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# COMPARATIVE REGIONAL REPORT ON CITIZENSHIP LAW: OCEANIA

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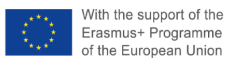
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# Comparative Regional Report on Citizenship Law Oceania

*Anna Dzedzic*

## 1. Introduction

The citizenship laws of Oceania reflect the complexities of colonisation, decolonisation, nation building and globalisation. In Oceania's citizenship laws, we can see the significance of the connections between land and peoples in Indigenous custom and law; trace the movement from self-governing peoples to colonies to independent states; and discover innovative responses to the exigencies of small states in a globalised world.

The region of Oceania encompasses the island states and territories situated in the South Pacific Ocean. It includes fourteen member states of the United Nations. This report compares the citizenship laws of twelve of these states: the Federated States of Micronesia (FSM), Fiji, Kiribati, Nauru, the Marshall Islands, Palau, Papua New Guinea (PNG), Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Australia and New Zealand, the two other United Nations member states of Oceania, have their own Country Reports in the GLOBALCIT series.<sup>1</sup>

This comparative regional report is divided into five parts. Following this Introduction, Part 2 outlines the historical and geographic features of Oceania that have informed the development of its citizenship laws. Part 3 compares the citizenship laws of the twelve states, highlighting general approaches to the acquisition and loss of citizenship, as well as significant differences between states. Part 4 discusses three current trends in the region: the increasing acceptance of dual citizenship, citizenship by investment programs, and the gradual removal of gender discrimination. Part 5 concludes with some reflections on the contribution that the study of Oceania can make to global and comparative debates on citizenship.

## 2. Historical background

Without minimising the significance of diversity within and between the states of Oceania and the variety of experiences of Pacific peoples and places, it is possible to draw out four shared experiences that have affected the design of citizenship laws.

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<sup>1</sup> Rayner Thwaites, 'Report on Citizenship Law: Australia' GLOBALCIT Country Report 2017/11; Kate McMillan and Anna Hood, 'Report on Citizenship Law: New Zealand' GLOBALCIT Country Report 2016/09.

## 2.1 Identity and belonging

Oceania is an extraordinarily diverse region of different peoples, histories and cultures. Almost a quarter of all languages – nearly 1,500 – are spoken in Oceania.<sup>2</sup> Each language indicates a distinctive culture with its own norms and values that govern community life. Generalising across such diversity is difficult, but Indigenous peoples of Oceania share in common worldviews built on deep connections between people, community and land.<sup>3</sup> Ties to community, village, tribe or family continue to generate a different, and at times stronger, sense of identity and belonging than those to a much more recently created a nation-state. Indigenous understandings of belonging can be at least accommodated in citizenship laws, albeit incompletely within the parameters of legislative language.

Oceania is also a region characterised by migration and the movement of peoples. For centuries, people, skills, products and knowledge crisscrossed what Epeli Hau'ofa evocatively framed as a 'sea of islands'.<sup>4</sup> Movement continued during colonisation as peoples travelled within and outside the region to work, trade, and share knowledge. Some movements were the result of colonial exploitation, such as the practice of 'blackbirding', in which Islanders were taken from their homes to work on plantations in Australia and other parts of the Pacific; or the recruitment of Indians to labour in the British colony of Fiji.<sup>5</sup> Movement continues today, as Pacific diasporas maintain connections between their island homes and their places and communities of residence.<sup>6</sup> This movement of peoples has implications for how citizenship and belonging are understood at a local, national and regional level.

## 2.2 Colonisation, decolonisation and nation building

Oceania was deeply affected by colonisation. Immediately prior to their independence, Fiji, Solomon Islands, Kiribati and Tuvalu were British colonies. Vanuatu was a British-French condominium. Nauru and New Guinea were administered by Australia, and Samoa by New Zealand as League of Nations mandated territories and then United Nations trust territories. The Federated States of Micronesia, the Marshall Islands and Palau were all parts of the Trust Territory of the Pacific, administered by the United States. Tonga was never formally colonised but was a British protectorate from 1900 to 1970.

The twelve states became independent in the period of decolonisation over the 1960s to 1980s. The nine Commonwealth member states (Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu) negotiated with their colonial administrators to become fully independent states, sometimes after an interim period of self-government. The Federated States of Micronesia, the Marshall Islands and Palau entered into arrangements of 'free association' with the United States, providing the United States with

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<sup>2</sup> Darrell Tryon, 'Linguistic Encounter and Responses in the South Pacific' in Serge Tchekézo, Darrell Tryon and Margaret Jolly (eds), *Oceanic Encounters: Exchange, Desire, Violence* (ANU Press 2009) 37.

<sup>3</sup> For insight into the connection of place and people see Epeli Hau'ofa, 'Pasts to Remember' in Robert Borofsky (ed), *Remembrance of Pacific Pasts: An Invitation to Remake History* (University of Hawaii Press 2000) 468–9.

<sup>4</sup> Epeli Hau'ofa, 'Our Sea of Islands' in Epeli Hau'ofa, Eric Waddell and Vijay Naidu (eds), *A New Oceania: Rediscovering our Sea of Islands* (University of the South Pacific in association with Beake House 1993).

<sup>5</sup> For a discussion of these and other transnational movements across the Pacific see Tracey Banivanua-Mar, *Decolonisation and the Pacific: Indigenous Globalisation and the Ends of Empire* (Cambridge University Press 2016) ch 1.

<sup>6</sup> Sa'iliemanu Lilomaiava-Doktor, 'Beyond "Migration": Samoan Population Movement (Malaga) and the Geography of Social Space (Vā)' (2009) 21 *Contemporary Pacific* 1.

access for defence purposes in exchange for financial assistance. Under the free association arrangements, however, the island states are not entitled as of right to United States citizenship.<sup>7</sup>

The legacies of colonisation continued into independence. In many cases, the peoples and the territories of the new states were defined by the former colonial borders, which themselves had been imposed with little regard to the diversity of, or the connections between, the Indigenous peoples of Oceania.<sup>8</sup> In some cases, however, decolonisation did provide an opportunity to redefine colonial borders to better accommodate different cultural groups, leading for example to the separation of the Gilbert and Ellice Islands colony into Kiribati and Tuvalu. In all cases, independence required uniting communities under the national law of a new, democratic state. Citizenship was a part of nation-building, although citizenship laws were themselves informed by common law and legislative models provided by colonial administrators. In some cases the citizenship provisions of independence constitutions were carefully negotiated with the departing colonial administrators, who sought to protect their own interests.<sup>9</sup>

At independence, Indigenous peoples comprised the majority of the population in all twelve states, although flows of migrant labour and immigration had created significant minority groups. For example, the British colonial government recruited indentured laborers from India to work in Fiji, and their descendants now make up a significant proportion of Fiji's population. Many Pacific peoples had been displaced because of the Pacific War of 1941 to 1945 or damage to their lands from mining, nuclear testing and over-urbanisation. European settlers were a significant minority in most states, not so much numerically but because they were given special privileges as colonial governments instituted racially defined distinctions between the original inhabitants, other Pacific islanders, and European, Chinese and Indian settlers.<sup>10</sup>

### 2.3 Geography and economics

In addition to these historical influences, the citizenship laws of Oceania are shaped by geographic and economic context. With the exception of Papua New Guinea, which shares a land border with Indonesia, the states of Oceania are island groupings. Several states cover large ocean areas. All Pacific communities are under stress from climate change, experienced through rising sea levels as well as increasingly severe cyclones, earthquakes, tsunamis and droughts. Climate change has prompted discussion about the possibility of relocating people and perhaps entire communities beyond their current land territories. This is not, however, a new problem for Oceania. Over the course of the 20<sup>th</sup> century, peoples were relocated across borders as their island homelands were destroyed by mining, nuclear testing and other foreign activities. Examples include the relocation of people of Banaba Island to Rabi in Fiji as a result of phosphate mining on the Island; the migration of people from Vaitupu in Tuvalu to Kioa in Fiji as a result of overcrowding; and from Kiribati to Solomon Islands as the internally relocated population in Kiribati could no longer live on the drought-prone Phoenix Islands.

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<sup>7</sup> Cf Cook Islands and Niue, self-governing polities in free association with New Zealand, whose people hold New Zealand citizenship: Alison Quentin-Baxter, 'Niue's Relationship of Free Association with New Zealand' (1999) 30 *Victoria University of Wellington Law Review* 589.

<sup>8</sup> Stewart Firth, 'Decolonization' in Robert Borofsky (ed), *Remembrance of Pacific Pasts: An Invitation to Remake History* (University of Hawai'i Press 2000) 317–18.

<sup>9</sup> An example from Solomon Islands is discussed in Part 3.2.1.

<sup>10</sup> See, eg in Fiji: Sanjay Ramesh, 'State Hegemony and Ethnicity: Fiji's Problematic Colonial Past' in Steven Ratuva (ed), *The Palgrave Handbook of Ethnicity* (Springer 2019).

These experiences led Kiribati in particular to develop innovative approaches in its citizenship laws so that relocated peoples could retain their connection to their islands (discussed in Part 4.1).

The states of Oceania are small states. The largest state, by population, is Papua New Guinea with a population of 8.5 million people, followed by Fiji with the far smaller population of 888,400. The smallest state, by population, is Tuvalu, with just 10,200 people.<sup>11</sup> All of the twelve states are classified as small island developing states, and four – Kiribati, Solomon Islands, Tuvalu and Vanuatu – are among the least developed states in the world.<sup>12</sup> Smallness, remoteness and limited resources constrain economic opportunities in small island states, especially when competing in a global market.<sup>13</sup> In this context, the sale of citizenship has provided a source of revenue, although not always a reliable, legal or transparent one (discussed in Part 4.2).

## 2.4 International interdependence

All citizenship regimes are subject to influence by external states. The legacies of colonisation and the dependence of small island states on larger ones mean that the citizenship laws of states outside the region can have wide-ranging effects within Oceania. For example, in 1982, Falema'i Lesa, a Samoan woman living in New Zealand, was facing deportation. She challenged the deportation on the grounds that she was a citizen of New Zealand because her father was born in Samoa 1926 while it was under the mandate of New Zealand. The Judicial Committee of the Privy Council agreed and held that Lesa, and thousands like her, were citizens of New Zealand.<sup>14</sup> To reverse the effect of the decision, New Zealand enacted the *Citizenship (Western Samoa) Act 1982* and negotiated a protocol to the Treaty of Friendship with Samoa to provide that all persons who could have been New Zealand citizens as a result of the Privy Council's decision were deemed not to be citizens, carving out some specific exceptions.<sup>15</sup> The Supreme Court of Samoa noted that the legislation “clearly discriminates on the ground of race against persons who were declared by the highest New Zealand Court to be citizens of New Zealand” but dismissed a challenge to the constitutionality of the new arrangements.<sup>16</sup>

In addition to the twelve independent states, the region of Oceania includes self-governing territories and dependencies: American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (territories of the United States); French Polynesia, New Caledonia, and Wallis and Futuna (territories of France); Pitcairn Islands (territory of the United Kingdom); Cook Islands and Niue (self-governing polities in free association with New Zealand) and Tokelau (territory of New Zealand).<sup>17</sup> The citizenship status of the peoples of the territories is determined by the laws of the parent state. Some people of territories are automatically citizens of the parent state, although the geographic isolation and remoteness of some communities can make exercising the rights attached to such citizenship difficult in

<sup>11</sup> Pacific Community, ‘PRISM 2018 Pocket Summary’ (2018) <https://prism.spc.int/>.

<sup>12</sup> United Nations Department of Economic and Social Affairs Statistics Division, ‘SDG Indicators: Regional groupings used in 2017 Report and Statistical Annex’ <https://unstats.un.org/sdgs/indicators/regional-groups/>.

<sup>13</sup> Francis X Hezel, ‘Pacific Island Nations: How Viable Are Their Economies?’ (Pacific Islands Policy No 7, East-West Center 2012) 3.

<sup>14</sup> *Lesla v Attorney-General* [1982] 1 NZLR 165.

<sup>15</sup> William Tagupa, ‘Law, Status and Citizenship: Conflict and Continuity in New Zealand and Western Samoa (1922-1982)’ (1994) 29 *The Journal of Pacific History* 19.

<sup>16</sup> *In re Father Ioane Vito* [1988] WSSC 3.

<sup>17</sup> Some issues affecting these external territories are discussed in other GLOBALCIT Reports: Peter Spiro, ‘Report on Citizenship Law: United States of America’ [2015] GLOBALCIT Country Report 2015/13 3; McMillan and Hood (n 1) 11–12.

practice.<sup>18</sup> A series of decisions of the United States Supreme Court, known as the ‘Insular cases’, held that the territories of the United States were not automatically part of the ‘United States’. Congress could incorporate territories by legislation, but their status did not have constitutional protection.<sup>19</sup> One effect of the Insular cases was that the 14<sup>th</sup> Amendment to the United States’ Constitution, which provides that “[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States”, was understood to mean that persons born in a territory of the United States were not automatically citizens. Citizenship was granted to people in the Pacific territories of Guam and the Northern Mariana Islands by legislation, but not to American Samoans, who hold the status of ‘non-citizen nationals’. In November 2019, however, the citizenship status of American Samoans was thrown open when the District Court for the State of Utah ruled that American Samoa was part of the United States for the purposes of the 14<sup>th</sup> Amendment, and as such persons born in American Samoa were United States citizens.<sup>20</sup>

*Lesia v Attorney-General* and the Insular cases illustrate how decolonisation is not a past event, but a continuing process. Citizenship laws are one of many sites for working through the legal and political effects of a colonial past, not only in newly independent or self-governing states, but also in the colonising state. In this, however, courts of the parent state focus on their own laws, and do not always have regard to the laws and policies of the states and territories that are affected by legal change.<sup>21</sup> Many in American Samoa have resisted United States citizenship, seeing it as a threat to uniquely Samoan institutions and customs.<sup>22</sup> Others argue that a decision about the citizenship status of American Samoans should be made by – or at least in consultation with – the people of American Samoa. These examples highlight the interdependence of citizenship regimes, particularly in the context of decolonisation.

## 2.5 Influence on citizenship laws

The citizenship laws of Oceania reflect this range of complex dynamics: the imperatives of Indigenous understandings of identity; historical and continuing movement of peoples; the need to unite a sometimes highly diverse population as a single nation; the desire to redress the racial and economic inequalities of colonialism; the exigencies of smallness and islandness; and the continuing process of decolonisation. The way in which each of these issues is manifest differs across the states of Oceania and some specific examples are discussed throughout this report.

At a broad level, these issues inform some of the general features of the citizenship laws of Oceania. Across the region, the emphasis is on acquisition of citizenship by *ius sanguinis* rather than *ius soli* (see Part 3.1) and on naturalisation on the basis of descent rather than residence (see Part 3.2). As Castles points out, belonging by virtue of descent implies an

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<sup>18</sup> AH Angelo and Rosemary Gordon, ‘Citizenship: Some Pacific Realities’ (1991) 7 Queensland University of Technology Law Journal 127.

<sup>19</sup> See generally, Rogers M Smith, ‘The Insular Cases, Differentiated Citizenship, and Territorial Statuses in the Twenty-First Century’ in Gerald L Neuman and Tomiko Brown-Nagin (eds), *Reconsidering the Insular Cases: The Past and Future of the American Empire* (Human Rights Program, Harvard Law School 2015).

<sup>20</sup> *Fitiseanu v United States* (United States District Court for the District of Utah, 12 December 2019) 29-30.

<sup>21</sup> Tagupa (n 15) 32.

<sup>22</sup> Sean Morrison, ‘Foreign in a Domestic Sense: American Samoa and the Last US Nationals’ (2013) 41 Hastings Constitutional Law Quarterly 71.



understanding of a nation defined by shared culture, language, traditions and history consistent with a nation composed predominantly of Indigenous peoples rather than settlers.<sup>23</sup>

The western concept of citizenship, which is strongly tied to the idea of the nation-state, struggles to capture Indigenous understandings of identity, belonging and migration. Oceanic states have however adapted their citizenship laws to at least accommodate Indigenous values and understandings. For example, citizenship has been closely tied to ownership of land: the earliest citizenship laws in the region, made in Tonga in 1915, were originally conceived to control ownership and access to land,<sup>24</sup> while the Marshall Islands provides a special pathway to citizenship for persons who have land rights under customary law or traditional practice.<sup>25</sup> The importance of connections between people and community can also be seen in changing attitudes to dual citizenship as Oceanic states seek to officially reintegrate diaspora living overseas (discussed in Part 4.1).

Finally, the imperatives of globalisation and decolonisation have also affected the citizenship laws of the region. Many Oceanic states have sought to generate revenue from selling citizenship, competing in a global marketplace to do so. Migration from Oceanic states to larger states in the region (principally Australia, New Zealand and the United States) mean that many citizens of Oceanic states are affected by the citizenship laws and policies of these immigration states. In this, Oceanic states are vulnerable to pressure from larger states, through direct influence leveraged by dependence on foreign aid and support as well as spill-over effects from changes in the citizenship laws of other states.

### 3. Comparative analysis of citizenship laws

#### 3.1 Acquisition of citizenship at birth

In Oceania, citizenship at birth is most often acquired on the basis of descent from a citizen or Indigenous ancestor (*ius sanguinis*). The acquisition of citizenship by birth in the territory of the country (*ius soli*) is less common.

##### 3.1.1 *Ius sanguinis*

In most states of Oceania, a person will automatically become a citizen at birth if either or both parents is a citizen. Legal provisions sometimes differ depending on whether the person was born to a citizen in the country or outside it.

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<sup>23</sup> Stephen Castles, 'Migrant Settlement, Transnational Communities and State Strategies in the Asia Pacific Region' in Robyn R Iredale, Charles Hawksley and Stephen Castles (eds), *Migration in the Asia Pacific: Population, Settlement and Citizenship Issues* (Edward Elgar 2003) 8; see also Firth (n 8) 322.

<sup>24</sup> Graham Hassall, 'Citizenship in the Asia-Pacific: A Survey of Contemporary Issues' in Alastair Davidson and Kathleen Weekley (eds), *Globalization and Citizenship in the Asia-Pacific* (Macmillan Press 1999) 53.

<sup>25</sup> *Constitution of the Marshall Islands 1979* Art XI, s 2(1)(a); *Citizenship Act 1984* (Marshall Is) ss 410, 411.

**Table 1 Birthright Rules**

	Procedure	Provisions for person born <i>in</i> country	Provisions for person born <i>outside</i> country
<b>FSM</b>	Automatic	Either parent a citizen	Either parent a citizen
<b>Fiji</b>	Automatic/ Registration	Ius soli citizenship for persons born in Fiji (with exceptions: see 3.1.2)	Either parent a citizen  Citizenship must be registered. Residence requirement if application made by person over 18
<b>Kiribati</b>	Automatic	Ius soli citizenship for persons born in Kiribati (with exceptions: see 3.1.2)	Father (or mother if parents unmarried) is or would have been a citizen
<b>Marshall Is</b>	Automatic	Either parent a citizen Ius soli citizenship for persons born in the Marshall Islands (with exceptions: see 3.1.2)	Either parent a citizen
<b>Nauru</b>	Automatic	Either parent a citizen	Either parent a citizen
<b>Palau</b>	Automatic	Either parent a citizen or of recognised Palauan ancestry	Either parent a citizen or of recognised Palauan ancestry
<b>PNG</b>	Automatic	Either parent a citizen	Either parent a citizen
<b>Samoa</b>	Automatic	Either parent a citizen	Either parent a citizen otherwise than by descent (ie the parent did not themselves acquire citizenship by birth overseas to a citizen) or has resided in Samoa for 3 years
<b>Solomon Is</b>	Automatic	Either parent a citizen	Either parent a citizen
<b>Tonga</b>	Automatic	Either parent a citizen	Either parent a citizen
<b>Tuvalu</b>	Automatic	Ius soli citizenship for persons born in Tuvalu (with exceptions: see 3.1.2)	Either parent a citizen
<b>Vanuatu</b>	Automatic	Either parent a citizen	Either parent a citizen

In most cases, a child born inside a country to a parent who is a citizen automatically acquires citizenship. It is generally the case that a child born outside the country to a parent who is a citizen will automatically acquire citizenship at birth. Laws in Fiji and Samoa place some qualifications. Fiji requires that children born overseas be registered as citizens, and that if a person is over 18 years of age at the time of registration, he or she must be resident in Fiji for at least three of the five years preceding the application.<sup>26</sup> Samoa does not extend this kind of citizenship to children born overseas to a Samoan who themselves acquired citizenship by birth to Samoan parents overseas, unless that parent has resided in Samoa for at least three years.<sup>27</sup> In both cases, the law seeks to ensure a connection between the person born overseas and residence in the country of their citizenship.

### 3.1.2 *Ius soli*

Citizenship by birth in the territory of the country (*ius soli*) is relatively uncommon in Oceania. Only in four states – Fiji, Kiribati, the Marshall Islands and Tuvalu – is citizenship conferred on persons born in the country regardless of their parent’s citizenship, with some significant exceptions. In the Marshall Islands, *ius soli* citizenship is not conferred on persons who are entitled to be or become a citizen of another country at birth.<sup>28</sup> Kiribati has a similar rule, but it does not apply to persons of i-Kiribati descent (who, as explained in Part 4.1, may hold dual

<sup>26</sup> *Citizenship of Fiji Act 2009* (Fiji) s 8(1).

<sup>27</sup> *Citizenship Act 2004* (Samoa) s 7.

<sup>28</sup> *Constitution of the Marshall Islands 1978* Art XI, s 1(2)(b).

citizenship).<sup>29</sup> In Kiribati and Tuvalu, *ius soli* citizenship is withheld from a person whose father (or mother if the parents were unmarried) is a foreign diplomat, or if the child is born in a part of the state under occupation to a parent who is a citizen of the occupying force.<sup>30</sup> In Tuvalu, these exceptions do not apply if either parent is a citizen. However, the provisions in Kiribati discriminate on the basis of gender, in that they do not apply if the person's father is a citizen, reflecting a presumption that citizenship follow the father; and only if the person's parents are unmarried, the mother.<sup>31</sup>

Fiji has shifted between *ius soli* and *ius sanguinis* citizenship. Its independence Constitution of 1970 and Citizenship Decree 1987 provided for *ius soli* citizenship. Like Kiribati and Tuvalu, Fiji was a British colony, and British law at the time was based on *ius soli*.<sup>32</sup> Fiji, however, changed its laws in 1990 when the new Constitution of that year introduced a requirement that one or both parents must be a citizen.<sup>33</sup> The Constitution of 1997 reverted back to *ius soli* citizenship for every person born in Fiji, unless at the date of birth one parent was a foreign diplomat and neither parent was a citizen.<sup>34</sup>

### 3.1.3 *Special rules of acquisition of citizenship at birth*

Only some states in the region have made specific laws for vulnerable groups, such as foundlings (children found in a country of unknown parentage) and people who are stateless.

#### *Foundlings*

Only in Fiji, Papua New Guinea and Tuvalu does the law provide for citizenship for foundlings. In Papua New Guinea a foundling or child of unknown identity or citizenship status will be deemed to have at least one parent who is a citizen, and therefore be a citizen by birth.<sup>35</sup> Laws in Fiji and Tuvalu provide that a foundling is considered to have been born in Fiji or Tuvalu respectively, absent proof to the contrary.<sup>36</sup>

#### *Statelessness*

Only in Nauru and Samoa is there a general provision for persons born stateless in the country. In both countries a person who is stateless may be granted citizenship by the Cabinet or a Minister.<sup>37</sup>

Fijian law contains a more specific provision, targeting persons who were born in Fiji between 25 July 1990 (the date of the 1990 Constitution) and 10 April 2009 (the date on which that Constitution was abrogated and a new Citizenship Law made by decree).<sup>38</sup> The reason for limiting the coverage of the legal protections against statelessness in this way is not clear, but

<sup>29</sup> *Constitution of Kiribati 1979* s 25(1).

<sup>30</sup> These exceptions derive from English common law: *Calvin's Case* (1608) 7 Co Rep 1.

<sup>31</sup> *Constitution of Kiribati 1979* s 25(1); cf *Constitution of Tuvalu 1986* s 45(2).

<sup>32</sup> Note however that the other former British colony in the region – Solomon Islands – did not adopt *ius soli*.

<sup>33</sup> Paul Reeves, Tomasi Rayalu Vakatora and Brij V Lal, 'The Fiji Islands: Towards a United Future Report of the Fiji Constitution Review Commission 1996' (Parliament of Fiji 1996) Parliamentary Paper No 34 of 1996 [6.28]-[6.34].

<sup>34</sup> *Constitution of Fiji 1997* s 10, *Citizenship of Fiji Act 2009* (Fiji) s 6.

<sup>35</sup> *Constitution of Papua New Guinea 1975* s 77.

<sup>36</sup> *Citizenship of Fiji Act 2009* (Fiji) s 6; *Constitution of Tuvalu 1986* s 43(2).

<sup>37</sup> *Constitution of Nauru 1968* s 73; *Naoero Citizenship Act 2017* (Nauru) s 4(d); *Citizenship Act 2004* (Samoa) s 6(3).

<sup>38</sup> *Citizenship of Fiji Act 2009* (Fiji) s 19(c).

may relate to the potential gaps and inconsistencies in the various citizenship laws enacted over that time.<sup>39</sup>

## 3.2 Acquisition of citizenship after birth

There are two main ways in which the laws of Oceanic states provide for the acquisition of citizenship after birth.

The first reflects the post-colonial circumstances of states in Oceania. Newly independent nation states had to define the membership of their people, transforming colonial subjects into citizens. This was achieved by automatically conferring citizenship on certain classes of people at the date of independence, or providing for their registration as citizens (Part 3.2.1).

The second mechanism for the acquisition of citizenship after birth is naturalisation. In Oceania, there are a range of grounds for naturalisation, including residence in the country for a defined period and descent. There are also several categories of persons who have preferential access to citizenship by naturalisation, such as the spouses of citizens, former citizens and those who have made a special contribution to the state (Part 3.2.2).

### 3.2.1 Acquisition of citizenship upon independence

Prior to independence, the peoples of the Pacific islands were subject to various citizenship regimes imposed by colonising powers. Some of the peoples of what are now Fiji, Kiribati, Solomon Islands and Tuvalu were designated citizens of the United Kingdom and Colonies or British protected persons by British law.<sup>40</sup> Some people were given ‘belonger status’ in a particular territory, based on ancestry or residence. Even if formally given citizenship of the colonial power, Pacific Islanders were often still restricted in their movements. For example, although they were Australian citizens, Indigenous people in the Australian territory of Papua “had no right to enter or remain in Australia, or even to leave their own country”.<sup>41</sup>

Upon independence, constitution makers were faced with the question of how to transform the subjects of a colony into citizens of a nation-state. Resolving this issue was not always straightforward. As explained in Part 2, it was complicated by the desire to unite sometimes diverse Indigenous peoples in the one nation and by questions about non-Indigenous peoples who had settled in Oceanic states.

There were different ways in which the constitutions of independent states conferred citizenship upon their peoples at the date of independence.

#### (i) Reference to previous citizenship status

The first way was to define the citizenship of the new state by reference to the citizenship of the former colony.

This was the preferred approach of British colonial officials, who sought to implement the policy, approved by the British parliament, that all British protected persons and citizens of the United Kingdom and Colonies connected to the territory by birth, naturalisation or registration, and the children of such persons, should be entitled to citizenship of the newly

<sup>39</sup> An issue highlighted in the decision of the Fiji High Court in *State v Registration Officer, Tailevu Fijian Provincial Constituency ex parte Samuela Matawalu* [1995] 41 FLR 204.

<sup>40</sup> Hassall (n 24) 53.

<sup>41</sup> Thwaites (n 1) 12.

independent states.<sup>42</sup> This policy was animated by the desire to ensure that no-one in the former colonies would remain British citizens as well as by the concern to protect minority groups within former colonies from becoming stateless upon independence.

This approach was adopted in Fiji and Tuvalu. The independence Constitution of Fiji 1970 provided that persons who were citizens of the United Kingdom and Colonies by birth, naturalisation or registration in the colony of Fiji became Fiji citizens on the day after independence.<sup>43</sup> Similarly, the Constitution of Tuvalu 1978 provided that citizens of the United Kingdom and Colonies or British Protected Persons born in Tuvalu, or whose parents were born in Tuvalu, automatically became citizens.<sup>44</sup>

Three other states in the region, although not former British colonies, also adopted this approach. The Constitution of the Federated States of Micronesia provided for automatic citizenship upon independence for resident citizens of the Trust Territory of the Pacific.<sup>45</sup> In Samoa, all persons who were citizens under the Citizenship of Western Samoa Ordinance 1959 became citizens of the independent state of Samoa. In Nauru, citizenship was automatically conferred on any person who, on the date of independence, was included in the ‘Nauruan Community’, as defined in the Nauruan Community Ordinance 1956-1966. Under this ordinance, members of the Nauruan community included Indigenous people of Nauru as well as Pacific islanders married to Nauruans or formally admitted to the community.<sup>46</sup> This last category recognised the powers of chiefly leaders in Nauru to admit new members according to indigenous custom.<sup>47</sup>

### (ii) *Descent*

The second approach was to define and confer citizenship on the basis of descent. Provisions of this kind were commonly framed to confer citizenship on persons whose grandparents or ancestors were born in the Pacific island<sup>48</sup> or who were indigenous.<sup>49</sup> Recognising the movement of Indigenous peoples across what later (somewhat arbitrarily) became colonial and national borders, some constitutions also provided for automatic citizenship for persons whose grandparents were from what are now other states. For example, the constitution of Papua New Guinea conferred automatic citizenship at the date of independence on any person born in Papua New Guinea with two grandparents born in Papua New Guinea or in the adjacent Solomon Islands, Irian Jaya (in Indonesia) or Torres Strait (in Australia).<sup>50</sup> The definition of ‘indigenous Solomon Islander’ similarly extended to persons born in Solomon Islands whose grandparents were members of a group or tribe indigenous to Papua New Guinea or the New Hebrides (now Vanuatu).<sup>51</sup>

### (iii) *Previous citizenship status and descent*

In two states, the provisions for the conferral of citizenship upon independence combine the two approaches. Palau’s Constitution conferred citizenship on citizens of the Trust Territory of the Pacific Islands who had at least one parent of recognised Palauan ancestry.<sup>52</sup> The Marshall

<sup>42</sup> W David McIntyre, *Winding up the British Empire in the Pacific Islands* (Oxford University Press 2014) 189.

<sup>43</sup> *Constitution of Fiji 1970* s 19. The date of independence was 9 October 1970.

<sup>44</sup> *Constitution of Tuvalu 1978* s 19.

<sup>45</sup> *Constitution of the Federated States of Micronesia 1978* Art III, ss 1, 5.

<sup>46</sup> *Constitution of Nauru 1968* s 71.

<sup>47</sup> See *Tetau v Secretary of the Nauru Local Government Council* [1976] NRSC 9.

<sup>48</sup> Eg *Constitution of Kiribati 1979* s 20(1).

<sup>49</sup> Eg *Constitution of Vanuatu 1980* s 9.

<sup>50</sup> *Constitution of Papua New Guinea 1975* s 65(1).

<sup>51</sup> *Constitution of Solomon Islands 1978* s 26.

<sup>52</sup> *Constitution of Palau 1979* Art III, s 1.

Islands conferred citizenship on citizens of the former Trust Territory who had at least one parent with land rights in the Marshall Islands.<sup>53</sup> Land rights are held under customary law or traditional practice, and pass in different ways along matrilineal and patrilineal lines.

*(iv) Citizenship upon application*

While all newly independent states conferred citizenship on defined classes automatically, citizenship by registration or application was used as a way of dealing with persons whose status might be unclear, or whose inclusion in the citizenry was controversial at the time of independence.

Pre-independence constitutional negotiations between the Solomon Islands and Britain over the course of 1977 provide an example.<sup>54</sup> In this case, the issue of citizenship was particularly fraught. For their part, Solomon Islands leaders wanted to provide automatic citizenship only to Indigenous Solomon Islanders, defined as persons with two grandparents from Solomon Islands or neighbouring Melanesian islands. British officials, however, sought to apply the official policy, and held out for automatic citizenship for all British protected persons and citizens of the United Kingdom and Colonies connected to Solomon Islands and their children. This would mean that the small groups of Polynesians (many of whom settled in Solomon Islands prior to European colonisation), and i-Kiribati, European and Chinese settlers would also receive automatic citizenship. The compromise eventually reached was to confer automatic citizenship on Indigenous peoples, and give non-Indigenous peoples the right to apply for citizenship after the date of independence.<sup>55</sup> This was seen by British officials as “enabling the British principle of automaticity to be applied but by the Islanders and in their own ways”.<sup>56</sup>

Three other states provided for citizenship for defined groups by application or registration post-independence. The Constitution of Tuvalu 1978 provided for citizenship by registration for those groups who did not automatically become citizens upon independence.<sup>57</sup> The Federated States of Micronesia extended citizenship by registration to citizens resident in other districts of the Trust Territory of the Pacific.<sup>58</sup> The Constitution of Papua New Guinea provided that a person born outside of Papua New Guinea who had two grandparents born in Papua New Guinea could apply for citizenship within one year of independence.<sup>59</sup>

### **3.2.2 Naturalisation**

#### *Naturalisation based on residence*

Naturalisation of a person after a certain period of residence (sometimes called ‘ordinary naturalisation’) is not easily obtained in Oceanic states. This is consistent with the emphasis in Oceania on *ius sanguinis*, or citizenship on the basis of descent, as post-colonial Oceanic states sought to build a nation first and foremost for their own Indigenous people. A related concern was that admitting new citizens might dilute the customary connections between land and communities, especially in states where land is held under customary law.

<sup>53</sup> *Constitution of the Marshall Islands 1979* Art XI, s 1(1).

<sup>54</sup> For an overview of these negotiations see McIntyre (n 42) 187–195.

<sup>55</sup> *Constitution of Solomon Islands 1978* s 20.

<sup>56</sup> McIntyre (n 42) 194 citing British official correspondence.

<sup>57</sup> *Constitution of Tuvalu 1978* s 19; *Citizenship Act c 24.05* (Tuvalu) s 5.

<sup>58</sup> *Constitution of the Federated States of Micronesia 1978* Art III, ss 1, 5.

<sup>59</sup> *Constitution of Papua New Guinea 1975* s 65(2).

The Federated States of Micronesia, Nauru and Palau do not provide naturalisation for persons who have resided in the state for a certain period. In these states, naturalisation is available only to persons with other connections, such as the spouse of a citizen.

In the other nine states, naturalisation is discretionary, meaning that the state retains the ability to deny an application for naturalisation, even if a person meets all of the formal criteria. This discretion is evident in the statutory language, which provides that the decision maker ‘may’ grant or refuse an application for naturalisation. As shown in Table 2, an applicant for naturalisation based on residence must show he or she is of ‘good character’, which also gives the decision maker room to exercise discretion.

In these nine states, a person seeking naturalisation makes a formal application, and their status is determined by the Minister,<sup>60</sup> the King,<sup>61</sup> the Cabinet,<sup>62</sup> or a specialist Commission.<sup>63</sup> In the Marshall Islands, legislation imposes a quota maximum number of naturalisations per year.<sup>64</sup>

**Table 2 Naturalisation based on residence: criteria**

	Residence (years)	Renounce other citizenship	Language	Citizenship test	Good character	Means of support	Intention to reside	Loyalty	Respect for customs	Knowledge of duties of citizenship
<b>FSM</b>	-	-	-	-	-	-	-	-	-	-
<b>Fiji</b>	5 of 10	-	Yes	-	Yes	-	Yes	Yes	-	-
<b>Kiribati</b>	7	Yes	Yes	-	Yes	Yes	Yes	-	Yes	Yes
<b>Marshall Is</b>	10	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes	Yes
<b>Nauru</b>	-	-	-	-	-	-	-	-	-	-
<b>Palau</b>	-	-	-	-	-	-	-	-	-	-
<b>PNG</b>	8	Yes	Yes	-	Yes	Yes	Yes	Yes	-	Yes
<b>Samoa</b>	5	-	-	-	Yes	-	Yes	-	-	Yes
<b>Solomon Is</b>	5 of 10	-	Yes	-	Yes	-	Yes	-	Yes	Yes
<b>Tonga</b>	5	-	Yes	-	Yes	-	Yes	-	-	-
<b>Tuvalu</b>	7	-	-	-	Yes	Yes	Yes	Yes	Yes	-
<b>Vanuatu</b>	10	Yes	Yes	Yes	Yes	Yes	-	-	Yes	Yes

Although most decisions about naturalisation are ultimately made by a central government official or agency, several Oceanic states give a role to local community representatives in the decision-making process. In Papua New Guinea, an ad hoc member is appointed to the Citizenship Advisory Committee to represent the local community in which the applicant resides.<sup>65</sup> In the Marshall Islands, evidence of ‘good character’ is provided by recommendations from the local government council of the community in which the applicant resides.<sup>66</sup> In Vanuatu, an application for naturalisation must be accompanied by a letter of support from a representative of the town, island or provincial council of chiefs and the President of the provincial government.<sup>67</sup> In Nauru, it used to be the case that local government councils could admit people to the Nauruan Community, although the process is now

<sup>60</sup> *Citizenship of Fiji Act 2009* (Fiji) s 12, *Constitution of Papua New Guinea 1975* s 67; *Citizenship Act 2004* (Samoa) s 8).

<sup>61</sup> *Constitution of Tonga 1875* s 29; *Nationality Act c 59* (Tonga) s 8.

<sup>62</sup> *Citizenship Act 1984* (Marshall Is) §403

<sup>63</sup> *Citizenship Act c 8A* (Kiribati) s 7; *Citizenship Act 2018* (Solomon Is) s 14(2); *Citizenship Act c 24.05* (Tuvalu) s 6(3); *Citizenship Act c 112* (Vanuatu) s 12(2).

<sup>64</sup> *Citizenship Act 1984* (Marshall Is) s 403(2)(b).

<sup>65</sup> *Constitution of Papua New Guinea 1975* s 75; Hassall (n 24) 57.

<sup>66</sup> *Citizenship Act 1984* (Marshall Islands) s 403(2)(d).

<sup>67</sup> Application Form A available <https://vancitizenship.gov.vu/index.php/citizenship/application-forms>.

centralised under the control of Cabinet.<sup>68</sup> These procedures reflect the importance placed on sub-national interests, and in particular, the views of the local community in which the new citizen will live.

The primary ground for naturalisation based on residence is a minimum period of residency, ranging from five to ten years (see Table 2). In Fiji and Solomon Islands the minimum period of residency requires the person to have been ordinarily resident in the state for five of the past ten years immediately prior to the date of application. In Fiji, at least, the provision for an aggregate, rather than continuous, period of residence, was intended to reflect the common situation where a person resides in more than one country, or travels abroad for work, study, family reunification or other purposes.<sup>69</sup> In all but two states that provide for naturalisation based on residence, applicants must also demonstrate that they intend to reside permanently in the state once citizenship is granted (the exceptions are Nauru and Vanuatu).

An applicant for naturalisation based on residence will generally also have to meet a range of other criteria relating to their character, knowledge and loyalty. The most common across the region is ‘good character’, which imports a degree of discretion into the final decision to grant naturalisation.

In seven states, applicants for naturalisation based on residence must demonstrate their ability to speak and understand at least one language of the country. In six of these states, applicants must also demonstrate knowledge and understanding of the rights, privileges, responsibilities and duties of citizenship. Five states require applicants to show that they understand and respect the culture, customs or way of life of the people, a reference to the values of the Indigenous peoples (see Table 2). Citizenship tests are uncommon in Oceania: only in the Marshall Islands and Vanuatu does the law provide for a citizenship test. Vanuatu introduced a requirement that applicants sit and pass a citizenship test in 2013. The test is administered in Bislama, the local creole language.<sup>70</sup> In the Marshall Islands, the relevant legislation provides that an applicant has taken and passed a written test as may be prescribed by the Minister.<sup>71</sup>

In Kiribati, the Marshall Islands, Papua New Guinea and Vanuatu, applicants for naturalisation must undertake to renounce any foreign citizenship (although in Papua New Guinea, applicants must only renounce a foreign citizenship if they are not formally applying for dual citizenship: see Parts 3.3.2 and 4.1).<sup>72</sup> Laws in Fiji, the Marshall Islands, Papua New Guinea and Tuvalu require naturalised citizens to take an oath of loyalty.<sup>73</sup>

### *Naturalisation for spouses of citizens*

Legislation in all Oceanic states except the Marshall Islands and Palau make special provision for the naturalisation of spouses of citizens.

Many of these provisions were originally gendered, in that they expressly provided only for the naturalisation of a foreign woman married to a male citizen. Beginning with Fiji in 1997, several Oceanic states amended their laws to remove gender discrimination and provide

<sup>68</sup> *Tetau v Secretary of the Nauru Local Government Council* [1976] NRSC 9.

<sup>69</sup> Reeves, Vakatora and Lal (n 33) [6.73-76].

<sup>70</sup> *Citizenship Act c 112* (Vanuatu) s 12(2)(j).

<sup>71</sup> *Citizenship Act 1984* (Marshall Islands) s 403(2)(k).

<sup>72</sup> *Citizenship Act c 8A* (Kiribati) s 7(2)(h); *Citizenship Act 1984* (Marshall Is) s 403(2)(i); *Constitution of Papua New Guinea 1975* s 67(2)(g); *Citizenship Act c 112* (Vanuatu) s 12(2)(h).

<sup>73</sup> *Citizenship of Fiji Act 2009* (Fiji) s 13(1)(b); *Citizenship Act 1984* (Marshall Is) s 403(2)(j); *Constitution of Papua New Guinea 1975* s 67(2)(g); *Citizenship Act c 24.05* (Tuvalu) s 6(5)(b).



for equal access to naturalisation for male and female spouses of citizens. The relevant provisions in the Citizenship Act of the Federated States of Micronesia (made in 1979) and Papua New Guinea (introduced in 2016) both use the gender neutral term ‘spouse’. Kiribati is the only state in the region to retain gendered provisions. Its legislation provides that a woman who marries a man who is or becomes a citizen can apply for naturalisation.<sup>74</sup> Nauru’s Constitution still refers only to a woman who marries a citizen, but the implementing legislation treats the spouses of citizens equally.<sup>75</sup> (See further Part 4.3.)

In most states of Oceania, a person must be married to a citizen to be eligible for naturalisation. A de facto partnership will not suffice. In four states the person must have been married to a citizen for a minimum period, ranging from two to seven years. Seven states also require that the person must have been resident, sometimes with his or her spouse, for a minimum period of time (see Table 3). Other criteria, such as proficiency in language and good character may also be required.

**Table 3 Naturalisation: spouse of citizen**

	Procedure	Residence	Marriage	Other requirements
<b>FSM</b>	Discretion	5 years	Yes	Renounce foreign citizenship, language
<b>Fiji</b>	Entitlement	3 of last 5 years	Yes	-
<b>Kiribati</b>	Entitlement	-	Woman married to a male citizen	-
<b>Marshall Is</b>		-	-	-
<b>Nauru</b>	Discretion	7 years (with spouse; may be waived)	7 years	Intention to reside, good character, understands duties of citizenship
<b>Palau</b>	-	-	-	-
<b>PNG</b>	Discretion	1 of last 3 years	Yes (excludes customary marriage)	Renounce foreign citizenship
<b>Samoa</b>	Discretion	5 years	5 years	Intention to reside, good character, understands duties of citizenship
<b>Solomon Is</b>	Discretion	-	To citizen by birth for 5 years	Intention to reside or maintain close connection; good character
<b>Tonga</b>	Declaration	Yes	Yes	Oath of allegiance
<b>Tuvalu</b>	Entitlement	-	Yes	-
<b>Vanuatu</b>	Discretion	2 years (with spouse)	2 years	-

#### *Naturalisation based on descent*

Citizenship laws in many Oceanic states provide for naturalisation on the basis of descent. Such laws define the target group as persons with a particular ancestry or alternatively as the children or grandchildren of citizens.

Four states give persons with indigenous ancestry preferential access to citizenship: Kiribati, the Marshall Islands, Palau and Vanuatu. The Constitution of Kiribati expressly

<sup>74</sup> *Constitution of Kiribati 1979* s 26.

<sup>75</sup> *Constitution of Nauru 1968* s 74; *Naoero Citizenship Act 2017* (Nauru) s 13.

provides that every person of i-Kiribati descent has the right to become a citizen.<sup>76</sup> In Kiribati and Vanuatu a person with indigenous ancestry can apply for citizenship.<sup>77</sup> In Palau, a person with at least one parent of recognised Palauan ancestry can apply for naturalisation.<sup>78</sup>

The Constitution of the Marshall Islands provides for naturalisation on the basis of descent in two ways: first on the basis that a person has land rights, defined to mean “any right in any land in the Republic under the customary law or any traditional practice”; and secondly on the basis that the person is “of Marshallese descent, and that in the interests of justice his application should be granted”.<sup>79</sup> Both grounds demonstrate the importance of ‘blood relationship’ to citizenship, as the entitlement to land rights under Marshallese custom is based on family relationships. Both categories are covered, because, as the High Court of the Marshall Islands has noted, it is possible for a person to be of Marshallese descent and not have land rights. In Marshallese custom, there are two categories of land ownership. Matrilineal clan members have permanent land rights and authority over land, while patrilineal clan members have interim rights that last a few generations. As such, a descendant from a male Marshallese ancestor who has been absent from the state for several generations might be of Marshallese descent but not have land rights.<sup>80</sup>

In contrast, three states – Papua New Guinea, Samoa and Solomon Islands – define ancestry by reference to the *citizenship* of a person’s ancestors. Citizenship by descent is available in Papua New Guinea to a person with one parent or grandparent who was, or is eligible to be, a citizen; in Samoa to a person born outside Samoa with at least one grandparent who is a citizen by birth; and in Solomon Islands to a person with at least one parent, grandparent or great grandparent who is or was a citizen by birth.<sup>81</sup> Applicants might also be required to meet other criteria, such as residence or good character.

Naturalisation by descent reflects to the desire in many Oceanic states to constitute a citizenry based on shared indigenous heritage and culture. In Samoa, however, the stated purpose for the introduction of laws providing for citizenship by descent in 2016 was to permit non-citizens of Samoan descent to represent Samoa in various sporting events.<sup>82</sup>

### *Naturalisation for former citizens*

Several states in Oceania give preferential access to naturalisation to former citizens. One, now outdated, category of former citizen specifically provided for was a woman who had lost her citizenship upon marriage to a foreign citizen, and whose marriage had subsequently broken down. The only state to retain naturalisation for this category is Kiribati.<sup>83</sup> Tonga does not provide a special category, but its law does waive the residence requirement for naturalisation

<sup>76</sup> *Constitution of Kiribati 1979* s 19.

<sup>77</sup> *Constitution of Kiribati 1979* s 23, *Citizenship (Registration) Regulations 1983* (Kiribati); *Constitution of Vanuatu 1980* s 10, *Citizenship (Entitled Persons) Act c 110* (Vanuatu).

<sup>78</sup> *Constitution of Palau 1980* Art III s 4, *Citizenship Act c 13.1* (Palau) ss 136-141.

<sup>79</sup> *Constitution of the Marshall Islands 1979* Art XI, s 2(1)(a) and (c).

<sup>80</sup> *In Re Citizenship of Kiritano* [2012] MHHC 7.

<sup>81</sup> *Constitution of Papua New Guinea 1975* s 66(3); *Citizenship Act 2004* (Samoa) s 7(4); *Citizenship Act 2018* (Solomon Is) s 14(5).

<sup>82</sup> Kelly Buchanan, ‘Citizenship Act Amended to Allow Second Generation Samoans Overseas to Claim Citizenship’ (*Global Legal Monitor*, 24 August 2016) <<http://www.loc.gov/law/foreign-news/article/samoa-citizenship-act-amended-to-allow-second-generation-samoans-overseas-to-claim-citizenship/>>.

<sup>83</sup> *Citizenship Act 1979* (Kiribati) s 10.

where a woman who, prior to her marriage to a non-citizen was a Tongan subject, but is no longer married.<sup>84</sup>

A second, and now more common, way in which naturalisation is available to former citizens is to give preferential access to those who renounced or lost their citizenship as a result of laws to avoid dual citizenship. As explained in Part 4.1, on the date of independence, eleven of the twelve Oceanic states prohibited dual citizenship. By 2019, however, all but three expressly permit dual citizenship (the two exceptions are the Federated States of Micronesia and the Marshall Islands, while Kiribati is a partial exception in that it prohibits dual citizenship for people of non-i-Kiribati descent). As states amended their citizenship laws to permit dual citizenship, many also provided a new avenue for former citizens who had lost their citizenship upon taking up a foreign citizenship to regain their citizenship. In the Federated States of Micronesia, Papua New Guinea and Tuvalu, a former citizen can apply to regain citizenship after five years residence.<sup>85</sup> In Tonga, the residence requirements for naturalisation of former citizens are waived,<sup>86</sup> and no residence requirements apply in Nauru or Vanuatu.<sup>87</sup> In Fiji, former citizens who lost citizenship upon acquisition of a foreign citizenship have preferential access to naturalisation, in that the Minister must grant such applications, and may only refuse them on character grounds.<sup>88</sup>

#### *Naturalisation for those with special achievements or contributions*

Six states in the region provide for naturalisation for persons who have special achievements or who make a special contribution to the state. The Marshall Islands, Tuvalu and Vanuatu include public service of various kinds as a ground for naturalisation.<sup>89</sup> Papua New Guinea is alone in recognising sporting achievement as a ground for naturalisation, introduced by constitutional amendment in 2016.<sup>90</sup>

Four states include financial or business contributions as a ground for naturalisation. Schemes for citizenship by investment and passport sales have a long history in Pacific states, as discussed in Part 4.2 of this report.

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<sup>84</sup> *Nationality Act c 25.06* (Tonga) s 8(4).

<sup>85</sup> *Citizenship and Naturalisation Act c 7.2* (FSM) s 203(1); *Constitution of Papua New Guinea 1975* s 73(1); *Citizenship Act c 24.05* (Tuvalu) s 9.

<sup>86</sup> *Nationality Act c 59* (Tonga) s 17(1).

<sup>87</sup> *Naeroero Citizenship Act 2017* (Nauru) s 17; *Citizenship Act c 112* (Vanuatu) s 18.

<sup>88</sup> *Citizenship of Fiji Act 2009* (Fiji) s 8(6).

<sup>89</sup> *Citizenship Act 1984* (Marshall Is) s 404; *Citizenship Act c 24.05* (Tuvalu) s 6(5); *Citizenship Act s 112* (Vanuatu) s 20(2)(a), (b).

<sup>90</sup> *Constitution of Papua New Guinea 1975* s 67(4); *Citizenship Act 1975* (PNG) s 6A.

**Table 4 Naturalisation: Special achievements and contributions**

	<b>Grounds</b>	<b>Main facilitation</b>
<b>FSM</b>	None	-
<b>Fiji</b>	None	-
<b>Kiribati</b>	None	-
<b>Marshall Is</b>	Distinguished service or public interest	Can retain dual citizenship
<b>Nauru</b>	None	-
<b>Palau</b>	None	-
<b>PNG</b>	Sporting achievement or business investment	Specific category for naturalisation
<b>Samoa</b>	Financial investment	Reduced period of residence
<b>Solomon Is</b>	None	
<b>Tonga</b>	“Humanitarian grounds” <sup>91</sup>	Specific category for naturalisation
<b>Tuvalu</b>	Paid work for 7 years as official or representative of Tuvalu overseas	Specific category for naturalisation
<b>Vanuatu</b>	Financial investment or representative of Vanuatu government overseas	Specific category for naturalisation

### 3.3 Loss of citizenship

#### 3.3.1 *Voluntary loss of citizenship*

Legislation in ten states of Oceania sets out a process for the renunciation of citizenship. The two exceptions are Palau and Tonga which do not provide for voluntary renunciation of citizenship.

Of the ten states, all except the Federated States of Micronesia require that a person seeking to renounce their citizenship be of full age and capacity and hold, or be in the process of obtaining, citizenship of a foreign state. Such provisions reflect an effort to avoid statelessness, but are not always perfectly designed for this purpose. For example, there may be a situation where a state registers a declaration of renunciation of citizenship before the person has formally obtained foreign citizenship, with the risk that the foreign citizenship might not be granted. Legislation in some states deals expressly with this possibility. Some, such as Fiji and Nauru, require evidence that the person holds foreign citizenship.<sup>92</sup> The Citizenship Act of Samoa provides that, even if a declaration of renunciation is registered, a person is taken to be a citizen of Samoa until his or her citizenship status in the other country is proclaimed.<sup>93</sup>

In six states, the consent of the Minister or Cabinet is required if a person seeks to renounce their citizenship during a time of war (see Table 5). Other conditions for voluntary renunciation, such as residence outside the country or completion of the duties of citizenship, do not exist in Oceania’s citizenship laws.

<sup>91</sup> As explained in Part 4.2, the reference to the King of Tonga’s power to grant citizenship to a person on “humanitarian grounds” was intended to legitimise unlawful passport and citizenship sales.

<sup>92</sup> *Citizenship of Fiji Act 2009* (Fiji) s 15; *Naoero Citizenship Act 2017* (Nauru) s 22.

<sup>93</sup> *Citizenship Act 2004* (Samoa) s 14(3).

**Table 5 Voluntary loss of citizenship: Procedure and conditions**

	Procedure	Must hold another citizenship	Must be obtaining another citizenship	Consent required in time of war
<b>FSM</b>	Declaration	-	-	-
<b>Fiji</b>	Declaration, registered	Yes	-	-
<b>Kiribati</b>	Declaration	Yes	Yes	Yes
<b>Marshall Is</b>	Declaration	Yes	Yes	Yes
<b>Nauru</b>	Declaration, registered	Yes	-	-
<b>Palau</b>	-	-	-	-
<b>PNG</b>	Declaration	Yes	Yes	Yes
<b>Samoa</b>	Declaration, registered	Yes	Yes	-
<b>Solomon Is</b>	Application to commission	Yes	Yes	Yes
<b>Tonga</b>	-	-	-	-
<b>Tuvalu</b>	Declaration	Yes	Yes	Yes
<b>Vanuatu</b>	Declaration	Yes	Yes	Yes

In most states, the procedure for voluntary loss of citizenship requires the person to make a declaration in the prescribed form, which is then registered with the government agency responsible for citizenship. In Solomon Islands, an application for renunciation of citizenship is submitted to the Citizenship Commission for approval or refusal.<sup>94</sup>

### 3.3.2 Involuntary loss of citizenship

Broadly speaking, grounds for involuntary loss of citizenship arise from actions that demonstrate allegiance to a foreign state; a lack of allegiance to one’s own state; fraud in the acquisition of citizenship; or failure to meet the conditions of naturalisation. The most common specific grounds for involuntary loss of citizenship in Oceania are set out in Table 6.

**Table 6 Involuntary loss of citizenship: grounds**

	Acquire or retain foreign citizenship	Military services to foreign state	Allegiance or service to foreign state	Disloyalty or treason	Commits certain offences	Acquires citizenship by fraud	Residence abroad
<b>FSM</b>	Yes	Yes*	Yes	-	-	Yes	-
<b>Fiji</b>	-	-	-	Yes	-	Yes	-
<b>Kiribati</b>	Yes	Yes	Yes	-	-	Yes	-
<b>Marshall Is</b>	Yes	-	-	Yes	-	Yes	-
<b>Nauru</b>	-	-	-	-	-	Yes	Yes
<b>Palau</b>	-	-	-	-	-	Yes	-
<b>PNG</b>	Yes	Yes*	Yes	-	-	Yes	-
<b>Samoa</b>	-	-	-	Yes	-	Yes	Yes
<b>Solomon Is</b>	-	Yes	-	-	Yes	Yes	-
<b>Tonga</b>	-	-	-	Yes	Yes	Yes	-
<b>Tuvalu</b>	-	-	-	-	-	Yes	Yes
<b>Vanuatu</b>	Yes	Yes	Yes	-	Yes	Yes	-

\* Exceptions: in FSM for military service in United States; in PNG for military service by dual nationals.

<sup>94</sup> *Citizenship Act 2018* (Solomon Is) ss 22-23.

### *Foreign allegiance*

Loss of citizenship on the ground of allegiance to a foreign state provided a way for states to avoid dual citizenship. Dual citizenship could be avoided by removing citizenship from those who gained a foreign citizenship or by requiring children born with multiple citizenship to choose one upon adulthood. Some states provided that any manifestation of active foreign citizenship, such as swearing allegiance to a foreign state, travelling on a foreign passport or voting in an election, were grounds for loss of citizenship.<sup>95</sup>

In Oceania, eleven of the twelve states sought to avoid dual citizenship in their original citizenship laws. In 2019, however, only three states continue to prohibit dual citizenship. In the Federated States of Micronesia, the Marshall Islands and Kiribati (for those of non-i-Kiribati descent) holding a foreign citizenship is grounds for loss of citizenship. A person of non-i-Kiribati descent and any person in the Federated States of Micronesia who voluntarily obtains another citizenship will automatically lose their Kiribati or Micronesian citizenship. In the Marshall Islands, the relevant Minister can apply to the High Court for the cancellation of a person's citizenship on the ground that the person has voluntarily obtained citizenship of another country. Failure to renounce a foreign citizenship within a specified period can automatically result in loss of citizenship in the Federated States of Micronesia and Kiribati, and makes a person in the Marshall Islands liable to such loss. In the Federated States of Micronesia and Kiribati, serving in the armed forces of another state, taking an oath of allegiance to a foreign state or voting in an election in another state are also grounds for loss of citizenship.<sup>96</sup>

In Papua New Guinea and Vanuatu, dual citizenship is permitted only in certain circumstances and must be registered. Amendments to Papua New Guinea's Constitution in 2014 provided that Papua New Guinean citizenship could be held alongside citizenship of prescribed countries, which include Australia, Fiji, Germany, New Zealand, Samoa, United Kingdom, United States of America and Vanuatu.<sup>97</sup> There is no legislative guidance about which countries will be prescribed, but recognition of dual citizenship by the prescribed countries was regarded as an important control.<sup>98</sup> There are less restrictions on dual citizenship in Vanuatu, but a formal application must be made to the Citizenship Commission before a person's dual citizenship is recognised.<sup>99</sup> A person who is not a dual citizen will automatically lose their Papua New Guinea or Vanuatu citizenship upon obtaining or failing to renounce a foreign citizenship, serving in a foreign armed service (without express approval) or exercising a right exclusive to citizens of a foreign country, such as voting in an election or travelling on a foreign passport.<sup>100</sup>

While Solomon Islands permits dual citizenship, a person who serves in the armed forces of another country without the prior consent of the Minister, or of a country at war with Solomon Islands, is liable to have their Solomon Islands citizenship removed.<sup>101</sup>

<sup>95</sup> Peter Spiro, 'Multiple Citizenship' in Ayelet Shachar and others (eds), *The Oxford Handbook of Citizenship* (Oxford University Press 2017) 625–7.

<sup>96</sup> *Citizenship and Naturalisation Act c 7.2* (FSM) § 206(1); *Citizenship Act 1979* (Kiribati) s 8(1); *Citizenship Act 1984* (Marshall Is) s 406.

<sup>97</sup> *Constitution Amendment (No 37) (Citizenship) Law 2014* (PNG), *Citizenship (Amendment) Act 2016* (PNG) s 6C.

<sup>98</sup> See Parliament of Papua New Guinea, *Hansard*, 19 February 2014, 26/06.

<sup>99</sup> *Constitution (Sixth Amendment) Act No 27 of 2013* (Vanuatu); *Citizenship (Amendment) Act No 39 of 2013* (Vanuatu) Part 3A.

<sup>100</sup> *Constitution of Papua New Guinea 1975* s 70(1)(a)-(d); *Citizenship Act s 112* (Vanuatu) s 14(1)(b).

<sup>101</sup> *Citizenship Act 2018* (Solomon Is) s 25(2), (3).

*Disloyalty and serious crimes*

Several states in Oceania provide for involuntary loss of citizenship for actions that demonstrate a lack of allegiance to the state or cause harm to the state.

In five states, a person's citizenship can be revoked upon conviction of specified offences. In the Marshall Islands, these offences include advocating the overthrow or alteration of the government by unlawful means, espionage, sabotage and sedition; while in Tonga, the King may revoke the citizenship of a person convicted of terrorism, treason, sedition, an offence of dishonesty, defamation of the monarch or any other offence that carries a sentence of two or more years imprisonment. In Nauru, a person convicted of terrorism, financing of terrorist activities, or sexual offences involving a child can be deprived of citizenship. In Solomon Islands, a person convicted of specified crimes against the state, such as treason, mutiny, and terrorism, can be stripped of citizenship. In Vanuatu, the Prime Minister has the power to withdraw citizenship from a person sentenced to a term of imprisonment of ten years or more.<sup>102</sup>

Citizenship laws in four states permit revocation of citizenship on broader, more discretionary grounds. In Fiji, a person's citizenship may be revoked if he or she does anything or is involved in an activity incompatible with the oath of allegiance. The King of Tonga, with the consent of the Privy Council, may revoke a person's certificate of naturalisation, if there are reasonable grounds to believe the person constitutes a threat to the security of Tonga. In Samoa, a Minister can cancel a person's citizenship if the person has been "disloyal or disaffected towards Samoa", and can cancel an investor's citizenship if he or she is involved in an activity that causes or is likely to cause disrepute to Samoa. In Kiribati, the Minister, with the advice of the Cabinet, can order that a person be deprived of citizenship on the ground that "it is not conducive to the public good that such person should continue to be a citizen".<sup>103</sup>

In all but one state, powers to revoke citizenship on these grounds may only be exercised in relation to naturalised citizens. The exception is Solomon Islands, where provisions for the loss of citizenship expressly apply to all citizens, with the proviso that the exercise of the power to deprive a person's citizenship cannot render the person stateless.<sup>104</sup>

*Fraud in the acquisition of citizenship*

In all twelve states of Oceania, fraud or misrepresentation in the acquisition of citizenship is a ground for loss of citizenship. This ground of loss applies only to citizenship granted by naturalisation or registration.

In the Federated States of Micronesia, Kiribati, the Marshall Islands, Palau, Papua New Guinea, Tuvalu and Vanuatu, loss of citizenship requires a court to find that the person obtained citizenship through fraud, concealment or a material fact or false representation.<sup>105</sup> In other states, the findings and the decision are administrative decisions, taken by the King (in Tonga);

<sup>102</sup> *Naoero Citizenship Act 2017* (Nauru) s 23(1); *Citizenship Act 1984* (Marshall Is) s 407(b), (c); *Citizenship Act 2018* (Solomon Islands) s 25(4); *Nationality Act c 59* (Tonga) s 12(1); *Citizenship Act c 112* (Vanuatu) s 16.

<sup>103</sup> *Citizenship of Fiji Act 2009* (Fiji) s 17(2)(b); *Nationality Act c 59* (Tonga) s 12(1); *Citizenship Act 2004* (Samoa) s 15 and *Citizenship Investment Act 2015* (Samoa) s19(e); *Citizenship Act 1979* (Kiribati) s8A.

<sup>104</sup> *Citizenship Act 2018* (Solomon Is) s 25(5).

<sup>105</sup> *Citizenship and Naturalisation Act c 7.2* (FSM) s 205(2); *Citizenship Act 1979* (Kiribati) s 8(2); *Citizenship Act 1984* (Marshall Is) s 407(a); *Citizenship Act c 13.1* (Palau) s 143; *Constitution of Papua New Guinea 1975* s 70(2); *Citizenship Act c 24.05* (Tuvalu) s 7(5); *Citizenship Act c 112* (Vanuatu) s 14(2).

a Minister (in Fiji and Samoa); the Cabinet (in Nauru) or the Citizenship Commission (in Solomon Islands).<sup>106</sup>

In Kiribati, Papua New Guinea and Vanuatu, even where a court finds that citizenship was obtained by misrepresentation or fraud, a Minister can decide not to cancel a person's citizenship if satisfied that the offence was of a minor nature and that the true facts would not have affected the grant of citizenship.<sup>107</sup>

In five states, legislation makes clear that loss of citizenship on this ground takes effect on or after the date of the decision of the relevant authorities (*ex nunc*).<sup>108</sup> In Palau, on the other hand, where citizenship is revoked on this ground, the revocation is effective from the date of the original grant of citizenship (*ex tunc*).<sup>109</sup> In Tonga, the order of revocation has effect from "such date as the King may direct".<sup>110</sup> In the Federated States of Micronesia, Kiribati, Samoa, Solomon Islands and Tuvalu the effective date of loss of citizenship is not clear on the face of the legislation.

#### *Failure to meet the conditions of naturalisation*

Laws in some Oceanic states permit deprivation of citizenship where the person fails to comply with specified criteria for naturalisation. The most common ground of this kind is failure to reside permanently in the state after naturalisation, which is a ground for loss of citizenship in Nauru, Samoa and Tuvalu.<sup>111</sup>

Other less common grounds for loss of citizenship also fall into this category. For example, a person who is granted Nauruan citizenship upon their marriage to a Nauruan may be deprived of that citizenship if he or she remarries a non-Nauruan after divorce or the death of his or her spouse.<sup>112</sup> In an example of a different kind, a person granted Samoan citizenship by investment can lose that citizenship if the investor fails to carry out the investment or maintain his or her pre-determined net worth.<sup>113</sup>

<sup>106</sup> *Citizenship of Fiji Act 2009* (Fiji) s 17(2)(a); *Naoero Citizenship Act 2017* (Nauru) s 23(1); *Citizenship Act 2004* (Samoa) s 15; *Citizenship Act 2018* (Solomon Is) s25(1); *Nationality Act c 59* (Tonga) s 12(1).

<sup>107</sup> *Citizenship Act 1979* (Kiribati) s 8(2); *Constitution of Papua New Guinea 1975* s 70(2); *Citizenship Act c 112* (Vanuatu) s 14(2).

<sup>108</sup> *Citizenship of Fiji Act 2009* (Fiji) s 17(5)(a); *Naoero Citizenship Act 2017* (Nauru) s 23(6); *Citizenship Act 1984* (Marshall Is) s 407; *Citizenship Act c 112* (Vanuatu) s 14(2).

<sup>109</sup> *Citizenship Act c 13.1* (Palau) s 143(a).

<sup>110</sup> *Nationality Act c 59* (Tonga) s 12(1).

<sup>111</sup> *Naoero Citizenship Act 2017* (Nauru) s 23(1)(b); *Citizenship Act 2004* (Samoa) s 16; *Citizenship Act c 24.05* (Tuvalu) s 7(6).

<sup>112</sup> *Naoero Citizenship Act 2017* (Nauru) s 24.

<sup>113</sup> *Citizenship Investment Act 2015* (Samoa) s 19(a),(b).



## 4. Current debates and trends

### 4.1 Dual citizenship

At the time they were originally enacted, citizenship laws in eleven of the twelve states of Oceania prohibited or sought to avoid dual citizenship.

Kiribati was the exception, as it adopted innovative constitutional provisions to accommodate its distinctive colonial history and the cross-border movement of entire communities. In order to facilitate intensive phosphate mining on the island of Banaba (also called Ocean Island) in the early twentieth century, the British colonial government negotiated to relocate the Banaban people. In 1945, many of the people of Banaba were relocated to Rabi Island in Fiji, where the colonial government recognised them as a distinct community with their own form of government and a degree of autonomy.<sup>114</sup> With decolonisation, however, issues arose in both Fiji and Kiribati over the appropriate citizenship status of Banabans living in Rabi. Fiji's independence Constitution treated Banabans as it did other groups living in Fiji, conferring Fijian citizenship on those born in Fiji, and the right to apply for Fijian citizenship for those born overseas.<sup>115</sup> Fiji, however, prohibited dual citizenship and required Banabans to renounce their British citizenship if they wanted to take up Fijian citizenship.<sup>116</sup>

In this context, Kiribati's independence Constitution of 1979 included a range of innovations to recognise the continued connection between the Banabans living in Rabi and their island in Kiribati's territory, as well as other relocated i-Kiribati peoples.<sup>117</sup> The first was to entitle all peoples of i-Kiribati descent to hold dual citizenship (in contrast naturalised citizens of non-i-Kiribati descent must renounce any other citizenship in order to hold Kiribati citizenship). Secondly, the Constitution guaranteed anyone of i-Kiribati descent the right to enter and reside in Kiribati. Thirdly, the Constitution provided special protections for Banabans, including entrenched protection of their rights to land in Banaba, unaffected by their place of residence.<sup>118</sup> In this way, Kiribati's citizenship laws found a way to accommodate the complexities of identity and connection between a relocated people and place. They also negotiated the prohibitions on dual citizenship then in place in neighbouring Pacific states by recognising dual citizenship only for persons of i-Kiribati descent.

Beginning in the late 1990s, other states in Oceania began to recognise and permit dual citizenship, by removing automatic loss of citizenship for citizens who acquired foreign citizenship (outgoing naturalisations) and removing the requirement that naturalised citizens renounce their previous citizenship (incoming naturalisations). In 2019, only the Federated

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<sup>114</sup> For detailed history see Katerina Martina Teaiwa, *Consuming Ocean Island: Stories of People and Phosphate from Banaba* (Indiana University Press 2015).

<sup>115</sup> *Constitution of Fiji 1970* ss 19, 20.

<sup>116</sup> Jane McAdam, "'Under Two Jurisdictions': Immigration, Citizenship, and Self-Governance in Cross-Border Community Relocations" (2016) 34 *Law and History Review* 281, 307–8.

<sup>117</sup> At the date of independence there was a significant community of i-Kiribati people living in Solomon Islands. In the 1930s, people from other parts of the then Gilbert Islands were relocated to uninhabited islands in the Phoenix Group, which were prone to severe drought. The people were relocated again in the 1950s, this time to Solomon Islands: Kenneth E Knudson, 'Sydney Island, Titiana, and Kamaleai: Southern Gilbertese in the Phoenix and Solomon Islands' in Michael D Lieber (ed), *Exiles and Migrants in Oceania* (University Press of Hawaii 1977).

<sup>118</sup> *Constitution of Kiribati 1979* ss 19, 119.

States of Micronesia and the Marshall Islands continue to have laws to avoid dual citizenship,<sup>119</sup> while Kiribati still prohibits dual citizenship for people not of i-Kiribati descent.

**Table 7 Dual citizenship**

	Dual citizenship permitted?			Date of legal change to permit dual citizenship
	At birth	Incoming naturalisation	Outgoing naturalisation	
<b>FSM</b>	Yes (but dual citizenship must be relinquished at adulthood)	No	No	-
<b>Fiji</b>	Yes	Yes	Yes	2009
<b>Kiribati</b>	Yes (i-Kiribati descent only)	Yes (i-Kiribati descent only)	Yes (i-Kiribati descent only)	-
<b>Marshall Is</b>	Yes (but dual citizenship must be relinquished at adulthood)	No	No (except for acquisition of foreign citizenship upon marriage)	-
<b>Nauru</b>	Yes	Yes	Yes	1997 (for incoming naturalisation) 2005 (for all)
<b>Palau</b>	Yes	Yes	Yes	2008
<b>PNG</b>	No	Yes (only for prescribed countries)	Yes (only for prescribed countries)	2014
<b>Samoa</b>	Yes	Yes	Yes	2004
<b>Solomon Is</b>	Yes	Yes	Yes	2018
<b>Tonga</b>	Yes	Yes	Yes	2007
<b>Tuvalu</b>	Yes	Yes	Yes	2009
<b>Vanuatu</b>	No	Yes	Yes	2013

In this shift towards recognition and acceptance of dual citizenship, states in Oceania are following a wider global trend.<sup>120</sup> In making the change, however, law-makers have given a range of reasons pertinent to the particular circumstances of Pacific states.

One of the most common is the desire to reintegrate peoples of Pacific island descent into their home countries. Samoa and Tonga have large diasporas and there are growing numbers of migrants from Fiji and Micronesian states living permanently in Australia, New Zealand and the United States.<sup>121</sup> These diasporic populations are large, relative to the populations remaining in their home states: for example, there are more Tongans living overseas than in Tonga.<sup>122</sup> The main reasons for migration from Pacific islands are economic – as people seek work, higher pay and education opportunities abroad – and social, such as marriage and family connections. Many retain strong links to their home states, sending remittances to their family and community, travelling between their home state and state of

<sup>119</sup> Constitutional changes to permit dual citizenship have been proposed in FSM but have failed to pass: Rosalinda Yatilman, 'FSM Constitutional Amendment of Dual Citizenship' (*The Fourth Branch*, 30 April 2012) <<http://www.tfbmicronesia.com/articles/2012/4/30/fsm-constitutional-amendment-of-dual-citizenship-by-rosalind.html>>.

<sup>120</sup> Spiro (n 95).

<sup>121</sup> John Connell, 'The Pacific Diaspora', *Migration and Development: Perspectives from Small States* (Commonwealth Secretariat 2015) 245.

<sup>122</sup> Helen Lee, 'Pacific Migration and Transnationalism: Historical Perspectives' in Helen Lee and Steve Tupai Francis (eds), *Migration and Transnationalism: Pacific Perspectives* (ANU E Press 2009) 8.

residence, and retaining their Pacific Islander identity.<sup>123</sup> The Tongan diaspora was primarily responsible for promoting changes to permit dual citizenship, citing the personal “anguish” of having to relinquish Tongan citizenship as well as their desire to contribute to Tonga through economic and social investments.<sup>124</sup>

In addition to more recent post-independence migration of this kind, several Pacific polities suffered from forced and indentured labour during colonial times. Solomon Islands and Vanuatu peoples in particular were targeted by ‘blackbirding’ and taken, often involuntarily, to work on plantations in Fiji, Samoa and Queensland. In discussing legal changes to recognise dual citizenship, law-makers in Solomon Islands and Vanuatu specifically noted the desire to reintegrate people of Pacific birth or ancestry who lost their citizenship in this way.<sup>125</sup>

This emphasis on dual citizenship as a way to recognise Pacific Islanders living abroad might reflect particularly indigenous understandings of migration. Indigenous scholars have sought to displace western conceptions of migration as motivated only by individualistic economic concerns, and have developed theories of migration based on Indigenous conceptions of mobility, place and social connection. For example, Sa’iliemanu Lilomaiava-Doktor has shown how Samoan understandings of migration are not so much about moving from one place to another, but are deeply embedded in Indigenous conceptions of kinship and obligation to one’s land and family.<sup>126</sup> It is impossible to generalise across the diverse peoples of Oceania, and Indigenous peoples of other states will have different understandings of migration and values associated with belonging,<sup>127</sup> but dual citizenship does appear to be one way to recognise in law distinctive Indigenous connections between individuals, place and community as well as the realities of globalisation.

The trend towards dual citizenship might also reflect the changing dynamics of decolonisation. As noted above, most constitutions made upon independence prohibited or sought to avoid dual citizenship. Again, the specific concerns differed across different states, but common arguments in favour of prohibiting dual citizenship focused on the struggle against colonialism and the need for nation-building. At the time of independence, the status of non-Indigenous people living in the territory was a fraught issue. In Papua New Guinea, for example, debates over citizenship became a way to respond to racially discriminatory policies of Australian colonisers. Dual citizenship was seen as conferring additional benefits on an already privileged group of non-Indigenous people and contrary to constitution-maker’s goal of equalising economic and social rights of Indigenous Papua New Guineans.<sup>128</sup>

While these concerns may no longer be as pressing in some states, they continue to inform debates in those states that continue to prohibit dual citizenship. For example, the former President of the Federated States of Micronesia, John Haglelgam, advocated against

<sup>123</sup> *ibid* 12.

<sup>124</sup> ‘Double Trouble? The Question of Dual Citizenship in Fiji’ (*Stuck in Fiji M.U.D.*, 11 February 2008) <<http://stuckinfiyimud.blogspot.com/2008/02/double-trouble-question-of-dual.html>>.

<sup>125</sup> ‘Dual Citizenship Bill Awaits Further Debate’ *Solomon Star News* (13 November 2018) <<https://www.solomonstarnews.com/index.php/news/national/item/21105-dual-citizenship-bill-awaits-further-debate>>; ‘Vanuatu Government Defends Changing Constitution to Allow Dual Citizenship’ *ABC News* (11 February 2014) <<https://www.abc.net.au/news/2014-02-11/an-vanuatu-defends-dual-citizenship-changes/5252122>>.

<sup>126</sup> Lilomaiava-Doktor (n 6).

<sup>127</sup> See eg Rebecca Monson and George Hoa’au, ‘(Em)Placing Law: Migration, Belonging and Place in Solomon Islands’ in Fiona Jenkins, Mark Nolan and Kim Rubenstein (eds), *Allegiance and Identity in a Globalised World* (Cambridge University Press 2014); and chapters in Helen Lee and Steve Tupai Francis (eds), ‘Migration and Transnationalism: Pacific Perspectives’ (ANU E Press 2009).

<sup>128</sup> Constitutional Planning Committee Papua New Guinea, ‘Constitutional Planning Committee Report’ (1974) ch 4.

changing the Constitution to permit dual citizenship, raising concerns about the impact that dual citizenship for non-Indigenous residents might have on Indigenous rights to land ownership. He argues that a country “still struggling to develop a full blown nationalism, a prerequisite for a robust national sovereignty”<sup>129</sup> cannot afford the dilution of national allegiance implied by dual citizenship.

This brief survey of the motivations behind the legal change to permit dual citizenship indicates that, at the regional level, the desire to reintegrate Pacific Islanders living overseas into their home state have come to outweigh fears – justifiable in light of colonial experiences – of foreign ownership and exploitation.

## 4.2 Citizenship by investment

A second feature of the citizenship laws of Oceania is the region-wide experimentation with forms of investor citizenship. Also known as ‘economic citizenship’ or citizenship or passport sales, investor citizenship schemes are used by small Oceanic states to attract revenue in exchange for granting citizenship to persons who otherwise have no connections to the country.<sup>130</sup> For states with limited economic resources, the sale of passports and citizenship can provide significant revenue, and in some cases constitutes a significant proportion of a country’s GDP.<sup>131</sup>

In return, those who purchase citizenship might get a passport with visa-free entry to certain states or greater freedom of movement, or tax or other concessions in their home state. Some are misled to believe that holding citizenship of the Pacific state will give them preferential access to the United States or other popular immigration states. Most purchasers of citizenship in Oceania have been from mainland China, Hong Kong and Taiwan.<sup>132</sup>

### 4.2.1. Passports for sale

States in Oceania were early pioneers in passport sales. In 1982, the King and Privy Council of Tonga created ‘Tongan Protected Person Passports’, which were sold mainly in Hong Kong. The passports did not confer citizenship, residency rights or visa-free entry, and several states in the wider Asia-Pacific region refused to recognise them. In order to ward off constitutional challenge in Tonga, the passport sales were given a legislative basis and redescribed as travel documents rather than as a conferral of citizenship.<sup>133</sup>

In the mid 1990s, Kiribati and Tuvalu also experimented with selling passports but not citizenship. Kiribati introduced an ‘investor passport’ in 1996, which came with the right of residence. This scheme was repealed in 2004.<sup>134</sup> In 1997, Tuvalu began selling passports,

<sup>129</sup> John R Haglelgam, ‘Letter to the Editor: Former FSM President on Dual Citizenship Act’ *The Kaselehlle Press* (Pohnpei, 8 February 2017)

<[http://www.kpress.info/index.php?option=com\\_content&view=article&id=529:letter-to-the-editor-former-fsm-president-on-dual-citizenship-act&catid=10&Itemid=119](http://www.kpress.info/index.php?option=com_content&view=article&id=529:letter-to-the-editor-former-fsm-president-on-dual-citizenship-act&catid=10&Itemid=119)>.

<sup>130</sup> Jelena Džankić, *The Global Market for Investor Citizenship* (Springer 2019) 8.

<sup>131</sup> Anthony Van Fossen, ‘Citizenship for Sale: Passports of Convenience from Pacific Island Tax Havens’ (2007) 45 *Commonwealth & Comparative Politics* 138, 141.

<sup>132</sup> Ron Crocombe, *Asia in the Pacific Islands: Replacing the West* (IPS Publications, University of the South Pacific 2007) 64–5, 165–7.

<sup>133</sup> Fossen (n 131) 141–6.

<sup>134</sup> Immigration and Refugee Board of Canada, *Kiribati: Whether foreigners can obtain passports through the Investor Passport Program; whether this program gives residence or citizenship rights; if applicable, the circumstances leading to the loss of these rights; the significance of the letters before the status and number on*

mainly to Chinese citizens. As in Tonga and Kiribati, purchasing a passport did not automatically lead to conferral of citizenship.<sup>135</sup> In addition to these formal government schemes, illegal passport sales also thrived in some states. In 1998, the Vanuatu Ombudsman exposed high level government officials who were issuing diplomatic passports to ‘honorary consuls’ and other sham positions in return for payment.<sup>136</sup> Over the 1990s, Samoan passports were sold in Hong Kong and China, with revenue and the passports themselves later unaccounted for.<sup>137</sup> Officials in Solomon Islands were convicted of corruption offences over the illegal sale of passports (but not citizenship) to Chinese nationals.<sup>138</sup>

#### 4.2.2. *Citizenship for sale*

Over time, several Oceania states came to sell not just passports but citizenship. In some states, this was done through broad discretionary powers of naturalisation given to executive governments, permitting, for example, naturalisation of persons on ‘national interest’ grounds. More recently, two states – Samoa and Vanuatu – have legislated for detailed investor citizenship programs.<sup>139</sup>

##### *Discretionary investor citizenship*

In Tonga, the sale of passports became the sale of citizenship in 1984 when the Nationality Act was amended to give the King of Tonga the power to grant naturalisation to any foreigner of “good character on humanitarian grounds” for a prescribed fee.<sup>140</sup> After a court challenge, the scheme was discontinued in 1988. It was briefly reintroduced in 1996, along with provisions giving holders of Protected Person Passports the right to apply for naturalisation.<sup>141</sup>

Similar legislative provisions to permit discretionary naturalisation “in the public interest” for “distinguished service” to the country in exchange for a prescribed fee enabled the sale of citizenship in the Marshall Islands between 1987 and 1996.<sup>142</sup> During this time, the Marshall Islands sold around 2000 citizenships, mainly to applicants from China. The program ended at the same time that the United States made migration and entry to the United States on Marshallese passports more difficult.<sup>143</sup>

Nauru legislated in 1997 to create a category of ‘citizen investor’ for a person and his or her family who “has made an investment in the island of Nauru in such form and of such amount as determined by Cabinet”.<sup>144</sup> It is estimated that 1000 sales were made between 1998 and 2002, generating eight percent of Nauru’s GDP. Nauru’s citizenship by investment

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*the Kiribati passport (1997-2010)*, 10 January 2011, KIR103658.FE, available at:

<https://www.refworld.org/docid/4e02e0ba2.html>.

<sup>135</sup> Immigration and Refugee Board of Canada, *Tuvalu: Acquisition of Tuvalu passports and/or citizenship by foreigners*, 22 February 2000, TUV33786.E, available at: <https://www.refworld.org/docid/3ae6ad7d1c.html>.

<sup>136</sup> Ombudsman of Vanuatu, ‘Report on the Improper and Unlawful Issue of Diplomatic and Official Passports’ (1998).

<sup>137</sup> Fossen (n 131) 146.

<sup>138</sup> *R v Kaliuae* [2010] SBHC 25; Crocombe (n 132) 166.

<sup>139</sup> This typology is drawn from Džankić (n 130) ch 4.

<sup>140</sup> *Nationality Act c 25.06* (Tonga) s 8B.

<sup>141</sup> *Nationality (Amendment) Act 1996* (Tonga); Fossen (n 131) 141–6.

<sup>142</sup> *Citizenship Act 1984* (Marshall Is) s 404 (repealed 2001).

<sup>143</sup> Fossen (n 131) 147–50.

<sup>144</sup> *Nauruan Community Act 1956-1997* s 5(6)-(9). Although the scheme ended, persons holding citizenship by investment retain it: *Naoero Citizenship Act 2005* (Nauru) s 10.

program ended in 2003 after international concerns about the use of Nauruan passports by suspected terrorists.<sup>145</sup>

Amendments to Papua New Guinea's Constitution and Citizenship Act in 2016 created a category of naturalisation for persons who have "resources, capital, commitment and credentials to invest in the country's economy to create employment and impart skills to citizens".<sup>146</sup> Like the programs in the Marshall Islands, Nauru and Tonga, citizenship by investment is granted at the discretion of minister, with advice from the Citizenship Advisory Committee.

### *Official programs for investor citizenship*

Vanuatu and Samoa have developed more detailed programs, with criteria set out in legislation. Since 2013, Vanuatu has developed a range of different schemes for citizenship by investment. They share a common framework and allow a person who pays a prescribed application fee and invests a specified amount into a state development fund to apply for Vanuatu citizenship.<sup>147</sup> In contrast to other forms of naturalisation, investors are not required to reside or spend time in Vanuatu before being granted citizenship. Vanuatu's citizenship by investment programs have proven popular. In 2018, 1800 citizenships were sold, providing Vanuatu with 30% of its revenue.<sup>148</sup>

In Samoa, the Citizenship Investment Act 2015 provides a pathway to Samoan citizenship for persons of a minimum net worth who are willing to invest a predetermined amount within three years. Investors and their family members are granted permanent residence and can apply for citizenship after three years of residence (compared to five years for ordinary naturalisation).

### *Benefits and risks*

Citizenship by investment is a popular way for small island states in Oceania to generate revenue. However, as this overview shows, schemes for the sale of citizenship are not without risk. In several cases, the sale of passports and citizenship has been tainted by corruption and the revenue generated not re-invested in the state. The discretionary nature of many citizenship by investment schemes in Oceania has led to a lack of transparency, which further facilitates corruption. When passports and/or citizenship are issued too freely, a state's international reputation can be diminished, leading to restrictions on visa free travel or the removal of concessions by other states.

Domestically, citizenship by investment schemes are often controversial and unpopular with a public concerned about corruption, the domestic impact of immigration, and the cheapening of their emotional connection to citizenship. The exposure of the sale of citizenship in Tonga was a spark in the pro-democracy movement in Tonga.<sup>149</sup> Even the most transparent

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<sup>145</sup> Fossen (n 131) 153–5.

<sup>146</sup> *Constitution of Papua New Guinea 1975* s 67(4) (b). See also *Citizenship Act 1975* (PNG) s 6B.

<sup>147</sup> *Citizenship Act c 122* (Vanuatu) s 13C. Various called the 'Capital Investment Immigration Plan', 'Honorary Citizenship under Vanuatu Development Support Program' and 'Vanuatu Contribution Program'.

<sup>148</sup> Sarah Treanor and Vivienne Nunis, 'How Selling Citizenship Is Now Big Business' *BBC News* (10 October 2019) <<https://www.bbc.com/news/business-49958628>>.

<sup>149</sup> Fossen (n 131) 143.

and highly regulated schemes in Vanuatu have been criticised as a betrayal to those who fought for independence and the right to hold ni-Vanuatu citizenship.<sup>150</sup>

### 4.3 Gender discrimination

A third trend over the past three decades is the gradual removal of gender discrimination from the citizenship laws of the states of Oceania. When originally enacted, citizenship laws in Fiji, Kiribati, Nauru, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu discriminated on the basis of sex, gender or marital status in various ways.<sup>151</sup> This section outlines the ways in which historic and current laws discriminate and the legal reforms undertaken to remove it.

*Naturalisation for spouses of citizens:* In several states, citizenship laws entitled women married to citizens privileged access to citizenship by naturalisation. A non-citizen married man, however, was not entitled to citizenship by reason of his marriage to a citizen woman. Provisions of this kind are an example of direct discrimination based on sex. As Jalal points out, they also result in indirect discrimination against women, as female citizens married to foreign men usually leave their country because it is difficult for their non-citizen husbands to stay.<sup>152</sup> This form of gender discrimination has been removed in all states except Kiribati and Nauru (although in Nauru, while the language of the Constitution continues to be gendered, discrimination has been removed from the citizenship legislation).

*Citizenship of children:* In Fiji, Kiribati and Tonga, the citizenship of children born overseas was transferred from the father. If a woman married to a non-citizen gave birth overseas, her child would not automatically have her citizenship. Only if a mother was unmarried would her child take her citizenship. In Tonga, it was also the case that if a male Tongan ceased to be a citizen, his children under the age of 16 would also automatically lose their citizenship. In Fiji, Kiribati and Vanuatu, citizenship laws provided that in the case of joint adoption, a child automatically acquired the citizenship of his or her father. These forms of discrimination have been removed in all states except Kiribati. In Kiribati and Tuvalu it is also the case that a person born in Kiribati will not become a citizen at birth if his or her father (or mother if his or her parents are unmarried) is a foreign diplomat or citizen of a country with which Kiribati is at war.<sup>153</sup>

*Right to regain citizenship:* Laws in Kiribati, Solomon Islands and Vanuatu permitted a woman who had lost her citizenship upon marriage to a foreign citizen to regain it upon the end of the marriage, but had no equivalent provision for men. Kiribati is the only state that still has this kind of provision.

*Application for citizenship:* Finally, in Kiribati, Solomon Islands and Vanuatu, laws provided that a man applying for citizenship could include his wife and children on his application, but had no equivalent provision for a woman to include her husband and children on her application. Kiribati is the only state to retain this provision.

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<sup>150</sup> Treanor and Nunis (n 148).

<sup>151</sup> P Imrana Jalal, *Law for Pacific Women: A Legal Rights Handbook* (Fiji Women's Rights Movement 1998) 34–39; Ombudsman of Vanuatu, 'Report on the Illegal and Unconstitutional Discrimination in the Citizenship Act' (1999).

<sup>152</sup> Jalal (n 151) 36.

<sup>153</sup> *Constitution of Kiribati 1979* s 25(1); *Constitution of Tuvalu 1986* s 45(2).

Beginning with Fiji in 1997, legal reforms across Oceanic states have been largely successful in removing these forms gender discrimination from citizenship laws.<sup>154</sup> Kiribati remains the only state that has not revised its citizenship laws to remove discrimination.

## 5. Conclusions

Scholar James Clifford has described states in Oceania as “exemplary contexts for thinking about the fractured, sutured, overlaid, incredibly diverse and yet hooked-up complexes of local, regional, national, and transnational forms”.<sup>155</sup> The citizenship laws of Oceania provide a window into the ways in which small island states unite diverse polities under a single new nation-state, in the context of decolonisation and globalisation.

The trends and features of citizenship traced in this report reflect this context. The states of Oceania emphasise the acquisition of citizenship by descent and many have come to embrace dual citizenship, defining the people of the nation in terms of shared culture, language, traditions and history. Citizenship laws, while based on western models, have been adapted over time to the changing circumstances of the various Oceanic states, accommodating Indigenous connections between land and people and diversity, and removing discriminatory gendered provisions that were inherited with colonial laws. Issues of decolonisation continue to be worked through, especially where the citizenship arrangements of states and territories are affected by the policies of former colonial powers.

The exigencies of smallness and islandness mean that the states of Oceania are mainly emigration states. The trend to dual citizenship seeks to bind diasporas to their home state and recognise their economic and social contributions. Limited economic opportunities have also led some states to pursue creative citizenship for sale schemes, using citizenship to raise revenue.

The island states of Oceania stand on the frontline of climate change. The effects of climate change are likely to drive future changes to citizenship arrangements in the region, as people and communities relocate, sometimes across national borders. Past experiences, such as those of the people of Banaba, provide examples of how citizenship laws can be adapted to accommodate cross border relocation.<sup>156</sup> In this, a study of the citizenship laws of Oceania can be instructive not only within the region, but to states beyond it.

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<sup>154</sup> *Constitutional Amendment Act 1997* (Fiji); *Citizenship Act 2004* (Samoa); *Citizenship Act 2005* (Nauru); *Nationality (Amendment) Act 2007* (Tonga); *Citizenship (Amendment) Act 2013* (Vanuatu); *Citizenship Act 2018* (Solomon Is).

<sup>155</sup> Robert Borofsky (ed), *Remembrance of Pacific Pasts: An Invitation to Remake History* (University of Hawai'i Press 2000) 94.

<sup>156</sup> McAdam (n 116) 333.



## References

- Angelo AH and Gordon R, 'Citizenship: Some Pacific Realities' (1991) 7 *Queensland University of Technology Law Journal* 127
- Banivanua-Mar T, *Decolonisation and the Pacific: Indigenous Globalisation and the Ends of Empire* (Cambridge University Press 2016)
- Borofsky R (ed), *Remembrance of Pacific Pasts: An Invitation to Remake History* (University of Hawai'i Press 2000)
- Buchanan K, 'Citizenship Act Amended to Allow Second Generation Samoans Overseas to Claim Citizenship' (*Global Legal Monitor*, 24 August 2016) <<http://www.loc.gov/law/foreign-news/article/samoa-citizenship-act-amended-to-allow-second-generation-samoans-overseas-to-claim-citizenship/>>
- Castles S, 'Migrant Settlement, Transnational Communities and State Strategies in the Asia Pacific Region' in Robyn R Iredale, Charles Hawksley and Stephen Castles (eds), *Migration in the Asia Pacific: Population, Settlement and Citizenship Issues* (Edward Elgar 2003)
- Connell J, 'The Pacific Diaspora', *Migration and Development: Perspectives from Small States* (Commonwealth Secretariat 2015)
- Crocombe R, *Asia in the Pacific Islands: Replacing the West* (IPS Publications, University of the South Pacific 2007)
- 'Double Trouble? The Question of Dual Citizenship in Fiji' (*Stuck in Fiji M.U.D.*, 11 February 2008) <<http://stuckinfijimud.blogspot.com/2008/02/double-trouble-question-of-dual.html>>
- 'Dual Citizenship Bill Awaits Further Debate' *Solomon Star News* (13 November 2018) <<https://www.solomonstarnews.com/index.php/news/national/item/21105-dual-citizenship-bill-awaits-further-debate>>
- Džankić J, *The Global Market for Investor Citizenship* (Springer 2019)
- Firth S, 'Decolonization' in Robert Borofsky (ed), *Remembrance of Pacific Pasts: An Invitation to Remake History* (University of Hawai'i Press 2000)
- Fossen AV, 'Citizenship for Sale: Passports of Convenience from Pacific Island Tax Havens' (2007) 45 *Commonwealth & Comparative Politics* 138
- Haglelgam JR, 'Letter to the Editor: Former FSM President on Dual Citizenship Act' *The Kaselelie Press* (Pohnpei, 8 February 2017) <[http://www.kpress.info/index.php?option=com\\_content&view=article&id=529:letter-to-the-editor-former-fsm-president-on-dual-citizenship-act&catid=10&Itemid=119](http://www.kpress.info/index.php?option=com_content&view=article&id=529:letter-to-the-editor-former-fsm-president-on-dual-citizenship-act&catid=10&Itemid=119)>
- Hassall G, 'Citizenship in the Asia-Pacific: A Survey of Contemporary Issues' in Alastair Davidson and Kathleen Weekley (eds), *Globalization and Citizenship in the Asia-Pacific* (Macmillan Press 1999)
- Hau'ofa E, 'Our Sea of Islands' in Epeli Hau'ofa, Eric Waddell and Vijay Naidu (eds), *A New Oceania: Rediscovering our Sea of Islands* (University of the South Pacific in association with Beake House 1993)
- , 'Pasts to Remember' in Robert Borofsky (ed), *Remembrance of Pacific Pasts: An Invitation to Remake History* (University of Hawaii Press 2000)

- Hezel FX, 'Pacific Island Nations: How Viable Are Their Economies?' (Pacific Islands Policy No 7, East-West Center 2012)
- Jalal PI, *Law for Pacific Women: A Legal Rights Handbook* (Fiji Women's Rights Movement 1998)
- Knudson KE, 'Sydney Island, Titiana, and Kamaleai: Southern Gilbertese in the Phoenix and Solomon Islands' in Michael D Lieber (ed), *Exiles and Migrants in Oceania* (University Press of Hawaii 1977)
- Lee H, 'Pacific Migration and Transnationalism: Historical Perspectives' in Helen Lee and Steve Tupai Francis (eds), *Migration and Transnationalism: Pacific Perspectives* (ANU E Press 2009)
- Lee H and Francis ST (eds), 'Migration and Transnationalism: Pacific Perspectives' (ANU E Press 2009)
- Lilomaiava-Doktor S, 'Beyond "Migration": Samoan Population Movement (Malaga) and the Geography of Social Space (Vā)' (2009) 21 *Contemporary Pacific* 1
- McAdam J, "'Under Two Jurisdictions": Immigration, Citizenship, and Self-Governance in Cross-Border Community Relocations' (2016) 34 *Law and History Review* 281
- McIntyre WD, *Winding up the British Empire in the Pacific Islands* (Oxford University Press 2014)
- McMillan K and Hood A, 'Report on Citizenship Law: New Zealand' GLOBALCIT Country Report 2016/09
- Monson R and Hoa'au G, '(Em)Placing Law: Migration, Belonging and Place in Solomon Islands' in Fiona Jenkins, Mark Nolan and Kim Rubenstein (eds), *Allegiance and Identity in a Globalised World* (Cambridge University Press 2014)
- Morrison S, 'Foreign in a Domestic Sense: American Samoa and the Last US Nationals' (2013) 41 *Hastings Constitutional Law Quarterly* 71
- Ombudsman of Vanuatu, 'Report on the Improper and Unlawful Issue of Diplomatic and Official Passports' (1998)
- , 'Report on the Illegal and Unconstitutional Discrimination in the Citizenship Act' (1999)
- Pacific Community, 'PRISM 2018 Pocket Summary' (2018) <https://prism.spc.int/>
- Quentin-Baxter A, 'Niue's Relationship of Free Association with New Zealand' (1999) 30 *Victoria University of Wellington Law Review* 589
- Ramesh S, 'State Hegemony and Ethnicity: Fiji's Problematic Colonial Past' in Steven Ratuva (ed), *The Palgrave Handbook of Ethnicity* (Springer 2019)
- Reeves P, Vakatora TR and Lal BV, 'The Fiji Islands: Towards a United Future Report of the Fiji Constitution Review Commission 1996' (Parliament of Fiji 1996) Parliamentary Paper No 34 of 1996
- Smith RM, 'The Insular Cases, Differentiated Citizenship, and Territorial Statuses in the Twenty-First Century' in Gerald L Neuman and Tomiko Brown-Nagin (eds), *Reconsidering the Insular Cases: The Past and Future of the American Empire* (Human Rights Program, Harvard Law School 2015)

- Spiro P, 'Report on Citizenship Law: United States of America' [2015] GLOBALCIT Country Report 2015/13
- , 'Multiple Citizenship' in Ayelet Shachar and others (eds), *The Oxford Handbook of Citizenship* (Oxford University Press 2017)
- Tagupa W, 'Law, Status and Citizenship: Conflict and Continuity in New Zealand and Western Samoa (1922-1982)' (1994) 29 *The Journal of Pacific History* 19
- Teaiwa KM, *Consuming Ocean Island: Stories of People and Phosphate from Banaba* (Indiana University Press 2015)
- Thwaites R, 'Report on Citizenship Law: Australia' GLOBALCIT Country Report 2017/11
- Treanor S and Nunis V, 'How Selling Citizenship Is Now Big Business' *BBC News* (10 October 2019) <<https://www.bbc.com/news/business-49958628>>
- Tryon D, 'Linguistic Encounter and Responses in the South Pacific' in Serge Tcherkézoff, Darrell Tryon and Margaret Jolly (eds), *Oceanic Encounters: Exchange, Desire, Violence* (ANU Press 2009)
- 'Vanuatu Government Defends Changing Constitution to Allow Dual Citizenship' *ABC News* (11 February 2014) <<https://www.abc.net.au/news/2014-02-11/an-vanuatu-defends-dual-citizenship-changes/5252122>>
- Yatilman R, 'FSM Constitutional Amendment of Dual Citizenship' (*The Fourth Branch*, 30 April 2012) <<http://www.tfbmicronesia.com/articles/2012/4/30/fsm-constitutional-amendment-of-dual-citizenship-by-rosalind.html>>

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