolinians.

Twenty-one offenses could be punished by death. These included not only peacetime crimes such as murder or rape, but also actions potentially harmful to American military efforts. Possessing a radio, cutting telephone lines, forging a military pass, and stealing military equipment were all capital offenses. Another twenty offenses were punishable by fine or imprisonment, or both. Prisoners were confined to hard labor in a central jail; however, since all civilians were already living behind barbed wire, confinement without hard labor would have differed little from everyday life.

Every conviction in the Exceptional Military Courts was subject to review by the Chief Legal Officer, who also exercised general supervision over the military courts and promulgated their rules of procedure. Proceedings in the military courts were modeled on Navy courts-martial.

The highest court was the Military Commission, consisting of three military officers convened by the Military Governor. The Military Commission could try any offense and impose any punishment, whether or not within the jurisdiction of one of the lower courts. It was the only court with the power to order a death sentence, although an offender could not be killed until the U.S. Secretary of the Navy confirmed the sentence.

Intermediate were the Superior Provost Courts. These courts could administer punishments of up to ten years in prison. One or more military officers – usually three – would sit as judges of the Superior Provost Courts. These courts were established only occasionally, as needed for a particular case.

At the bottom were the Summary Provost Courts. These courts, likened to magistrate courts in the United States, were courts of limited jurisdiction. Run by a single military officer sitting as a judge, these courts could not impose the death penalty, any punishment of more than one year in prison, or a fine of more than $2,000. By far, the majority of the cases in the Northern Marianas were heard by a single Navy officer sitting as the Summary Provost Court.

The first Summary Provost Court for Saipan was established on July 25, 1944, only forty days after the invasion landings. Tinian's first Summary Provost Court was established a month later, on August 26. A contemporary account describes a Summary Provost Court proceeding on Saipan:

> [The officer] had never practiced law or served as a judge in civil life. His general approach was rather like that of a young prosecuting attorney interested in a good record of convictions.
>
> He had constructed a dock in which the silent defendants stood, waiting their turn before his desk. The judge would ask if he had heard the charges. The defendant would give a short bow and say yes. The judge would say, "Didn't you know it was wrong to do so and so?" The defendant always replied yes. So the judge would fine him, say $20 and give him $15 and five days. No witnesses were brought in to verify or refute the charges. No record was made of testimony. Right to counsel existed by convention only, since the judge could rather easily talk anyone out of it.[2]

Summary Provost Court. Seated behind the makeshift bench is the staff Judge Advocate, Lt. H.J. Lipp of the United States Navy. Lieutenant Lipp was appointed to the court on August 27, 1945 and heard many cases. Also seated is interpreter Sugano Isami.

A two-page form summarized each case in the Summary Provost Courts. In case after case, a plea of guilty is noted and, under the preprinted heading "Case for the Defense," is the typed notation, "No evidence for the defense." If, however, the defendant was a Chamorro or Carolinian, a typed translation of defendant's version of the facts was usually attached to the form. These statements almost always admitted commission of the offense charged. The record does not generally include similar statements if the defendant was Japanese or Korean.

Most cases tried in the military courts involved theft, alcohol possession, gambling, fighting, or violation of security regulations – smoking during an air raid alert, for example. In the first year of the courts, there were 600-odd prosecutions on Saipan but only one for actions possibly hostile to U.S. military interests. For the entire wartime period, there were 300 prosecutions on Tinian.

One knowledgeable contemporary observer on Saipan lamented that the Naval Military Government did not expend more effort promoting enforcement of local law and order and less putting petty offenders in bigger and better jails, when all civilians were "already virtually in a concentration camp."[3]

Jurisdiction over Civil Matters

No military courts with jurisdiction over civil matters were established during the period of Naval Military Government. The Navy intended to establish local courts of limited jurisdiction and, shortly before the end of the Naval Military Government period, a Saipan Court of Appeals. It also made efforts to address land issues, especially on Saipan. If civilians could not settle a dispute among themselves, a Navy officer would settle it, acting as higher authority but not sitting as a court.

The Navy handled one normally judicial function in a more formal manner: Chamorro and Carolinian families adopted a number of war orphans of Japanese or Korean parentage. Documents were necessary so the orphans would not be repatriated to Japan or Korea, away from their adoptive parents. A Navy Lieutenant Commander, in his capacity as Area Commander, signed the adoption certificates.

Land Disputes

> "[A]ll of the public land office records were lost during the fighting on Saipan, including all the survey maps and nearly all of the individual monuments which marked the corners of land parcels. No complete map of the Japanese surveys was ever found."[4]

And so began decades of difficulties in resolving Northern Marianas land disputes.

The military installations that occupied forty-percent of Saipan – and, of course, an even larger portion of the arable land – were built without a nod to who might have previously owned the land. Bulldozing, concrete, and war debris rendered many areas useless for farming.

The United States had not decided which lands to keep for military purposes in the post-war era. What to do with lands previously owned by the Japanese government or now-repatriated Japanese individuals and companies remained unresolved.

Even while the civilian population was in the camps, the Naval Military

Government's legal officers tried to make sense of the chaotic land situation. Starting in October 1944, the legal department collected almost one thousand statements from Chamorros and Carolinians on ownership of civilian property on Saipan. Before the Japanese were repatriated, the officers conducted 776 hearings to investigate boundaries and ownership. Their work was complicated by a lack of familiarity with local and customary law on land tenure and inheritance, by a comprehensive Japanese resurvey and renumbering of parcels in 1939 that led to confusion over lot numbers, by the need to translate almost all testimony and the few available Japanese records, and by the wartime deaths of knowledgeable individuals. In any case, the officers were not authorized to adjudicate ownership.

In November 1946, the Naval Military Government authorized establishment of land titles investigating commissions, to start "a comprehensive and accurate survey of all existing rights in land."[5] The commissions were to publish their findings, but were not to make determinations of ownership. They were instructed not to settle any claim, but "to find and record all data relating to it, and keep proper files thereof."[6]

Lieutenant Coburn in early 1945 had suggested that "investigation of land ownership is a somewhat more difficult task than a Military Government is prepared to undertake . . . [because it] usually will not have sufficient personnel nor facilities to gather the tremendous facts and details involved."[7] At war's end, demobilization of U.S. military forces in the Northern Mariana Islands was so rapid that nobody remained to staff the commissions. There is no indication that they were actually established, though there is a suggestion in at least one Trust Territory report that the records earlier compiled by the legal officers were put into storage or destroyed – in either case lost forever.[8] Coburn had been prescient: nothing further was done to resolve issues of land ownership during the Naval Military Government.

By 1947, the Naval Military Government by memorandum had allotted farm plots to many Chamorro and Carolinian families without granting title. Plots were held on a revocable basis, pending resolution of conflicting ownership claims and United States decisions on land needed for military purposes.

Local Courts

In November 1946, the Commander Marianas decided to establish local courts of limited jurisdiction, a policy confirmed by the Joint Chiefs of Staff in April 1947. A Village Magistrate Court may have been established on Saipan in 1947. No other local courts were established in the Northern Marianas before the Naval Military Government ended.

In April 1947, the Commander Marianas also directed establishment of a three-judge Saipan Court of Appeals, but this court seems not to have been established during the Naval Military Government.

The End of Naval Military Government

Far from the Northern Marianas, politicians and diplomats debated the future political status of the islands. Some wanted the former Japanese mandate to become one of the new United Nations trusteeships. Others insisted that islands where so much American blood was shed should be annexed as possessions of the United States. Eventually, the strategic trusteeship compromise was reached, with

Turnover of Saipan from Naval control to the civilian Trust Territory administration. Rear Adm. John S. Coye, Jr. (left) and High Commissioner M.W. Golding (right) descend steps of Hopwood High School, followed by former Naval Civil Administrator Cmdr. Bridwell. In back (from left to right) are Rev. Henry Cruz, Rev. Father Arnold, and Most Reverand Bishop Baumgarter.

ultimate power lodged in the United Nations Security Council, in which the United States had veto power.

Just as vociferously debated was whether the islands should continue to be administered by the U.S. Navy or should be turned over to the U.S. Department of the Interior.

On July 18, 1947, the United Nations trusteeship became effective and the Naval Military Government ceased to exist. President Truman named Admiral Louis E. Denfield, Commander in Chief in the Pacific, as first High Commissioner of the Trust Territory. All military government proclamations, ordinances, and regulations remained in effect unless and until changed by the High Commissioner. Military government personnel became civil administration personnel.

Endnotes

1 As quoted in Robert W. Moore's article, "South from Saipan," National Geographic, volume 87, no. 4, pgs. 441-474 (April 1945).

2 Newsletter of the Institute of Ethnic Affairs, volume 1, no. 4, at 8 (September 1946), quoted in Roger Gale's book The Americanization of Micronesia: A Study of the Consolidation of U.S. Rule in the Pacific, pg. 66. John Embree gives an expanded version of this account and scathingly critical summaries of other Summary Provost Court proceedings in the article "Military Government in Saipan and Tinian," published in the journal Applied Anthropology, pages 15-19 and 29. Embree's observations are not inconsistent with a combat correspondent's account of the trial of a Japanese civilian in the Summary Provost Court, released by the Marine Corps Division of Public Relations. See Fred Feldkamp's article "Civil Affairs on Saipan," in Asia volume 45, page 37.

3 John Embree, "American Military Government," Social Structure at pg. 218, New York: Russell and Russell, 1963.

4 Maynard Neas, Office of the Attorney General, Trust Territory of the Pacific Islands, Background Materials for Saipan Land Cases Presented to the U.S. Court of Claims, pgs. 4-5 (October 1968), reproduced on reel 0424, Trust Territory of the Pacific Islands Archives (examined in the U.S. National Archives at College Park, Maryland, Record Group 200, Stack Area 130, Row 76, Compartment 15-18, Shelf 6-3) (hereinafter "TT Archives").

5 C.H. Wright, Rear Admiral, Deputy Commander, Marianas, "Private Land—Possession in Former Japanese Mandates" (Feb. 26, 1947), reproduced on reel 108, TT Archives.

6 D.F. Worth, Jr., Chief of Staff, Commander Marianas, "Land Titles Investigating Commission" (Nov. 14, 1946), reproduced on reel 0108, TT Archives.

7 Lt. R.C. Coburn, Legal Officer, Military Government Section, Saipan, Mariana Islands, "Investigation of Ownership of Real Estate on Saipan" ¶1 (Feb. 28, 1945), reproduced on reel 0408, TT Archives.

8 Lt. Cmdr. Charles E. Miller, Attorney General, Trust Territory of the Pacific Islands, "Land Problems and Policies," in Trust Territory of the Pacific Islands Administrative Handbook 1951, as reprinted in 1964 by the Trust Territory Headquarters Division of Land Management, p. 6, reproduced on reel 0408, TT Archives.

The Trust Territory of the Pacific Islands
(1947-1984)

CHAPTER 5

by Timothy H. Bellas

The United Nations officially came into existence on October 24, 1945, in the aftermath of World War II and out of what was formerly the League of Nations. The United Nation's signed charter made clear that the United Nations' primary purpose was to promote international peace and to prevent international conflict. But another purpose of the organization was to enable colonies – both former and then-current – to become self-governing and autonomous.

Chapter XII of the United Nations Charter established and defined the International Trusteeship System under which colonies would be guided toward autonomy. Article 76 provides that the purposes of the trusteeship system were:

a. to further international peace and security;

b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing and subject to the provisions of Article 80.

Article 77 of the United Nations Charter made the trusteeship system applicable to:

a. territories not held under mandate;

b. territories which may be detached from enemy states as a result of the Second World War; and

c. territories voluntarily placed under the system by states responsible for their administration.

There were eleven territories placed under trusteeship after the war. All of these are now either fully independent or are in voluntary association with other countries (the last territory still under trusteeship – Palau – became independent in 1994). These territories – the Cameroons, Nauru, New Guinea, Pacific Islands,

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Ruanda-Urundi, Somalia, Tanganyika, Togoland, and Western Samoa – were spread throughout Africa and the Pacific.

The Trust Territory of the Pacific Islands – known as the TTPI – consisted of the many thousands of Pacific islands, including the Northern Marianas, which had been under Japan's control until the end of World War II. The TTPI was placed under the administration of the United States with a Trusteeship Agreement that was approved by the United Nations Security Council on April 2, 1947, and ratified by the United States on July 18, 1947. The Trusteeship Agreement designated the United States as the TTPI's administrating authority, and set out the United States' duties and rights toward the islands – including the full powers of administration, legislation, and jurisdiction.

As is discussed in this chapter, the legal and judicial system the United States established in the Trust Territory formed the basis of the legal and judicial system which exists today in the Northern Mariana Islands.

The Administration of the TTPI

The TTPI was, at various times, placed under the authority of the Department of the Interior and the Department of the Navy. The Department of the Navy had, of course, been administering what would become the TTPI since the United States ousted Japan in 1944, but the Department of the Interior was seen as a more "pacific" administrator of the TTPI. Jurisdiction was transferred between these two departments for the TTPI's first eighteen years, and jurisdiction over the TTPI was finally vested with the Department of the Interior for the TTPI's duration in 1962.

The TTPI was divided into six districts – the Marshalls, Pohnpei (including Kosrae), Truk, Yap, Palau, and the Marianas – each with its own legislature. The primary responsibility for overall administration of the TTPI was vested in a High Commissioner who was appointed by the President of the United States and confirmed by the U.S. Senate. The "High Comm.," as he was commonly called, had a deputy high commissioner, an executive officer, an attorney general, a disaster control officer, a program and budget officer and several special assistants. The High Commissioner also worked with eight directors of various departments, such as Education, Finance, Personnel, Public Works and Health Services. In addition to the members of his office, the High Commissioner was assisted in the administration of the TTPI by six district administrators.

The legislative power of the TTPI was essentially[1] vested in the Congress of Micronesia which was patterned after the U.S. Congress in that it was a bicameral body with a Senate and House of Representatives. The Senate consisted of two senators from each district, for a total of twelve members, who were elected for four year terms. The House consisted of twenty-one members elected for two year terms, and was composed of three members from each of the Marianas and Palau districts. The Marshalls and Ponape each had four members, Truk had five members, and Yap had only two members in the House.

The judiciary in the TTPI was organized into a High Court (with appellate and trial divisions), district courts, and community courts. The justices of the High Court consisted of a chief justice and three to four associate justices, as well as four temporary judges who were appointed by the Secretary of the Interior.

1 The laws enacted by the Congress of Micronesia could not preempt federal laws and treaties, nor could they preempt executive orders of the President of the United States or the Secretary of the Interior.

Photo Courtesy of Elizabeth Salas Balajadia.

Clerk of Court Felipe A. Salas draws the names of prospective jurors under the watchful eye of Trust Territory High Court Chief Justice Edward P. Furber and Special Judge Ignacio V. Benavente.

The full-time justices of the High Court were located in Saipan. The temporary judges were usually full-time judges from Guam. Several notable persons served as jurists on the TTPI High Court during its existence, including U.S. Supreme Court Justice Anthony M. Kennedy who served as a temporary member of the Court at one time.

Litigants could seek *certiorori* review of High Court appellate decisions by the Secretary of the Interior, but none did. There were no appeals from Trust Territory courts to "regular" United States courts. The Trust Territory judiciary was wholly separate from the United States judiciary.

The trial division of the High Court had general jurisdiction to try all civil and criminal cases, and it also had appellate review of the final decisions of the district courts. Each trial division judge would travel from district to district on a regular basis, though a judge who presided over a case at the trial level was disqualified from sitting as one of the three appellate justices if the case was appealed. In addition to reviewing the trial court decisions, when sitting as an appellate court the trial court could review, *by certiorari*, the decisions of the supreme courts of the Marshalls, Palau and the Federated States of Micronesia (FSM), until those jurisdictions finally became completely autonomous and were no longer part of the TTPI.

The district courts consisted of a presiding judge and one or more associate judges who were appointed by the High Commissioner. The district courts had concurrent original jurisdiction to hear civil cases where the amount in controversy did not exceed one thousand dollars. The district courts also heard cases involving

criminal matters where the maximum penalty did not exceed a five thousand dollar fine or two years in jail, or both. These courts also had appellate review over the community courts.

Originally, there were 102 authorized community courts throughout the TTPI. There were thirty-eight community courts in Truk, twenty-five in the Marshalls, sixteen in Palau, ten in Ponape, ten in Yap, and only three in the Marianas. These courts had concurrent original jurisdiction to hear civil cases where the amount in controversy did not exceed one hundred dollars. The community courts also heard cases involving criminal matters where the maximum penalty did not exceed a one hundred dollar fine or six months in jail, or both.

The community court judges were appointed by the district administrators. The district and community courts handled local matters, often involving the interpretation of island customary law. In the early days of the TTPI judicial system the parties, in both criminal and civil cases, were often represented by trial assistants, local persons who had no formal legal education but had in most cases demonstrated an aptitude for the law or were more sophisticated or educated than the average island resident. During this time, even the judges of local courts were usually not law school graduates.

The district legislatures enacted laws providing for trial by jury in the Marshalls and the Marianas. The first jury trial held in the Marshalls was a civil case in 1970. In 1975, a criminal murder case was tried by jury in the Marianas district. Jury trials were only conducted by the trial division of the High Court.

Naturally, the number of judges and the number of cases under the High Court and other TTPI courts gradually declined as the various districts achieved

Melchor Mediola (center) greeting High Commissioner Midkiff (second from left) and staff on Rota in 1953.

self-government and established their own independent judicial systems. The first district to transfer jurisdiction to their own local courts was the Marianas in 1976, though the transfer was limited at first. The United States District Court for the Northern Mariana Islands – a relic from the Trust Territory Judiciary – had original jurisdiction over some actions and appellate jurisdiction over appeals from the newly established Northern Marianas trial courts until the creation of the Supreme Court of the Northern Mariana Islands in 1989.

Legal Issues of Significance

In addition to administering justice, the TTPI High Court was also required to certify to the United States and the United Nations that, as the various districts became independent or self-governing, their judicial systems were independent and that the emerging courts had the facilities and staff to function as courts of record. The certification of these courts was largely accomplished during the last years of the High Court under the stewardship of then Chief Justice Alex R. Munson – who remained the Chief Justice until the Court ceased operations in October 1994. Alex Munson remained the Chief Judge of the U.S. District Court for the Northern Mariana Islands until he retired on February 28, 2010.[2]

In the case of the FSM, the High Court encountered some difficulty in accomplishing the task of overseeing courts to the United States' and United Nations' specifications. The Judicial Act of the FSM provided that one of the qualifications for judges be that they are "learned in the law." The commonly accepted definition of that phrase is that the person is a graduate of a law school. That was a near-impossible standard for the time, when very few of the judges of that jurisdiction

Civilian Advisory ("CIVAD") Legal Department. Saipan, 1950.

2 At the time of publication a new Chief Judge of the U.S. District Court for the Northern Mariana Islands had not been appointed.

Trust Territory High Court justices gather on May 15, 1978 (from left to right): Associate Justice Ernest F. Gianotti, Associate Justice Robert A. Hefner, Chief Justice Harold Burnett, and Associate Justice Mamoru Nakamura.

had graduated from law school. The law was eventually changed to eliminate this requirement and the High Court was then able to make the necessary certification.

Land has always been an important issue for the islands of Micronesia – especially when one considers the scarcity of this resource as well as the impact that World War II had on the history of land titles in the region. One of the major issues was whether and how to compensate Pacific Islanders for land which was taken by Japan and which was now turned over to the U.S. administering authority. This was further complicated by the destruction of many land records during the tumultuous invasions of the various Pacific Islands.

The land issue was uniquely handled during the TTPI years. Despite the existence of the doctrine of prior wrongs, which provides that a successor nation is not responsible for the wrongs of a previous occupying nation, the United States waived or suspended its rights under this doctrine and compensated wartime residents for land taken in violation of due process prior to the start of its administration of the TTPI. During the course of litigation before the High Court, it was disclosed that the reason behind the U.S. decision to afford compensation was that a review of pre-WWII shipping records revealed that as early as twelve years before the start of hostilities, Japan was shipping concrete and other materials to the Japanese Mandated Islands in order to build fortifications and prepare for war. Therefore, the United States determined that there was a violation of the League of Nations mandate to develop the islands for peace and eventual self-government or independence, which required that Pacific Islanders be compensated for the land takings.

As a result of this decision, and as could have been predicted, there were numerous land war claims. Some were for land taken or destroyed by the United States during the war, but many more were for land taken or destroyed by Japan.

One of the functions of the High Court was to establish and maintain a Recorder's Office and land commission officers to deal with land issues, such as title and claims for compensation for land taken by governments. The decisions of the land commission officers were appealable to the High Court – and are still being litigated today, in the contemporary Commonwealth courts.

Jose R. Cruz signing the Covenant on February 15, 1975.

The Written Law of the TTPI

TTPI law came from a variety of sources. There were federal laws and treaties applicable to the TTPI, and executive orders from the President of the United States and the Secretary of the Interior. There were also two volumes of codified law, commonly referred to as the Trust Territory Code.

A wide range of issues were covered in the Trust Territory Code. The Code was sufficiently comprehensive to regulate the daily interaction among TTPI citizens at the time of its enactment and for a significant time thereafter. The Code included provisions on local government, civil procedure, evidence, and eminent domain. Naturally, there were also provisions dealing with crimes, punishment and criminal procedure. More surprising perhaps to the reader unfamiliar with the region, is that the Code also dealt with more obscure issues such as admiralty and maritime, aliens and alien property, fish, shellfish and game and even securities and investments law.

The Code was also annotated with decisions of the Trust Territory High Court which were contained in the *Trust Territory Reports*. Only the first four volumes contained annotations. By the time the High Court heard its last case, there were eight volumes of this reporter.

The Code survived the creation of the independent entities that replaced the TTPI, and was the law for those new jurisdictions until they enacted their own laws. Even then, many of the new laws actually incorporated the Code's provisions. For example, for many years after the creation of the Commonwealth the law of corporations in the CNMI was actually the corporations law contained in the Code

and the regulations promulgated during the time of the TTPI.

Conclusion

To say that the Trust Territory of the Pacific Islands had a profound and lasting influence on the present-day entities that were once the districts of the TTPI would be a gross understatement. The structure of government that evolved in the new political entities was in large part patterned after the organization of the TTPI. Many of the departments that exist in the CNMI, for example, are the same as those that existed within the Office of the High Commissioner. The personnel also remained; many of the most prominent political leaders of the new political entities, individuals such as former Governor Pedro P. Tenorio, were persons who held positions under the TTPI administration.

It is not difficult to suggest that the lessons learned from the TTPI were used to shape the early development of the CNMI, Palau, the FSM, and the Marshalls. It is equally obvious that the TTPI period of regional history helped to shape the establishment of the American legal system in Micronesia.

The Present Commonwealth Judiciary

CHAPTER 6

by Jose S. Dela Cruz and
Mia Giacomazzi

Introduction

The present Commonwealth Judiciary developed over several distinct phases. In the early years of the Commonwealth (beginning in 1978), a Commonwealth Trial Court was created by the Commonwealth of the Northern Mariana Islands Constitution. It was strictly a trial court of limited jurisdiction. Appeals from this court were taken to the U.S. District Court for the Northern Mariana Islands. In 1985, the Commonwealth Trial Court became a trial court of general jurisdiction. In 1989, the CNMI Legislature created the Commonwealth Supreme Court to hear appeals from the Commonwealth Superior Court (the new name for the Commonwealth Trial Court). In 1997, the Commonwealth Supreme Court and Superior Court became constitutional courts. In cases concerning federal issues, a further appeal could be heard by the U.S. Court of Appeals for the Ninth Circuit, as a "mini" Supreme Court. Beginning in May 2004, decisions of the Commonwealth Supreme Court could only be reviewed by the U.S. Supreme Court. During each transition phase, the Commonwealth Judiciary experienced much growth as it carried out its function as an independent and co-equal branch of the CNMI government.

Commonwealth Trial Court and Appellate Division (1978-1989)

For about a year after local self-government began for the Commonwealth of the Northern Mariana Islands, there was no local court operating. Beginning January 9, 1978, the Trust Territory High Court no longer had jurisdiction over cases arising in the Northern Mariana Islands. Both the Covenant and CNMI Constitution required the establishment of new local and federal courts and the appointment of new judges. The task of establishing the CNMI Judiciary rested with the first governor and the first CNMI Legislature.

In 1978, the legislature enacted the Commonwealth Judiciary Act. In considering the merits of this legislation, many factors and considerations were debated. One of the issues the legislators debated was the necessary minimum qualifications for a judge. For example, while a number of Chamorros and Carolinians were practicing law as "trial assistants" without formal legal education, it was felt that judges and law practitioners should have some education in the U.S. legal system, upon which the CNMI legal system was modeled. In the end, the legislature determined that a judge should be a graduate of an American Bar Association-approved law school and have had at least five years legal experience as an attorney.

Former Chief Justice Jose S. Dela Cruz served as an Associate Judge on the CNMI Superior Court from 1985 to 1989, and as the first Chief Justice of the CNMI Supreme Court from 1989 to 1995.

Mia Giacomazzi served as the law clerk to Chief Justice Miguel S. Demapan of the CNMI Supreme Court from September 2005 to September 2006. She graduated from Santa Clara University School of Law.

The next challenge in establishing the new trial court was selecting the individuals who would become judges.[1] Politics between the parties prevented the first judge from being confirmed for almost a year. In the absence of any judge during that time, the court system was unable to function. The old Trust Territory courthouse meanwhile was turned over to the new Commonwealth Trial Court; and lawyers started filing new civil cases at the courthouse. Police continued to issue traffic tickets and to arrest people for crimes. Residents continued to file petitions for adoption or for divorce. Without a judge, however, these cases simply piled up.

In February 1979, Herbert Soll was appointed and confirmed as the first Commonwealth Trial Court judge. Judge Soll, a former Peace Corps volunteer in Brazil, was working as the Public Defender of the Trust Territory. As the first Commonwealth Trial Court judge, he faced a major task. The Trust Territory Code continued to apply as the codified law of the CNMI under the transitional provision of the NMI Constitution. But because of the absence of a judge for almost a year, the backlog of cases was daunting. In order to get through the backlog, Soll worked all day, and instituted a night court session as well. With this, the new court system began to operate.

Over the next few years, the Commonwealth Trial Court personnel also expanded. About a year after Judge Soll worked as the court's only judge, two other judges were appointed and confirmed as judges of the Commonwealth Trial Court. Robert Hefner, who was a Trust Territory High Court justice, joined the Commonwealth Trial Court as its first Chief Judge. Robert Moore, who retired

Judge Herbert Soll presiding over the Commonwealth Trial Court in 1979.

1 The lofty requirements for a judgeship would not exclude local people from becoming active in the legal community. In 1977, a law school program was created to prepare Chamorros and Carolinians for self-government. People were given scholarships to pursue legal studies in the United States. Law professors from the U.S. mainland also came during the summer to help disadvantaged students prepare for the Law School Admissions Test and to aid in law school applications. This program helped several people who would later become judges in the Commonwealth. The program, commonly called the Summer Pre-Law Program, continues to exist today and is held every other year at the Commonwealth Supreme Court.

Commonwealth Trial Court. From left to right, Associate Judge Jose S. Dela Cruz, Chief Judge Robert A. Hefner, and Associate Judge Ramon G. Villagomez.

from the Judge Advocates General Corps, became the third judge. These three made up the first group of trial judges for the Commonwealth of the Northern Mariana Islands.

Jurisdiction wise, only the non-serious felony cases were heard by the newly-created Commonwealth Trial Court. From 1978 to about 1985, the federal district court was given jurisdiction over the major local cases. Thus, for almost eight years, the federal district court heard federal cases as well as the most serious local cases. Local criminal cases with penalties of five years imprisonment or more, and civil cases dealing with amounts in controversy of over $5000 were also heard by the federal court. All jury trials also fell under the jurisdiction of the federal court.

Aside from its original jurisdiction over major local cases, the federal district court also served as the appellate court for the Commonwealth. Cases appealed from the Commonwealth Trial Court were heard by a panel of three judges on the "Appellate Division" of the U.S. District Court. The panel included the federal district court judge, a judge of the Commonwealth Trial Court, and another federal district judge assigned by the U.S. Court of Appeals for the Ninth Circuit. The opinions rendered by this appellate arm of the U.S. District Court for the NMI were appealable to the Ninth Circuit Court of Appeals.

Commonwealth Supreme Court Created (1989-1997)

On May 2, 1989, Governor Pedro P. Tenorio signed Public Law 6-25, the Commonwealth Judicial Reorganization Act. This legislation established the first local Commonwealth appellate court, and named it the Commonwealth Supreme Court. It also changed the name of the Commonwealth Trial Court to Commonwealth Superior Court. The Commonwealth Judicial Reorganization Act transferred all local appellate jurisdiction to the newly established CNMI Supreme Court. For the first time in the history of the people of the Northern Mariana Islands, its judiciary became a part of a truly self-governing system.

Governor Pedro P. Tenorio swears in Associate Judge Jose S. Dela Cruz. Seated at the bench are Associate Judge Herbert Soll (left) and Presiding Judge Robert A. Hefner (right).

The Commonwealth Judicial Reorganization Act was not without controversy. Some opposed the creation of a local Supreme Court, arguing that appellate review should be kept within the federal court system. Some of the opponents were also concerned with the proposed removal of local cases then pending on appeal with the Appellate Division of the District Court or with the Ninth Circuit Court of Appeals. Proponents of the creation of the CNMI Supreme Court on the other hand, believed that local cases should be handled and reviewed locally. Furthermore, they argued that the Covenant had anticipated the development of an autonomous judicial system. Ultimately, the NMI Judicial Reorganization Act was passed and signed into law by Governor Pedro P. Tenorio.

On May 15, 1989, Jose S. Dela Cruz was sworn in as the first Chief Justice of the CNMI Supreme Court. On the same day, Ramon G. Villagomez was also sworn in as the first Associate Justice of the CNMI Supreme Court. The two justices quickly began filling out the initial Supreme Court staff. Jesus C. Borja was sworn in as the third justice of the Supreme Court on October 24, 1989, giving the Court its full composition to hear cases.

Logistically, the first Supreme Court justices had much work to do. Initially, they needed to find a space from which to operate. They continued operating out of their old courtroom offices in the Civic Center complex. Fortunately, the Judicial Reorganization Act appropriated a sum of money for the use of the Supreme Court, and this funding was used to rent space and to create the chambers of the justices, the clerk's office, and a conference room, in the Nauru Building in Susupe. It was not until the completion of the Guma' Hustisia/Iimwal Aweewe/House of Justice in 1996 that the NMI Supreme Court finally had its own courtroom. In its early years,

Justices of the First Commonwealth Supreme Court. From left to right, Associate Justice Ramon G. Villagomez, Chief Justice Jose S. Dela Cruz, Associate Justice Jesus C. Borja.

the Supreme Court used the main courtroom of the CNMI Superior Court or the U.S. District Court courtroom to hold hearings.

Starting from scratch, the first justices worked ardently to set up the necessary procedures to have a functioning appellate court system. This included the formulation and adoption of a revised Rules of Appellate Procedure, Rules of Attorney Admission and Discipline, and a Code of Judicial Conduct. They also established an appellate filing and docketing system, began handling the administration of the CNMI Bar Exam, and established procedures for hearing motions on appeal and appellate arguments.

The Supreme Court justices were cognizant of the fact that they needed to have appellate machinery in place as soon as practicable in order to have appeals filed, heard and disposed of within a reasonable time. Having successfully set up the necessary mechanisms and procedures, the Supreme Court was able to decide its first case on November 15, 1989. This historic case was *Tenorio v. Superior Court*, a writ petition filed by taxpayers in the November 1989 general election to have an anti-gambling initiative placed on the ballot. Soon thereafter, regular appeals were heard and decided by the Supreme Court.

The first major difficulty that the newly established Supreme Court faced was the so-called "pending cases" controversy. With the creation of the new appellate court, local cases pending on appeal within the federal system were transferred to the new Commonwealth appellate system. Several litigants and their counsel questioned the removal of their cases from the appellate jurisdiction of the federal courts; specifically those pending before the Appellate Division of the District Court or before the Ninth Circuit. Eventually, this issue was resolved by the courts, but

not until considerable time, energy and resources were expended by the courts, the litigants and their counsel.

Constitutional Judiciary (1997-2004)

House Legislative Initiative 10-3, passed by the CNMI Legislature was approved by the people of the CNMI in November 1997. This constitutional initiative was very significant because it established the CNMI Supreme Court and Superior Court as constitutional entities and set forth their respective jurisdictions under a unified judiciary system. Many Commonwealth jurists believe this to be the most significant event in the history of the CNMI Judiciary. With the people's approval of House Legislative Initiative 10-3, the Commonwealth courts now rest on a firm, constitutional foundation.

Establishing the judiciary in the Constitution, rather than by statute, is extremely important because the legislature cannot tinker with it. The judiciary is intended to be the only non-political branch of government. Because the Commonwealth Supreme Court and Superior Court were established originally by statutory law, theoretically they could be altered by legislation. To remove such a possibility, and to preserve the integrity and independence of the judicial branch, the judges and justices of the CNMI Judiciary, including Chief Justice Dela Cruz, strongly supported a constitutional amendment to ensure the judiciary truly became an independent and co-equal branch of the Commonwealth government.

At about the same time that the CNMI Judiciary was being established under the CNMI Constitution, the judicial branch was also settling into its new home. Construction of the Guma' Hustistia began in early 1994 and was completed in 1996. For the first time since its creation, the Supreme Court finally had a courtroom of its own. The new judicial complex brought together all of the judicial branch under one roof: the Supreme Court, Superior Court, Law Library, Law Revision Commission, Recorder's Office, Clerk of Court staff, Probation Office, CNMI Bar Association, five trial courtrooms, and Supreme Court courtroom.

In constructing this building, it took the Court over a year to decide which option to choose regarding a court building. Initially, the plan was simply to build a building to house only the Supreme Court. Later, there was discussion to build a structure which would house the entire CNMI Judiciary as well as the U.S. District Court. Construction of a "federal building" posed much difficulty in terms of financing and federal building requirements. Presiding Judge Robert Hefner asked Chief Justice Dela Cruz to seriously consider including the Commonwealth Superior Court into the new building plan. Chief Justice Dela Cruz agreed that the Superior Court, which was located at the Civic Center, was in dire need of repairs and additions. Therefore, the building plans were drawn up to include all the judicial offices together in the new building complex. Of the new building to be erected, former Chief Justice Dela Cruz said, "It is an edifice symbolizing the rule of law in the Commonwealth; a building that the people of the CNMI can all be proud of."

In an effort to promote access to justice throughout the Commonwealth, the judiciary later began constructing a new courthouse for Tinian. This project was completed in 1998. With the new courthouse on Tinian, judges from Saipan regularly travel to Tinian twice a month in order to conduct hearings and trials, in both criminal and civil matters. The Supreme Court also began holding oral

Inside of Tinian courthouse.

argument sessions on Tinian at least once a year. With the completion of the new Tinian courthouse, the judiciary embarked on drawing up plans to build a new courthouse for Rota. The groundbreaking ceremony for the Rota courthouse took place on January 14, 2004.

Court of Last Resort (2004 and Beyond)

One very significant event in the history of the CNMI Judiciary took place in May 2004. Pursuant to the CNMI Covenant, appeals from the CNMI Supreme Court to the Ninth Circuit Court of Appeals would be for a period of fifteen years only. The co-jurisdictional and co-operative relationship between the CNMI courts and the federal courts that began in 1978 ended in 2004; lasting over a quarter of a century. Like the severing of its umbilical cord, the CNMI Judiciary has achieved a status similar to that between a state judiciary and the federal courts. Since appeals from the CNMI are no longer taken to the Ninth Circuit Court of Appeals, the appellate decisions of the CNMI Supreme Court are generally final, unless the U.S. Supreme Court grants *certiorari* to a case from the CNMI. This places the CNMI Supreme Court in the same position as a State Supreme Court in the United States: a court of last resort.

The May 2004 CNMI Judiciary celebration of this milestone was a momentous event. Jurists from many island nations and the U.S. mainland all gathered in the CNMI to celebrate this historic occasion. Judges from the Ninth Circuit Court of Appeals also came, including Chief Judge Mary Schroeder, and former Chief Judges Clifford Wallace and Alfred Goodwin. Other dignitaries included the Supreme Court justices of Guam, Republic of Palau, American Samoa, Chuuk, and FSM.

Having achieved this stage in its growth and development, the CNMI

Judiciary continues its important task of promoting justice and the rule of law for the entire Commonwealth. The Centron Hustisia in Rota was completed in October 2005, and Supreme Court oral argument sessions have been held there. Before the construction of the new courthouse, the cases in Rota were heard in available buildings, including a school classroom and a restaurant. With the completion of the Centron Hustisia building, the people of Rota now have a permanent courthouse on their island.

Efforts to unify and streamline administration of the NMI Supreme Court and Superior Court took an important step forward when, on November 30, 2009, the Northern Mariana Islands Judicial Council was established by the Commonwealth Judiciary and approved by the Commonwealth Legislature. The Judicial Council is composed of five voting members consisting of the three Supreme Court Justices, the Presiding Judge of the Superior Court and one of the four associate judges. Non-voting members include the president of the NMI Bar Association and court managers. The Council is entrusted with overseeing court administration and can set judicial branch administrative policies, recommend court rules to the Supreme Court for submission to the legislature, and suggest new legislation affecting the judiciary. The goal of the Judicial Council is to ensure fair, accountable, and efficient court management, and to institutionalize an administrative structure that strengthens public trust in the judiciary.

Conclusion

The present Commonwealth Judiciary is now operating under a self-governing system of government for the first time in several centuries. It has been evolving for a relatively short period of time; less than three decades. Through the various mentioned states above, however, the judiciary has developed and matured at a very rapid pace. First, the Commonwealth Trial Court was established at first with limited jurisdiction, and later with general jurisdiction; but its decisions were reviewed by a federal court panel. Next, the Commonwealth Supreme Court was established, bringing the judicial system entirely into a local scheme. Then, the CNMI Judiciary was re-established in the NMI Constitution, as a permanent and co-equal branch of government. And more recently, the CNMI Supreme Court finally severed its ties with the Ninth Circuit Court of Appeals, giving it the status of a state court of last resort. Though it has experienced growing pains, the CNMI Judiciary has been able to develop a court system that commands the respect of the people and where the rule of law governs. This is clearly the goal of the judiciary in any democratic government; one where decisions and rulings rendered by the courts are fair, just, and equitable, and where the litigants are satisfied that they have been treated fairly and justly.

CHAPTER 7

Significant Commonwealth Court Cases

by Steven Gardiner

Introduction

The Commonwealth Supreme Court was established on May 2, 1989, to hear appeals from the Commonwealth Superior Court. Prior to this date, the Appellate Division of the U.S. District Court heard appeals from the Commonwealth Trial Court, and decisions were appealed to the U.S. Court of Appeals for the Ninth Circuit. Summarized below are seminal decisions issued by both the Appellate Division and the Commonwealth Supreme Court.[1] Cases are grouped in chronological order by subject area, although many cases involve multiple issues. While selecting landmark Commonwealth cases is a subjective task, the summaries are intended to display the variety of cases the appeals courts have decided over the years and the evolution of Commonwealth jurisprudence.[2] Some case summaries sidestep complex procedural or legal issues that are not central to the court decisions. Readers interested in learning more about a particular case are encouraged to read the full court opinions.[3]

Branches of Government

Executive:

Sablan v. Fitial, 2009 MP 11

This was the first Open Government Act case appealed to the Supreme Court. In 2008, the governor of the CNMI filed a lawsuit against the federal government in an attempt to block the impending federalization of the Commonwealth immigration system. A concerned citizen requested documents under the Open Government Act

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1 Portions of these summaries are taken from judicial opinions with the knowledge and consent of the Commonwealth judiciary.

2 A citation is listed next to each case name. These citations show when each case was published and where the court opinion is located. Cases decided by the Appellate Division are located in the Commonwealth Reporter, and the "CR" citation is used. For example, the citation 1 CR 552 (1983), denotes that this opinion was issued in 1983 and begins on page 552 of the first volume of the Commonwealth Reporter. Cases issued by the Commonwealth Supreme Court are published in the Northern Mariana Islands Reporter. Cases published prior to June 12, 1996, use the "NMI" designation. For example, the citation 2 NMI 195 (1991), indicates that the opinion was issued in 1991 and begins on page 195 of the second volume of the Reporter. Cases published after June 12, 1996, use the "public domain" citation format, which includes the initials "MP". For example, the citation 2009 MP 11, indicates that this was the eleventh published opinion issued in 2009.

3 The CNMI Law Revision Commission is entrusted with compiling and publishing Commonwealth law. Supreme Court opinions issued since 1996 are accessible through the LRC website, located at: http://www.cnmilaw.org. Earlier decisions are available in bound volumes of the NMI and Commonwealth Reporters, available at the Hillblom Law Library in the Guma' Hustisia, located in Susupe, Saipan.

concerning the amount of money the Commonwealth owed the lawyers it had hired for the lawsuit. When the government refused to disclose the documents, the citizen petitioned the Superior Court to order the government to turn over the documents. After the Superior Court ordered disclosure, the government appealed to the Supreme Court. The government argued that turning over the documents would disadvantage it in the pending lawsuit. The Supreme Court disagreed, holding that the importance of public disclosure and government accountability outweighed any disadvantage that might occur as a result of disclosure. The Supreme Court affirmed the trial court's order to disclose the documents.

Torres v CUC, 2009 MP 14

From January 2006 to May 2006, Governor Benigno R. Fitial issued a series of executive orders which prompted Stanley M. Torres and Jack A. Angello to challenge their monthly Commonweath Utilities Corporation ("CUC") bills. In the first such order, Executive Order 2006-1 (the "First Executive Order"), the Governor acted pursuant to his reorganizational powers under Article III, Section 15 of the Commonwealth Constitution and transferred the CUC, formerly an independent public corporation, to the Utilities Division of the Department of Public Works ("DPW"). In May 2006, the Governor issued Executive Order 2006-4 (the "Second Executive Order"), which rescinded the First Executive Order and converted the CUC back to a public corporation, but reorganized the CUC's administration in a way that significantly departed from its original form. Torres and Angello argued that the Governor's restructuring caused their utility rates to illegally increase. The CUC argued that the Governor's wholesale restructuring was constitutionally-sanctioned, and that the changes the Governor made were necessary for efficient administration of the agency. The Superior Court determined that Governor Fitial had not exceeded his reorganizational powers.

Torres and Angello appealed the Superior Court's decision to the Supreme Court. The Supreme Court reversed, holding that the Commonwealth Constitution grants the governor wide discretion to reorganize the executive branch, but does not allow the governor to create a new entity, agency or department. This constitutional power is vested solely in the legislature. By attempting to re-establish the CUC, the Governor had created a new executive branch entity, thereby usurping the authority of the legislative branch. Because the Second Executive Order establishing the new entity was constitutionally defective, the resulting increased utility fee schedules were also defective. Moreover, the Supreme Court found that by radically altering the CUC enabling statutes in both executive orders, the Governor had engaged in the legislative process. Since only the legislature may create law or make substantial changes to existing law, both executive orders infringed upon the legislature's authority. Although the legislature later fixed the defects, the CUC was still operating as an illegitimate entity in the interim. Accordingly, Torres and Angello were billed at an illegal rate for a period of about three months.

Legislature:

Pangelinan v. CNMI Fifth Legislature, 2 CR 1148 (1987)

During the Second Constitutional Convention, held in July 1985, the delegates passed Constitutional Amendment 9, which placed a $2.8 million ceiling on the legislature for operations and activities. The legislature subsequently passed

Public Law 5.1, which appropriated $2.8 million for operations and activities, and a separate bill, Public Law 5.9, which allocated $540,000 for their salaries. Maria T. Pangelinan filed suit to prevent the legislature from exceeding the $2.8 million ceiling. The legislature responded that Amendment 9 did not include legislators' salaries. On appeal from the Superior Court, the Supreme Court examined the text of Amendment 9, and utilizing principles of constitutional construction concluded that the commonly understood meaning of legislative budget ceilings for "operations and activities" included salaries. Thus, the $2.8 million limit in Amendment 9 included legislators' salaries, and the Supreme Court affirmed the Superior Court's order stopping the legislature from allocating the additional $540,000.

Rayphand v. Tenorio, 2003 MP 12

As compared to the United States, the CNMI has a very hands-on system for managing public monies. The CNMI Constitution requires the legislature to authorize any disbursement of public funds, and taxpayers have the rare ability to sue to stop expenditures or to recover misspent funds. In 1994, Jeanne H. Rayphand sued Governor Froilan C. Tenorio alleging misuse of public funds, including the purchase of luxury automobiles and spending in excess of the budget passed by the legislature. In response to the suit, the legislature passed Public Law 9-23, which attempted to exempt the Governor from liability for his actions.

The Supreme Court held Public Law 9-23 unconstitutional because it attempted to protect the Governor from a duty specifically enumerated in the Constitution—the duty not to spend public funds in excess of those appropriated by the legislature. While Public Law 9-23 did not protect the Governor, he was actually able to claim qualified immunity to most of the charges. Qualified immunity is available to officials who err in their duties so long as the mistake is one that a reasonable officer could have made. However, immunity did not extend to the charge that his spending exceeded the amount appropriated in the fiscal year budget. The Supreme Court ultimately remanded the case to the Superior Court to make more factual findings about how Governor Tenorio had spent the public funds.

Judiciary:

Reyes v. Reyes, 2004 MP 1

In addition to addressing numerous claims arising out of marriage dissolution proceedings, the Supreme Court confronted the constitutionality of a CNMI Code provision mandating that the Supreme Court and Superior Court issue written opinions within one year after cases are submitted. The Court ruled that this one year requirement was unenforceable as it violated the separation of powers doctrine of Article IV, Section 1 of the Commonwealth Constitution by unduly interfering with the judiciary's core function of adjudicating disputes. The Court stressed that the Commonwealth Constitution establishes three separate, co-equal branches of government, that no branch could assert control over the others except as provided in the constitution, and that no branch could exercise the power granted by the constitution to another. While the Supreme Court stated that it strived to issue final opinions within a year of submission, the arbitrary one year deadline failed to respect the unique attributes attending each case. Moreover, the law was superfluous given that all judges and justices are duty-bound by the Commonwealth Code of Judicial Conduct to "dispose promptly of the business of the court."

In re Benavente and Bennett, 2008 MP 4

Two Commonwealth officials requested that the Supreme Court answer legal questions regarding the constitutional process for selecting the Commonwealth Board of Education teacher representative. However, the Supreme Court held that it was unable to clarify the proper procedure for selecting a teacher representative because the petitioners failed to satisfy the prerequisites for submitting certified legal questions as set forth in the Commonwealth Constitution. The Supreme Court reasoned that both petitioners agreed with each other, and that since the parties that had allegedly disagreed with them had not joined the petition, the Court had no jurisdiction to answer the legal question.

In the Matter of Juan T. Lizama, 2008 MP 20

In a case of first impression, the CNMI Supreme Court was asked to determine proper judicial sanctions against Judge Juan T. Lizama. Judge Lizama wrote two letters after being disqualified from a highly publicized case by another Superior Court judge, David A. Wiseman. Judge Lizama sent the letters to the presiding judge and to the attorneys involved in the pending case. In the letters Judge Lizama criticized Judge Wiseman and accused him of bias in the disqualification matter.

The Supreme Court ruled that Judge Lizama's letters violated multiple canons of the Commonwealth Code of Judicial Conduct. Specifically, the letters constituted an improper *ex parte* communication (contact that unfairly excludes one or more parties to the case), contained public comment on a pending case, and impugned the integrity of the judiciary. As punishment, the Court ordered that before Judge Lizama could resume the practice of law, he had to take and pass the Multistate Professional Responsibility Examination and reimburse the judiciary for the costs of investigating and prosecuting the disciplinary action.

Civil Procedure

Wabol v. Villacrusis, 1 NMI 34 (1989); (Reversed by 908 F.2d 411 (9th Cir. 1990), amended in 958 F.2d 1450 (9th Cir. 1992))

In this case, Concepcion S. Wabol, a native landowner, attempted to void a lease agreement with a non-native tenant, Victorino U. Villacrusis, because the term of the lease exceeded the constitutionally allowed limit, which at the time of the lease was forty years. The passage of the Commonwealth Judicial Reorganization Act ("Act") in 1989 while this case was pending triggered several important jurisdictional issues. The matter originated in the Commonwealth Trial Court (which became the Superior Court after passage of the Act). The Trial Court determined that the lease was valid, but only for forty years. Wabol appealed to the Appellate Division of the U.S. District Court, which declared the lease void. Villacrusis then appealed to the U.S. Court of Appeals for the Ninth Circuit.

While the Ninth Circuit was considering the case, the Act became law and established the Supreme Court for the Northern Mariana Islands, which was granted appellate jurisdiction over all appeals from the Superior Court. Wabol immediately appealed to the new Commonwealth Supreme Court, contending that the Ninth Circuit no longer had jurisdiction over the case. The Commonwealth Supreme Court agreed, and held that it had jurisdiction over the appeal because the Commonwealth legislature had the power to decide which courts (federal or local) had appellate

jurisdiction over both pending and future appeals.

The Ninth Circuit Court of Appeals disagreed, however, and held that under the Covenant, the Commonwealth could not divest the federal court of appeals of jurisdiction over appeals properly filed before the passage of the Act. As to the merits, the Ninth Circuit held that that the land alienation restrictions in Article XII of the CNMI Constitution are not subject to equal protection requirements, and are therefore permissible.

Waibel v. Farber, 2006 MP 15

One attorney, David J. Lujan, sued another attorney, John F. Perkin, and Perkin's malpractice insurer St. Paul Fire & Marine Insurance Co. The American-based St. Paul argued it could not be sued in Commonwealth courts because the Commonwealth courts lacked personal jurisdiction. Personal jurisdiction means that a court has the legal ability to exercise authority over a person or entity, and is established if a party has sufficient contacts with the jurisdiction in question. Establishing that a court has personal jurisdiction over all the parties is required before a court can reach the merits of a case.

Upon review, the Supreme Court determined that St. Paul's only connection with the Commonwealth was the single liability policy it issued to Perkin, and that this amount of contact was insufficient to make it foreseeable that it would be subject to suit in the Commonwealth. The Court further concluded that it would offend principles of due process to subject St. Paul to suit in the Commonwealth when it had not conducted any activities there. The Supreme Court dismissed the action against St. Paul for lack of jurisdiction.

Commonwealth v. Daikichy, 2007 MP 27

A man who pled guilty to assault and battery and disturbing the peace was placed on probation. A few months later he was arrested for assaulting the same victim again. As a result, the Commonwealth filed a motion to revoke his probation, which the Superior Court granted after holding a revocation hearing. Since the petition for revocation did not specifically cite the statute he had allegedly violated the man appealed, arguing that the revocation of his probation status violated his constitutional due process rights because he was not provided with adequate notice.

The Supreme Court held that probationers are entitled to receive reasonable notice of the specific statute they are charged with violating, but that in this case, the probationer had received adequate notice. Notice was satisfied by information contained in affidavits that were attached to the petition and statements made during the hearing. Moreover, the Court ruled that that any error that may have occurred was harmless given the notice that was received. Additionally, there was overwhelming and undisputed evidence that the defendant assaulted the victim.

Torres v Fitial, 2008 MP 15

On January 27, 2006, Governor Benigno R. Fitial declared a state of emergency in the Commonwealth as a result of the Commonwealth Utilities Corporation's ("CUC") pending inability to provide utility services. After issuing the declaration, Governor Fitial reprogrammed funds to the CUC from a number of government entities, including the Commonwealth legislature. Part of the funds Fitial diverted were taken from Representative Stanley M. Torres' individual

legislative account. Torres filed suit claiming that Fitial's reprogramming authority did not permit him to take funds from the legislative branch to resolve the problems at the CUC. During Superior Court proceedings, Torres and Governor Fitial entered into settlement negotiations and Torres submitted a proposed settlement to the Superior Court. This document contained his signature, but not Governor Fitial's. Without informing Governor Fitial, the Superior Court issued an order approving the settlement. Governor Fitial appealed and requested that the Supreme Court vacate the settlement order. While preparing his reply brief, Governor Fitial's counsel discovered that the Superior Court had issued a second order granting relief from its settlement order. The relief order was based on Commonwealth Rule of Civil Procedure 60(a), which allows the trial court to correct clerical mistakes after issuing a final order.

Governor Fitial argued that he never agreed to the proposed settlement order and that it did not accurately reflect any agreement between himself and Representative Torres. Torres argued that Governor Fitial agreed to the settlement's terms and that the Superior Court acted within the scope of its authority when it entered the settlement order because Fitial purposefully delayed its implementation. The Supreme Court found that for a settlement to be enforced, both parties must actually have agreed to it. Upon review of the record, the Court could not find any evidence that Governor Fitial agreed to the settlement order. As to the relief order, the Supreme Court held that Com. R. Civ. P. 60(a) is intended to correct clerical errors, not "errors of substantive judgment." The decision to order a settlement that awards money to a specific party without sufficient grounds was clearly not a clerical error. Furthermore, Com. R. Civ. P. 60(a) prohibits the trial court from altering an order or decision after an appeal is filed unless the Supreme Court first grants permission for the Superior Court to do so. Accordingly, the Supreme Court vacated both the settlement order and the relief order.

Constitutional Issues

Commonwealth v. Atalig, 1 CR 552 (1983) (Reversed by 723 F.2d 682 (9th Cir. 1984))

Daniel A. Atalig, a Trust Territory citizen residing on Rota, was arrested for marijuana possession after an airport customs inspector discovered five pounds of marijuana in Atalig's baggage. The Commonwealth Trial Court denied Atalig's request for a jury trial, stating that Section 501(a) of the Covenant[4] recognized that jury trials in criminal prosecutions under CNMI law were only required when mandated under CNMI law. Section 501(1) of the Trust Territory Code limited jury trials to offenses punishable by more than five years imprisonment or a $2,000 fine. On appeal, the Appellate Division of the U.S. District Court reversed the Commonwealth Trial Court, holding that the fundamental due process right to a jury trial guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution applied to criminal prosecutions, and that Covenant and Trust Territory Code provisions to the contrary were unconstitutional. The court reasoned that the CNMI was an unincorporated territory, and that fundamental rights—including the right to a jury trial—applied equally to the States and to unincorporated territories such as the CNMI. The court

4 The full title of this agreement is: Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the Unites States of America.

concluded that even though Commonwealth law limited punishment for marijuana possession to one year imprisonment and/or a $1,000 fine, due process required that Atalig be afforded a jury trial.

The case was appealed to the Ninth Circuit Court of Appeals, which reversed the Appellate Division's ruling. The Court of Appeals held that Section 501(a) of the Covenant and Section 501(1) of the Trust Territory Code were not unconstitutional, and that Atalig therefore was not entitled to a jury trial. The court reasoned that while the jury trial right was fundamental to the American justice system, a jury trial might be inappropriate in territories, like the CNMI, whose cultures, traditions and institutions may differ from traditional Anglo-American practices. In short, the Ninth Circuit Court of Appeals' decision reaffirmed the sanctity of the Covenant provision permitting the CNMI to determine when jury trials were required in criminal cases.

Commonwealth v. Atalig ("II"), 2 CR 1006 (1987)

The island of Rota was put under an agricultural quarantine after fruit flies were discovered on the island. Under the quarantine, all travelers coming to Saipan from Rota were subjected to a search and inspection to prevent fruit flies from establishing a presence on Saipan. While searching a passenger arriving in Saipan on a flight from Rota, inspectors found five pounds of marijuana in his possession. After being charged, Daniel A. Atalig made a motion to suppress the evidence since it had been seized after a warrantless search. The Commonwealth Trial Court denied Atalig's motion and the Appellate Division of the U.S. District Court affirmed the decision on appeal. The Appellate Division held that under Ninth Circuit precedent, agricultural quarantine inspections are an exception to the Fourth Amendment's search warrant requirement because the logistics of obtaining a warrant for every passenger makes the requirement unreasonable.

United States v. Borja (Mayor of Tinian), 2003 MP 8

The U.S. District Court for the Northern Mariana Islands certified a question to the Commonwealth Supreme Court, asking it to determine whether the municipality of Tinian and Aguiguan is a chartered municipality such that it can sue and be sued. The United States had sued to collect approximately two million dollars, alleging breach of contracts entered into between the United States and the Mayor of Tinian and Aguiguan. Tinian argued that because it was not a chartered municipality it could not sue or be sued.

In ruling in favor of the United States, the Supreme Court relied on the plain language of the CNMI Constitution. Article VI, Section 8 of the Constitution states that the "chartered municipality form of local government on Rota, and, Tinian and Aguiguan, is hereby established." The Court ruled that this section is self-executing because the phrase "hereby established" made it obvious that the people of the Commonwealth desired Rota, Tinian, and Aguiguan to become chartered municipalities immediately upon ratification of the Constitution. While admitting that municipalities are rarely chartered in constitutions, the Supreme Court stressed that the Constitution was a more than adequate chartering document because it defined the Municipality's powers and how these powers were to be regulated.

Commonwealth v. Blas, 2007 MP 17

After Raymond B. Blas and four friends drank significant amounts of beer

at the beach, they were involved in an automobile accident. Blas lost control of the truck and struck a telephone pole, throwing everyone from the truck and killing one passenger. The Superior Court ordered two separate trials: a jury heard the vehicular homicide charge, while the reckless driving and DUI charges proceeded by bench trial. The prosecution's primary evidence was testimony from other passengers that Blas was driving. Blas denied driving, and presented statements from a police officer who testified that Blas being thrown farthest from the truck indicated he was a passenger rather than the driver. The jury found the officer's testimony compelling and acquitted Blas of the homicide charge, but the judge found Blas guilty of reckless driving and DUI. Blas appealed, claiming his bench trial convictions should be thrown out as inconsistent with the jury's acquittal. The Supreme Court upheld the convictions, finding that two separate trials stemming from the same incident can reach opposing verdicts.

Marine Revitalization Corp. v. Dept. of Land and Natural Resources, 2010 MP 18

The Department of Land and Natural Resources ("DLNR") appealed a Superior Court order that provided several methods for it to pay a judgment to Marine Revitalization Corporation ("MRC"). The order awarded MRC tax credits worth over five million dollars, ordered that funds and income held by DLNR be spent to satisfy the judgment, and ordered that money already appropriated by the legislature for the payment of judgments be transferred to MRC. DLNR contended that any action by a Commonwealth court to directly or indirectly satisfy the judgment in the absence of a specific legislative appropriation violated both the Commonwealth's Constitution and statutes. MRC countered that the government's refusal to pay the judgment violated the Constitution, and that the Supreme Court possesses the authority to ensure that the government complies with the judiciary's judgments and orders.

The Supreme Court held that the separation of powers doctrine prevents the judiciary from ordering the legislature to appropriate funds to pay a judgment. While the Court can fully adjudicate disputes between private parties and the Commonwealth, only the legislature can appropriate funds to satisfy judgments. The Court ruled that it could only order the government to pay funds to a litigant if those funds had already been appropriated for the payment of judgments. As a result, the Supreme Court held that the Superior Court exceeded its constitutional and statutory authority when it awarded MRC assignable tax credits and portions of DLNR's budget and income. The Supreme Court affirmed the part of the Superior Court's order that awarded MRC money that the legislature had already appropriated for the payment of judgments.

Employment Law

Northern Marianas College v. Civil Service Commission, 2007 MP 8

Appellee Jack Angello was a Northern Marianas College ("NMC") employee until NMC terminated his employment under the "without cause" provision of his employment contract. He appealed his termination to the NMC Employee Appeals Committee, which upheld NMC's decision. The employee then appealed the ruling to the Civil Service Commission ("CSC"). NMC argued that the CSC lacked jurisdiction over NMC's employment decisions. The CSC found that it had

jurisdiction over NMC's employment decisions, basing its decision on the Article XX, Section 1 of the CNMI Constitution, which states that "the [CSC] shall be the sole authority authorized by law to exempt positions from civil service classifications."

After multiple hearings and procedural battles in the Superior Court, the Supreme Court ultimately held that NMC is a fully autonomous agency under the CNMI Constitution, and is thus exempted from the civil service system. The Court reasoned that the CNMI Constitution granted NMC the power to fully control the administration of its affairs, and that NMC was empowered to make its own employee termination decisions without the CSC's review. Thus, the Court held that NMC's decisions are not appealable to the CSC.

Pangelinan v. Northern Mariana Islands Retirement Fund, 2009 MP 12

After working for twenty-eight years in the public school system, Thomas Pangelinan decided to retire. Under the CNMI Constitution, government workers choosing to retire after at least twenty years of service were given a five-year credit in the calculation of the amount of their retirement benefits. However, they were prohibited from being reemployed by the government for more than sixty days in any year without losing their benefits for the remainder of that year. Pangelinan was given the five-year credit and received benefits based on that credit for four years after his retirement. After four years, Pangelinan was elected to the Commonwealth legislature. The Northern Mariana Islands Retirement Fund (NMIRF) subsequently revoked his retirement benefits, claiming he had been reemployed by the government for more than sixty days. Pangelinan argued that he had never assented to the five-year credit and should not have been subject to the provision revoking his benefits if he was reemployed by the government. The Supreme Court, however, held that the NMIRF was correct in denying Pangelinan the whole year's benefits once he reentered the workforce since he had not actively declined the five-year credit and had passively received benefits, including the five-year credit, for a number of years.

Election Law

Sablan v. NMI Board of Elections, 1 CR 741 (1983)

This case raised issues similar to those the Supreme Court would face twenty years later in In re Petition of Pangelinan. Petitioners sued the Northern Marianas Board of Elections, claiming that differences in the number of residents on each island impermissibly diluted the votes of some citizens in violation of the Equal Protection Clause of the CNMI Constitution. Since it is a fundamental command of equal protection that each person's vote be given equal weight—"one person one vote"—the question before the court was how much deviation from this standard was permissible. For example, the vote of a Tinian resident, with only one representative in the House of Representatives for its 866 citizens, would carry about thirty-five percent more weight than the vote of one of Rota's 1261 citizens, since Rota also had only one Representative in the House. The Appellate Division of the U.S District Court found that the CNMI's unique geographic location, relatively small population, and distribution realities imposed inherent limitations on the designation of election districts. The court held that equal protection was not violated, as the drafters of the CNMI Constitution, who were aware of these unique circumstances, must have expected some variation between the voting power of the citizens on each island,

and crafted the Constitutional voting requirements mindful of such limitations.

Nabors v. Manglona, 2 CR 501 (1986)

Following a general election, three unsuccessful candidates from the Democratic Party filed an election contest with the Board of Elections. They claimed that the winning candidates from the Republican Party had engaged in illegal activity by having voters place distinguishing marks on their ballots for the purpose of being later identified by party officials who could verify their loyalty. After the Board of Elections and the Commonwealth Trial Court dismissed their claims, they appealed to the Appellate Division of the U.S. District Court.

The candidates argued that the votes should not be counted because the distinguishing marks violated the right to cast a secret ballot. The Appellate Division rejected this claim, finding that the right to cast a secret ballot is not the right of citizens in general, but of each individual voter. Furthermore, the right to a secret ballot could actually be waived by individual voters who wished to leave distinguishing marks on their ballots. The Appellate Division held that since the Commonwealth legislature had not passed any laws explicitly forbidding distinguishing marks on ballots as had many other jurisdictions, the ballots were not illegal or void as long as it was clear for whom the voter was voting. The court stressed that it did not condone the voting scheme, but that it was bound by the laws enacted by the Commonwealth legislature, which did not prohibit this voting method.

Tenorio v. Superior Court, 1 NMI 1 (1989)

In the first case decided by the newly-formed Supreme Court, petitioners sought a writ of mandamus directing the Superior Court to vacate its order enjoining the NMI Board of Elections from placing an anti-gambling constitutional amendment initiative on the general election ballot. Article XVIII, Section (4)(a) of the CNMI Constitution permits the people of the Commonwealth to propose constitutional amendments by popular initiative. Plaintiffs' complaint alleged that the Attorney General violated this constitutional provision in certifying an initiative when the underlying petition had not been signed by a sufficient number of voters.

The Board of Elections had promulgated emergency regulations governing the timely submission of initiative petitions. When the requisite number of signatures was not obtained, the Attorney General allowed the circulators of the petition five additional days to meet the requirements. The Superior Court ruled that the five-day extension was impermissible, but the Supreme Court reversed. The Supreme Court held that by striking down regulations governing petition cut-off dates, the Superior Court impermissibly substituted its judgment for that of the agencies delegated by the legislature to handle this matter—the Board of Elections and Attorney General.

In re Petition of Pangelinan, 2008 MP 12

Two Commonwealth voters petitioned the Supreme Court to reapportion and redistrict the Commonwealth House of Representatives. Petitioners argued that only citizens should be considered for apportionment purposes, rather than total population, which was the basis of the then-current apportionment scheme. They further argued that non-citizens made up a far higher percentage of Saipan's population than Rota's or Tinian's population, so including non-citizens for apportionment purposes resulted in Saipan having a greater number

of representatives then there would be if only citizens were counted. Petitioners argued that the then-current apportionment scheme unconstitutionally diluted Rota and Tinian votes in relation to Saipan votes, which violated the "one person, one vote" standard. In rejecting petitioners' arguments, the Supreme Court upheld the legislative decision to apportion the House of Representatives by total population. The Court also held that the "one person, one vote" standard as it has evolved in United States courts is inapplicable in the Commonwealth. Although population is the starting point for apportionment, and voter parity the default objective, the Supreme Court determined that the legislature may base apportionment decisions on other considerations given the unique geographical and demographic makeup of the Commonwealth.

Rebuenog v. Dela Cruz Aldan, 2010 MP 1

Defendant Tobias Dela Cruz Aldan was declared the winner of the Northern Islands mayoral election over Plaintiff Ramona Taisakan Rebuenog. Out of 137 votes cast, Aldan received sixty-nine votes and Rebuenog received sixty-eight votes. Rebuenog challenged the election results, arguing that illegal voters had cast ballots, and that if these votes were removed there would be enough votes in her favor to declare her the winner. After subtracting the votes cast by illegal voters, the Superior Court declared Rebuenog the election winner.

Upon review, the Supreme Court affirmed the procedures adopted by the Superior Court to deduct illegal votes from the election results, but held that the trial court erred by declaring Rebuenog the election winner because the Superior Court could not determine with certainty which candidate received the most legal votes. Accordingly, the Supreme Court ordered the Commonwealth Election Commission to conduct a new mayoral election.

Immigration Law

Sirilan v. Castro, 1 CR 1082 (1984)

In 1977, the Commonwealth legislature passed Public Law (P.L.) 5-11, which granted permanent residency status to non-citizens who were of good moral character and had resided in the CNMI for at least five years. In 1981, the legislature passed P.L. 2-17, which repealed P.L. 5-11. The plaintiff, Ramon P. Sirilan, was an immigrant who by 1981 had met the requirements for permanent residency status under P.L. 5-11. Sirilan argued that: (1) he had a vested right to permanent residency status under the old law; (2) by revoking this right, the new law violated constitutional principles of due process; and (3) the law violated constitutional equal protection guarantees by treating persons who had already filed an application for permanent residency status differently from those who had not. The Commonwealth Trial Court rejected all of Sirilan's arguments, but the Appellate Division of the U.S. District Court ultimately reversed based on equal protection principles.

The Appellate Division rejected Sirilan's first argument, holding that the legislature had discretion to modify statutory entitlements and that Sirilan had no vested right to permanent residency status. The Appellate Division also rejected Sirilan's second argument, holding that although immigration matters are subject to due process analysis, the new law passed muster under this analysis because the legislature's decision was not arbitrary or capricious. The Appellate Division,

however, was persuaded by Sirilan's third argument and held that the new law violated constitutional equal protection guarantees. The Court held that given the unique equal protection language in the CNMI Constitution, classifications of persons in the CNMI should be subject to more strict analysis than they would be under the equal protection clause of the federal constitution. Thus, the Appellate Division, noting a concern for the potential of invidious discrimination against non-citizens, rejected incorporation of the so-called "rational basis" test – a standard that allows a discriminatory law to stand "if any conceivable set of facts could reasonably support" the government policy. Instead, the court found it more appropriate to ask whether the governmental classifications were substantially related to achieving important governmental interests—a standard that provided greater protection to the subjects of the newly-amended law. The Appellate Division found that the new law failed to meet this standard and was therefore unconstitutional.

Subsequently, in Amog v. Keatley, 2 CR 751 (1986), the Appellate Division ruled that the Sirilan decision, while altering P.L. 2-17 to conform with constitutional norms, did not restore P.L. 5-11.

Attorney General v. Ligaya, 2 CR 927 (1986)

Two Filipino mothers appealed to the Appellate Division of the U.S. District Court after the Commonwealth Trial Court ordered their deportation from the CNMI because their entry permits had expired. The mothers claimed that they had given birth to children while residing in the CNMI and that their children were therefore naturalized citizens of the CNMI. They argued that they should not be deported because it would result in a "de facto" deportation of their children, which would violate the children's citizenship rights. The Appellate Division, however, held that the citizenship status of one's children is not a relevant issue in a deportation case. The Appellate Division affirmed the Trial Court's deportation order, noting that the deported parents were not obligated to take their children with them.

Inheritance Law and Local Inheritance Customs

In re Estate of Cabrera, 2 NMI 195 (1991)

Jose "Pepe" Cabrera died on March 25, 1975. Prior to his death, he designated the division of his land amongst his heirs in the act known under Chamorro custom as a "partido." Among his designated heirs were several "pineksai"— children Pepe raised as his own via the Chamorro customary adoption method known as "poksai."[5] After Pepe's death, his heirs attempted to divide the land according to his wishes. One of the pineksai, Bernadita, a daughter of one of Pepe's deceased daughters, along with her two sisters (both of whom Pepe had pointedly refused to grant land), objected to the division. The three dissenters claimed that because Pepe died without a formal will he should be declared intestate and his land equally divided amongst the branches of the family. They contended that two of the pineksai should not inherit.

Both the Superior Court and the Supreme Court found that the customary practices of partido and poksai were legally effective measures and Pepe's original division of land was to be followed. The Supreme Court reasoned that in enacting the Northern Mariana Islands Probate Law the legislature intended to protect

5 "Poksai" means the raising of a child as though the child were a natural and legitimate child.

Chamorro custom, and that distributing property to natural children and pineksai was consistent with Chamorro customary law and culture.

Estate of Ayuyu, 5 NMI 31 (1996)

Juan and Isabel Ayuyu had seven children, one of whom was named Corbiniano. They also had a granddaughter named Maria whom they raised under the Chamorro custom of poksai. Under this custom a child is raised by someone other than the child's biological parents. Isabel owned a parcel of land in Unginao, which she brought into the marriage. Just prior to 1944, Juan and Isabel performed a partido, giving the land to Corbiniano, who used proceeds from the land to provide for Isabel from 1944 until her death. After the partido, but before Isabel died, the Trust Territory administration issued T.D. 325, which stated that the land belonged to Isabel. This was the first written record of ownership of the Unginao land.

Maria claimed that no partido occurred and that she was entitled to the Unginao property. The Supreme Court ruled that it was consistent with Chamorro custom for a wife's property to be distributed during partido, that there was sufficient proof that a partido had occurred, and that pursuant to the partido, Corbiniano was entitled to the Unginao land.

Estate of Aldan, 5 NMI 50 (1991).

Manuel Fausto Aldan died without a will on March 21, 1971, and his wife Cecilia died eight months later. The estate was administered by one of the couple's four legitimate children, who divided it amongst herself and her three siblings. It turned out, however, that Manuel had two illegitimate children who were born out of wedlock and thus were not heirs of Cecilia. These two children sought a share of the inheritance, but the administratrix denied their claims.

When the matter came before the probate court it ruled that half of the estate must be given to Manuel's heirs (which included his illegitimate children) and the other half to Cecilia's heirs. On appeal, the Supreme Court rejected this distribution. Noting that the Commonwealth was not a community property jurisdiction in 1971, the Court applied Chamorro customary law as it existed at that time. The Court held that under Chamorro custom, when Manuel died his property vested in his children, not in his wife, and that Cecilia's children were to provide for her needs for the remainder of her life. Accordingly, the property in question had descended to Manuel's six heirs upon his death, and was divided equally among all of his children.

Estate of Lairopi, 2002 MP 10

This dispute arose from the distribution of the estate of Francisca Lairopi, a Carolinian woman who died before World War II. The post-war Land Claims Commission declared her heirs owners of certain lands, and a later commission determined that compensation was due for three parcels of land spoiled during the war. When these parcels were included in the probate estate as Carolinian Lands, two of Francisca's granddaughters objected, claiming that they were the sole landowners and that the land should not pass via Carolinian custom.

It is settled law in the Commonwealth that Carolinian custom guides the distribution of the estate of a Carolinian person who dies without a will. Accordingly, the Supreme Court ruled that where the original landowner is Carolinian, the court will distribute the probated estate in accordance with Carolinian custom unless

the original owner clearly decides to depart from such custom. The Supreme Court found that the land had been used in a manner consistent with Carolinian custom, and affirmed the Superior Court's ruling including the lots in the estate probate.

In re Andres G. Macaranas, 2003 MP 11

Three children were raised by their grandparents under the Chamorro custom of poksai. Their grandfather died without a will and without having performed a partido—a Chamorro custom whereby the father calls his family together and outlines the division of property among his children. The Superior Court ruled that even though the children were pineksai—persons who are raised under poksai—they were not entitled to inherit as customarily adopted children from their grandfather's estate. The Supreme Court disagreed, and ruled that under the Northern Mariana Islands Probate Law, children who are adopted pursuant to local custom inherit from their adoptive parent's estate in the same manner as the parent's natural children. The Court ruled that the three children were therefore entitled to inherit from their grandfather's estate.

Local Issues

Borja v. Goodman, 1 NMI 225 (1990)

Pedro T. Borja sued the Marianas Variety newspaper after it published an article stating that a man named Pedro T. Borja had been found guilty of sexual abuse of a child. Borja had the same name as the convicted sex offender and sued for defamation, arguing that his reputation had been damaged. Borja argued that the newspaper should have published the address of the sex offender so readers could differentiate between himself and the convicted man. The Commonwealth Trial Court disagreed, finding that there was no evidence that the newspaper knew before publishing the story that there were two men with the name "Pedro T. Borja." Borja appealed, and the Supreme Court ruled that the Marianas Variety was not required to publish the felon's address, and that the paper was not at fault, as it accurately reported the conviction based on publicly-accessible court documents, which did not include the convicted felon's address.

Ada v. Sablan, 1 NMI 415 (1990)

This case clarified the ownership status of property acquired during marriage. When Joseph Ada filed for divorce from Elisa Sablan, Elisa asked the Superior Court to divide property acquired during the marriage. There was no divorce among ancient Chamorros as the term is understood today, and the Commonwealth had no laws establishing the ownership status of property acquired during marriage. The Superior Court thus looked to legal sources outside the Commonwealth and determined that a wife had no property interest in marital property. The Supreme Court reversed, finding that such a rule discriminated on the basis of gender and was contrary to both Chamorro custom and the CNMI Constitution. The Supreme Court held that property acquired during marriage is marital property, must be fairly divided, and that if a party wished to exclude property from this division then he or she must prove that the property belonged solely to the person seeking exclusion.

Sablan v. Inos, 3 NMI 418 (1993)

When the U.S. Congress passed 48 U.S.C. § 1681(b), which authorized the Inspector General of the U.S. Department of the Interior ("IG") to audit the local tax system of the Commonwealth, two citizens, Herman Sablan and Antonio Salas, sued the Commonwealth government to prevent the release of their tax returns and related information to the IG.

The Superior Court assumed that 48 U.S.C. § 1681(b) applied in the Commonwealth and that the IG was a party essential to the case. The Superior Court dismissed the citizens' case for failure to join the IG as a party. On appeal, the Supreme Court held that 48 U.S.C. § 1681(b) violated the Covenant. The Covenant outlines the terms of the political union between the Commonwealth and the U.S. and its essential terms cannot be altered without the mutual consent of both parties. Thus, the Covenant limits the power of U.S. law, including the U.S. Constitution, within the Commonwealth, where its terms run contrary to the Covenant. The Supreme Court ruled that because 48 U.S.C. § 1681(b) infringed upon the Commonwealth's right of self-government as defined in the Covenant, the IG had no authority to audit the CNMI tax system unless the Commonwealth government consented. This meant that the IG was not indispensable and that the case could be heard without the IG as a party. The Supreme Court thus reversed the Superior Court's findings.

Public Lands and Land Alienation

MPLT v. MPLC, 2 CR 870 (1986)

Under the CNMI Constitution, public lands are managed by the Marianas Public Lands Corporation ("MPLC"), and any income from those lands is held by the Marianas Public Lands Trust ("MPLT"). In 1975, the U.S. government leased 17,799 acres on Tinian from the CNMI; however, some of that land was still in private possession at the time of the lease. When the MPLC chose to use the rent money to purchase the land from the individual owners, the MPLT sued, claiming that the rent money should go to the Trust, and that money to purchase land must come from the CNMI government. The Appellate Division of the U.S. District Court agreed, holding that money used in acquiring land must come from the CNMI government, rather than either the MPLC or MPLT.

Wabol v. Muna, 2 CR 963 (1987)

A property owner entered into a fifty-year lease agreement with a corporation (PGI), and some alleged co-owners of the property sued to have the lease agreement invalidated. According to Article XII of the CNMI Constitution, long-term acquisition of real estate is restricted to persons of Northern Marianas descent. Article XII defines "long-term" as more than forty years and declares that corporations shall be considered "persons" of Northern Marianas descent if they are incorporated in the Commonwealth, have their principle place of business in the Commonwealth, and fifty-one percent of both its directors and owners of voting shares are of Northern Marianas descent. PGI did not meet these requirements because only one-third of its directors were of Northern Marianas descent and only fifty percent of the stock was owned by persons of Northern Marianas descent. On appeal, the Appellate Division of the U.S. District Court ruled that the lease agreement violated Article XII, causing the entire contract to be void at the time it was made. Relying on various policy

considerations involving the importance of land to the peoples of the CNMI, the court rejected the argument that Article XII violates the Fourteenth Amendment of the United States Constitution.

Aldan-Pierce v. Mafnas, 3 CR 327 (1988)

The defendant, a landowner named Leocadio C. Mafnas, entered into a contract with Antonia Villagomez that contained a written option agreement to purchase a plot of land. Villagomez then assigned her contractual rights to the plaintiff, Marian Aldan-Pierce. Mafnas, however, refused to honor the rights acquired by Aldan-Pierce, claiming that Aldan-Pierce was merely an agent of two attorneys who were interested in the land and not of Northern Marianas descent. Mafnas claimed that the attorneys gave Aldan-Pierce money with which to buy the property so that she would in turn lease the property to them, and that this violated Article XII, which restricts long-term acquisition of real estate to persons of Northern Marianas descent. Aldan-Pierce sued in order to have the courts force Mafnas to sell her the property as outlined in the written agreement.

The Commonwealth Trial Court granted summary judgment for Aldan-Pierce and the Appellate Division of the U.S. District Court affirmed. Mafnas's attorney argued that the two attorneys were principals and Aldan-Pierce was their agent. The Appellate Division disagreed, finding that Aldan-Pierce retained a fee simple interest in the property, and that once Aldan-Pierce and the two attorneys executed the lease, their agent/principal relationship changed into that of lessor/lessee. Thus, any control the attorneys may have had over their agent ceased, and no Article XII violation occurred.

CNMI v Bordallo, 3 CR 805 (1989)

Under the Covenant, the Commonwealth agreed to make available for use by the United States 17,799 acres of land on Tinian. In order to acquire this land—which was leased to the United States—the Commonwealth entered into agreements with landowners under which the Commonwealth obtained fee simple interests in the acquired lands, and the landowners received fee simple interests in other lands on Tinian, Saipan, or Rota. Some landowners, however, refused to partake in this land exchange, and so the Commonwealth seized their land and paid the market price as determined by the Commonwealth Trial Court. Leonora F. Bordallo, a landowner, sued, contesting the legality of the government's actions.

The Appellate Division of the U.S. District Court upheld the Commonwealth's eminent domain power, ruling that Article XIII of the CNMI Constitution permitted the Commonwealth to acquire private property when necessary to accomplish a public purpose. The Appellate Division further ruled that even though the Commonwealth was not required to turn over a fee simple interest to the United States, the Commonwealth had discretion to acquire a fee simple interest in the condemned land.

Matsunaga v. Matsunaga, 2006 MP 25

Douglas F. Cushnie, an attorney, challenged the constitutionality of a statute forbidding attorneys from charging more than a twenty-percent contingency fee in cases involving transfer of land under Article XII of the CNMI Constitution. Article XII provides that only citizens of Northern Marianas descent may obtain long-term

interests in real property within the Commonwealth. Cushnie argued that the statute interfered with his right to enter into private contracts. The Superior Court agreed and found the statute restricting contingency fees to be unconstitutional.

The Supreme Court disagreed and ruled that the statute limiting attorney fees was constitutional. In determining whether the statute unlawfully interfered with private contracts, the Court asked whether the law operated as a substantial impairment of the contractual relationship. The Court found that while the statute did impair an attorney's right to contract, the limitations were not substantial because the statute provided for adequate compensation. The Supreme Court also acknowledged that minor impairment would be tolerated given the legislature's goals of stabilizing the real estate market and protecting CNMI citizens.

DPL v. Commonwealth, 2010 MP 14

The Secretary of the Department of Public Lands, and the Attorney General on behalf of the Commonwealth government, submitted a certified question concerning the constitutionality of Public Law 16-31, which required the Department of Public Lands ("DPL") to satisfy land compensation judgments out of the Department's operating budget. The parties requested that the Court address the following question: "To what extent is Article XI of the NMI Constitution a restriction on Legislative action, and is Public Law 16-31 constitutional?"

Money received from leases and other transfers of public lands is constitutionally required to be transferred by DPL to the Public Land Trust to hold in trust for the benefit of people of Northern Marianas descent. The Court explained that NMI Constitution drafters made clear that the Marianas Public Land Trust ("MPLT") would receive the funds generated from public lands even after the Marianas Public Land Corporation dissolved. The Court further explained that if one of the functions of the MPLT is to receive the funds from public lands, then any attempt by the legislature to spend those funds before they reached the Trust would infringe upon Article XI § 6 of the CNMI Constitution, and frustrate the framers' intent to utilize public lands for the best interest of the people of the Commonwealth. Accordingly, the provision in Public Law 16-31 requiring the payment of land compensation judgments out of funds derived from public lands conflicted with Article XI § 6 and was ruled unconstitutional.

Conclusion

Judicial opinions are critical to a fully functioning judiciary. They resolve controversial matters for the litigating parties, provide legal guidance to the public and form the basis for future court decisions. The landmark cases discussed in this chapter demonstrate the evolution of Commonwealth jurisprudence, and reflect the vitality of the Commonwealth judiciary. Most importantly, they provide a necessary legal foundation that helps ensure an effective and independent judiciary for years to come.

APPENDIX I

Current Commonwealth Supreme Court Justices

Miguel S. Demapan
Chief Justice
July 1999 to Present
Associate Justice
July 1998 to July 1999
Associate Judge
November 1992 to July 1998

Alexandro C. Castro
Associate Justice
July 1998 to Present
Presiding Judge
February 1993 to July 1998
Associate Judge
May 1989 to February 1993

John A. Manglona
Associate Justice
May 2000 to Present
Associate Judge
July 1998 to May 2000

The current justices have been serving the Supreme Court for over a decade.

Current Commonwealth Superior Court Judges

Robert C. Naraja
Presiding Judge
March 2003 to Present
Associate Judge
October 2001 to March 2003

David A. Wiseman
Associate Judge
January 2001 to Present

Ramona V. Manglona
Associate Judge
May 2003 to Present

Kenneth L. Govendo
Associate Judge
May 2003 to Present

Perry B. Inos
Associate Judge
September 2008 to Present

Former Supreme Court Chief Justices and Associate Justices

Jose S. Dela Cruz
Chief Justice
May 1989 to May 1995
Associate Judge
March 1985 to May 1989

Marty W.K. Taylor
Chief Justice
September 1995 to December 1998

Pedro M. Atalig
Associate Justice
February 1993 to December 1997
Presiding Judge
November 1991 to February 1993
Special Judge
January 1990 to November 1991

Jesus C. Borja
Associate Justice
October 1989 to February 1993

Ramon G. Villagomez
Associate Justice
May 1989 to December 1997
Associate Judge
February 1986 to May 1989

Former Commonwealth Superior Court Judges

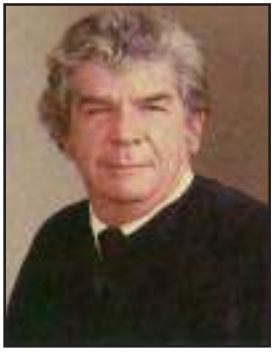
Edward Manibusan
Presiding Judge – July 1998 to March 2003
Associate Judge – February 1993 to July 1998

Timothy H. Bellas
Associate Judge – October 1995 to October 2001
Special Judge – June 1992 to October 1995

Virginia S. Sablan Onerheim
Associate Judge – February 1997 to February 2003

Juan T. Lizama
Associate Judge – July 1998 to March 2008

Former Commonwealth Trial Court Judges



Robert E. Moore
Associate Judge
September 1979 to September 1985

Robert A. Hefner
Presiding Judge
1989 to 1991
Chief Judge
September 1979 to 1989

Herbert D. Soll
Associate Judge February
1979 to September 1985

Pro Tem Justices

Commonwealth pro tem justices are appointed by the Chief Justice of the Supreme Court. Current and former pro tem justices are:

Arthur R. Barcinas
Associate Judge, Guam Superior Court

Timothy H. Bellas
Former Associate Judge, CNMI Superior Court

Richard H. Benson
Former Associate Justice, Supreme Court, Federated States of Micronesia

Michael J. Bordallo
Associate Judge, Guam Superior Court

Jesus C. Borja
Former Associate Justice, CNMI Supreme Court

F. Philip Carbullido
Current Chief Justice and Former Associate Justice, Guam Supreme Court

Benjamin J.F. Cruz
Former Chief Justice and Associate Justice, Guam Supreme Court

Alberto C. Lamorena III
Presiding Judge, Guam Superior Court

Edward Manibusan
Former Presiding Judge, CNMI Superior Court

Joaquin V.E. Manibusan, Jr.
Former Associate Judge, Guam Superior Court

Katherine A. Maraman
Associate Justice, Guam Supreme Court

Virginia S. Sablan-Onerheim
Former Associate Judge, CNMI Superior Court

Vernon P. Perez
Associate Judge, Guam Superior Court

Kathleen M. Salii
Associate Justice, Supreme Court, Republic of Palau

Peter C. Siguenza, Jr.
Former Chief Justice, Guam Supreme Court

Herbert D. Soll
Former Associate Judge, Commonwealth Trial Court

Anita A. Sukola
Associate Judge, Guam Superior Court

Robert J. Torres, Jr.
Current Associate Justice and Former Chief Justice, Guam Supreme Court

Frances M. Tydingco-Gatewood
Former Associate Justice, Guam Supreme Court

Steven S. Unpingco
Associate Judge, Guam Superior Court

Special Judges

Prior to November 1997, special judges were appointed by the Governor and confirmed by the Senate to assist the Commonwealth courts whenever necessary. The special judges, appointed to serve a term of six years, were:

Pedro M. Atalig
January 4, 1990 – November 7, 1991 (Sworn in as Presiding Judge on November 7, 1991)

Timothy H. Bellas
June 26, 1992 – October 21, 1995 (Sworn is as Associate Judge on October 21, 1995)

Benjamin J.F. Cruz
June 11, 1991 – June 10, 1997

Larry L. Hillblom
November 17, 1989 – May 21, 1995

Edward C. King
March 11, 1991 – March 10, 1997

Rexford C. Kosack
December 13, 1989 – December 12, 1995

Alberto C. Lamorena III
May 12, 1995 – May 11, 2001

Juan T. Lizama
September 29, 1995 – July 9, 1998 (Sworn in as Associate Judge on July 17, 1998)

Jane E. Mack
May 26, 1993 – May 25, 1999

Vicente T. Salas
January 27, 1995 – January 26, 2001

Michael A. White
October 5, 1995 – October 2, 2001

David A. Wiseman
September 22, 1995 – March 8, 2001 (Sworn in as Associate Judge on March 14, 2001)

Former Judges and Justices

Mariana Islands District Court • Community Court

Saipan

Juan M. Ada

Ignacio V. Benavente

Olympio T. Borja
Associate Judge, Mariana Islands District Court (1962 – 1963)

Francisco R. Cruz

Vicente E.D. Deleon Guerrero
Associate Judge and Special Judge (1951 – 1955)

Elias P. Sablan
Associate Judge, Mariana Islands District Court
Associate Judge, Saipan Community Court (1947 – 1955)

Felipe A. Salas
Associate Judge, Commonwealth Trial Court (1978)
Presiding Judge, Mariana Islands District Court (1975 – 1978)
Associate Judge, Mariana Islands District Court (1974 – 1975)

Jose A. Sonoda
Associate Judge, Mariana Islands District Court

Rota

Andres C. Atalig

Jose A. Calvo

Fortunato T. Manglona
(1972 – 1974)

Santiago M. Manglona
Associate Judge, Rota District Court (1955 – 1957)
Presiding Judge, Rota District Court (1957)
Associate Judge, Mariana Islands District Court

Tomas C. Mendiola
(1952)

Melchor S. Mendiola
Associate Judge, Rota Community Court

Tinian

Joaquin C. Aldan
Associate Judge, Tinian Community Court

Freddy V. Hofschneider, Sr.

Henry V. Hofschneider
Associate Judge, Tinian Community Court (1948 – 1953)

While effort has been made to make this list as complete as possible, some dates of service are not included and some judges from the early Trust Territory days may not be included.

Mariana Islands District Court • Community Court

Jose A. Sonoda
Saipan

Felipe A. Salas
Saipan

Olympio T. Borja
Saipan

Fortunato T. Manglona
Rota

Freddy V. Hofschneider, Sr.
Tinian

Elias P. Sablan
Saipan

Melchor S. Mendiola
Rota

Santiago M. Manglona
Rota

Juan M. Ada
Saipan

Vicente E. D. Deleon Guerrero
Saipan

Former Trust Territory High Court Justices and Judges

Edward P. Furber
Chief Justice (1948 – 1968)
Temporary Judge (February 1968 – August 1968)

Robert K. Shoecraft
Chief Justice (1968 – 1970)

Harold W. Burnett
Chief Justice (1970 – 1982)
Associate Judge (1968 – 1970)

Alex R. Munson
Chief Justice (1982 – 1988)

James R. Nichols
Associate Judge (1949 – 1955)

Pleaz William Mobley
Associate Judge (1956 – 1957)

Philip R. Toomin
Associate Judge (1958 – 1959)

Arthur J. McCormick
Associate Judge (1959 – 1961)

Paul F. Kinnare
Associate Judge (1961 – 1965)

Joseph W. Goss
Associate Judge (1965 – 1967)
Temporary Judge (1967 – 1969)

D. Kelly Turner
Associate Judge (1967 – 1974)

Arvin H. Brown, Jr.
Associate Judge (1970 – 1978)

Robert A. Hefner
Associate Judge (1974 – 1979)

Donald C. Williams
Associate Judge (1975 – 1977)

Mamoru Nakamura
Associate Judge (1977 – 1981)

Ernest F. Gianotti
Associate Judge (1978 – 1984)

Richard I. Miyamoto
Associate Judge (1982 – 1987)

Former Trust Territory High Court Temporary Judges

Richard H. Benson

Robert Clifton

E. Avery Crary

P. Drucker

Christobal C. Duenas

Eugene R. Gilmartin

Anthony M. Kennedy

Alex Kozinski

Alfred Laureta

Jose C. Manibusan

Carl A. Muecke

Joaquin C. Perez

Paul D. Shriver

J. M. Spivey

Dickran M. Tevrizian

Jurists serving on the Trial Division and the Appellate Division of the Trust Territory High Court were referred to in court documents both as "Judge" and "Justice." Trial court jurists are generally given the title of "Judge" while Supreme Court jurists are given the title of "Justice."

U.S. District Court for the Northern Mariana Islands

Section 401 of the Covenant established the District Court for the Northern Mariana Islands with jurisdiction in cases involving violations of federal law and the U.S. Constitution. The District Court also sat as a local court in cases involving trial by jury and as an appellate court in local matters. In 1989, the Commonwealth legislature passed the Judicial Reorganization Act, creating the CNMI Supreme Court and renaming the CNMI Trial Court as the CNMI Superior Court. The Act transferred jurisdiction over all "local matters" from the U.S. District Court to the CNMI courts. The District Court originally conducted business in the Dai Ichi Hotel and has since moved to its present location in the Horiguchi Building.

Chief Judge Alex R. Munson
(1988-2010)

Chief Judge Alfred Laureta
(1978-1988)

APPENDIX II

Members of the Commonwealth Judiciary in 1994. Back row (left to right): Associate Judge Edward Manibusan, Presiding Judge Alexandro C. Castro, Associate Judge Marty W.K. Taylor, and Associate Judge Miguel S. Demapan. Front row (left to right): Associate Justice Ramon G. Villagomez, Chief Justice Jose S. Dela Cruz, and Justice Pedro M. Atalig.

Judges and Justices from the CNMI and Guam attend the swearing in of Associate Justice John A. Manglona in June 2000. Front row (from left to right): Associate Justice Alexandro C. Castro, Chief Justice Miguel S. Demapan, Associate Justice John. A. Manglona. Back row (from left to right): Guam Associate Judge Frances Tydingco-Gatewood, Guam Presiding Judge Alberto C. Lamorena III, Guam Associate Judge Benjamin J.F. Cruz, Guam Chief Justice Peter C. Siguenza, Jr., Associate Judge Juan T. Lizama, Associate Judge Edward Manibusan, Associate Judge Virginia S. Onerhiem, Associate Judge Timothy H. Bellas.

The Supreme Court justices and staff relocated to the Guma' Hustisia in mid-1998, and the Superior Court moved in later that year.

The Supreme Court courtroom was designed with substantial input from the first three justices: Chief Justice Dela Cruz, Associate Justice Borja and Associate Justice Villagomez.

Delegation to the Pacific Judicial Council Conference held on Saipan in 1997. Attendees included jurists and legal staff from throughout Micronesia, including from the CNMI, Guam, Palau, Federated States of Micronesia (Yap, Chuuk, Pohnpei and Kosrae) and the Marshall Islands.

Inside the old Rota courthouse, which was replaced by the Rota Judicial Center in October 2005.

Groundbreaking for the Rota Judicial Center (January 2004). Left to Right: Associate Justice John A. Manglona, Associate Justice Alexandro C. Castro, Mayor of Rota Benjamin T. Manglona, Chief Justice Miguel S. Demapan, Judge Ramona V. Manglona.

Construction of the Rota Judicial Center began in January 2004 with funding from that Capital Improvement Program for Rota.

Ribbon cutting ceremony for opening of Rota Judicial Center. Front row (left to right): Associate Justice John A. Manglona, Associate Justice Alexandro C. Castro, and Chief Justice Miguel S. Demapan.

The Rota Judicial Center has courtrooms for the Supreme Court and Superior Court and also provides offices for the Attorney General and Public Defender.

2004 Superior Court Judges and Employees. Back row (left to right): Associate Judge David A Wiseman, Associate Judge Juan T. Lizama, Presiding Judge Robert C. Naraja, Associate Judge Ramona V. Manglona, Assocaite Judge Kenneth L. Govendo. Third row: Erik Fox, Gerald Worrall, Chris Woodward, Robin Sablan, John Moore, Luis Villagomez, Patrick Diaz, Kelly Butcher, Benjamin Demoux, George Lisua, Robert Cruz, Simram Simram. Second row: Darrell Terlaje, Sonia Camacho, Juanette Leon Guerrero, Susana Fleming, Merissa Seman, Ursula Lifoifoi-Aldan, Maria Sibetang, Rosie Ada, Shirley Basa, Evelyn Calvo, Mary Gutierrez, Juan Aguon, Dora Decena, Elsa Duenas. Front row: Ellen Santos, Lucy Deleon Guerrero, Vivian Dela Cruz, Katelynn Deleon Guerrero, Cynthia Indalecio, Marylou Villagomez, Jovita Flores, Bernie Sablan, Esther Teregeyo, Julie Ilo, Velma Arriola, Kayla Igitol.

The Commonwealth Supreme Court Pre-Law Program, which started in 1991, lasts three weeks and familiarizes participants with the rigors of law school. Students attend law lectures, complete writing assignments and participate in a moot court competition. 2010 Program attendees and faculty included, front row (L-R): Jose P. Mafnas, Jr., Oliver M. Manglona, Eulalia S. Villagomez, Aubry M. Hocog, Professor Rose Cuison Villazor, Professor Robert J. Desiderio, Mary Louise O. Deleon Guerrero, Frannie T. Demapan, Leila H.F. Staffler, Christina (Tina) Marie E. Sablan, and Antonina A. Senchenko. Back row (L-R): Judge Ramona V. Manglona, Judge David A. Wiseman, Justice Alexandro C. Castro, Justice John A. Manglona, and Judge Perry B. Inos.

2004 Justices and Employees for the Supreme Court and Law Revision Commission. Back row (left to right): Justice Alexandro C. Castro, Chief Justice Miguel S. Demapan, Justice John A. Manglona. Third row: Albert Hicking, Carolyn Kern, Joe Guzman, Manuel Cisnero, Steve Cabrera, Raul Hidago, Raymond Babauta, Jesus Santos, Steve Arurang. Second row: Cid Mostales, Tomas Suros, Brad Laybourne, Librada Rameriz, Generosa Palaruan, Margaret Palacios, Julie Roberto, Ronald Mandell, Anthony Benavente. Front row: Michael Ernest, Chris Wallace, Trinidad Diaz, Irene San Nicolas, Tonia Cepeda, Nora Borja, Charlene Teregeyo, Louise Hofschneider and Crispin Kaipat.

U.S. District Court for the Northern Mariana Islands Chief Judge Alex R. Munson (front row, center-left) and Chief Judge Alfred Laureta (front row, center-right) attending a ceremony in Courtroom A of the old Commonwealth courthouse in the Civic Center.

2010 – 2011 Supreme Court and Superior Court Law Clerks (left to right): Michael Stanker, Jordan Davis, Deanna M. Manglona, Michael Wilt, QuynhChi Nguyen, Steven Gardiner, Daniel Guidotti.

2011 Clerks of Court. Superior Court Clerk of Court Bernie A. Sablan (left) and Supreme Court Clerk of Court Jennifer Dockter (right).

2011 Northern Marianas Judiciary Historical Society Board of Trustees. From left to right: Johnny Fong, Jim Stowell (Executive Director), Former Judge Timothy H. Bellas, Presiding Judge Robert C. Naraja, Michael Pai, Teresa Kim-Tenorio, Associate Justice John A. Manglona, Associate Justice Alexandro C. Castro. Not pictured: Chief Justice Miguel S. Demapan and John Tenorio.

2011 Director of Courts Tracy Guerrero and Deputy Director of Courts Sonia Camacho.

People of the Commonwealth of the Northern Mariana Islands benefit from a judiciary that is an independent and co-equal branch of government. This achievement did not develop overnight, but instead emerged after over five centuries of changing legal structures. Inhabitants of the Mariana Islands first lived under legal systems installed by Spain, Germany, and then Japan. Following World War II, laws were administered by the United States Naval Military Government and then as part of the Trust Territory of the Pacific Islands. This book chronicles these diverse legal systems and also examines the current Commonwealth judiciary. This unique focus affords readers a rarely-seen perspective of the court system in the Marianas, and an understanding of the efforts taken to ensure that the Commonwealth is a society governed by the rule of law.