

Acts specifically applied to Samoa by the Samoa Act, 1921, or by subsequent Acts or Orders in Council. Present policy lays emphasis on the need for attaining a more nearly autonomous legal system. New Zealand legislation applying to the Territory will, it is anticipated, gradually be replaced by local Ordinance as circumstances permit.

The Samoa Act, 1921, provides that equal treatment in the administration of justice be accorded all residents of the Territory, irrespective of nationality.

Judicial Organization

The Samoa Act, 1921, established the High Court of Western Samoa. It consists at present of the Chief Judge, five Commissioners, and fourteen Samoan Judges (Fa'amasino Samoa Itumalo). In addition, there are three Samoan Associate Judges (Fa'amasino Samoa) who participate in the work of the High Court. The Chief Judge and the Commissioners are appointed by the Minister of Island Territories and hold office during his pleasure. The Associate Judges and the Fa'amasino Samoa Itumalo are appointed by the High Commissioner for a term of three years on the basis of nominations by the Fono of Faipule. In practice the Fono has so far not been willing to re-nominate a Judge for a second consecutive period of office, except when it has been persuaded that the particular Judge's services are of special importance.

The High Court has full jurisdiction, both civil and criminal, for the administration of the law of Samoa. The Chief Judge has authority to exercise all the powers of the Court. The Commissioners and Fa'amasino Samoa Itumalo have only such jurisdiction as has been prescribed for them. In practice, the Commissioners hear a large proportion of the petty cases which come before the Court in Apia or, in the case of one Commissioner (the Resident Commissioner of Savai'i), at Tuasivi. The fourteen Fa'amasino Samoa Itumalo preside over district Courts, with jurisdiction over Samoans only. This jurisdiction extends to civil actions up to the value of £5 when both parties are Samoans, and to criminal offences by Samoans, including thefts of under £2 value, adultery, breach of the peace, and some twenty-five other prescribed offences.

The official language is English, but the Samoan language is used where necessary.

The Samoan Associate Judges play an important part in the work of the High Court. One or more of them generally sits on the Bench, with the Chief Judge or the Commissioner presiding. In criminal cases where the defendant is a Samoan, or in civil cases involving Samoans, they take an active part in questioning the parties and their witnesses and in assisting in the framing of the verdict. In cases involving Europeans they may be present, but they take no part in the decision. Recently the Chief Judge has introduced a method of conferring increased responsibility upon them and, at the same time, of lightening the work of the Court. In civil disputes the whole case has been handed over to an Associate Judge, who has conducted the hearing and reported his findings to the Chief Judge. The latter has generally been able to enter judgment in accordance with his Samoan colleague's conclusions. In some instances the Associate Judge has been able to negotiate a settlement between the parties. This procedure marks a useful first step towards giving the Associate Judges a fuller share in the work of the Court. Its further development will be assisted if the Judges are given more precise legal standing in the Court and if the Fono of Faipule is willing more often to permit a Judge to hold office for more than one term at a time.

In more serious criminal cases the High Court employs assessors. Four assessors are appointed by the Court from a panel nominated by the High Commissioner. The panel contains both Europeans and Samoans. The latter are chosen mainly from the ranks of Judges and former Judges. When the defendant is a Samoan it is usual to include one Samoan assessor among the four. The assessors sit in an advisory capacity with the Judge, who may accept a majority opinion of three of the four assessors so engaged.