The Northern Mariana Islands Judiciary: A Historical Overview

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

While every effort has been made to present historically accurate facts, this book is a collection of essays written from several points of view. The choice and presentation of the facts contained in this publication and the opinions expressed herein are not those of the CNMI Judiciary or the Judiciary Historical Society and do not commit either body. While the information in this publication is believed to be accurate at the time of publication, the CNMI Judiciary and the Judiciary Historical Society cannot accept any legal liability with respect to any loss or damage arising from the information contained herein. Also, while effort has been made to ensure that works are properly cited, this book is a compilation of works from different authors and so citation format and usage varies from chapter to chapter.
Preface

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

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

While it is certain that more people than mentioned have helped with this book, everyone is appreciated for their contributions. The University of Hawaii-Manoa and the CNMI Historic Preservation Office generously gave permission to use many of the images in this book. Finally, all of the members of the CNMI Judiciary, past and present, should be acknowledged for their hard work and dedication in ensuring that the Northern Mariana Islands is a society in which the rule of law governs.
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The Mariana Islands had their first European contact in 1521, when a Spanish-sponsored search for a new sea route to Indonesia’s Spice Islands brought Ferdinand Magellan to Guam.¹ This journey should have been spectacularly successful for Magellan the explorer – on it, he found the present-day Straits of Magellan, named the Pacific Ocean, became the first person to sail around the world, and discovered the Philippines and other islands for Spain. After managing to suppress mutiny by his scurvy-riddled crew, however, Magellan died in the Philippines from battle wounds. For Spain, this trip was still an undeniable success, beginning a strong reach into the Pacific that lasted until the end of the Spanish-American War in the late nineteenth century.

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

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

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

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

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

³ On page six of From Conversion to Conquest: The Early Spanish Mission in the Marianas, Hezel writes that six Jesuits and fifteen catechists (religious teachers) were killed during the first eight years of the Jesuit mission in the Marianas.
number of soldiers who would enforce this new administration.4

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

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

Damian de Esplana, who became Governor when Saravia died in 1683, is reported to have been described by Jesuit priests as “God’s punishment to the Marianan people.”8 After determining that the Northern Island Chamorros were too disparate to effectively convert, hispanicize, and control, the Jesuit missionaries exhorted Governor Damian de Esplana, who was re-appointed in 1690 (Quiroga interrupted Esplana’s leadership with his own brief re-appointment in 1688), to begin the ultimately devastating mission of forcibly relocating to Guam every Chamorro in the Marianas. Esplana successfully relocated Mariana Chamorros to Guam in 1740, except for several hundred holdouts on Rota. By this time, disease and war had reduced the Chamorro population from an estimated pre-Spanish 30,000 - 40,0009 to fewer than 4,000.10

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

4 Hezel discusses this transfer of authority with more detail on pages seven and eight in From Conversion to Conquest: The Early Spanish Mission in the Marianas.
5 Before around 1849, “justice had been administered in the Marianas by the governor, who usually was acquainted with legal matters.” Brunal-Perry, Nineteenth-Century Spanish Administrative Development in the Province of Guam, 1:82.
6 In From Conversion to Conquest: The Early Spanish Mission in the Marianas, on page seven, Hezel writes that Quiroga received articles of instruction from the Captain General of the Philippines exhorting him to fulfill this mission.
7 Don A. Farrell, History of the Northern Mariana Islands, p.168.
8 Ibid. at 170.
9 There are varying estimates of the pre-Spanish population of the Mariana Islands. Writing that it is “unthinkable” that the pre-Spanish Chamorro population was greater than 40,000, and was more likely less than 40,000, Hezel acknowledges the wide range of population estimates on page thirty-one of his book, From Conquest to Colonization: Spain in the Mariana Islands 1690 to 1740.
10 Francis X. Hezel’s book, From Conquest to Colonization: Spain in the Mariana Islands 1690 to 1740 provides an excellent and detailed account of this period.
Spain’s colonies – signed a royal decree ordering the Marianas’ Jesuits to be seized and led away as prisoners to a waiting ship.11 However, “because ships called at Guam so infrequently, it was not until 1769 that a small Spanish schooner, the Nuestra Señora de Guadalupe, arrived with the king’s decree.”12

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

Some governors instituted formal political, legal, and administrative institutions on the islands. This happened even on Saipan, to which Chamorros were permitted to return beginning in 1865.13 The institutions that were created, however, were rarely permanent.

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

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

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

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

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

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

16 Ibid. at 82-83.

17 Ibid. at 83-85.
It is this later system that George Fritz, the first administrator of the Marianas during the German era, wrote about in *The Chamorros: A History and Ethnography of the Mariana Islands*. In this fascinating (if not entirely accurate) book, Fritz provides a description of local politics during the Spanish Era that shows law and order, on the whole, to be under the regulation of local administrators, but with meta-control by the Spanish, especially the Spanish clergy:

At the head of each community was a *governadoreillo* (little governor), a native who served as representative of the state, a justice of the peace and notary. At his side were the *barangay* (district supervisors). They occupied honorary positions and received small pay. The *polistas*, able-bodied men from 15 to 50 years of age, were obligated to work assignments of fifteen days annually for community and state purposes.

This obligation could be increased or decreased according to the discretion of the local rulers. In reality, most *polistas* worked mostly for the village mayor and the supervisors.

In the administration of justice, the whole population was dependent upon the benevolence of the mayor. Since the Spanish officials benefited in a large way from the same advantages as did the native officials in a smaller way, abuses were seldom discovered. Feared by all because he was knowledgeable of community conditions, the priest, often the only Spaniard, reigned above all.\(^\text{18}\)

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

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

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

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

\(^{20}\) *Reports Concerning the Mariana Islands: The Memorias of 1890-1894*, at 1:18.

\(^{21}\) *Ibid.* at 2:40, 47.

\(^{22}\) *Ibid.* at 3:47.
small. There is no propensity for it, because these inhabitants are of a peaceful nature and, in their own way, are respectful toward the authorities and fearful of the law. The situation is such that to bring an end to serious matters that arise, the contenders let their machetes fly. Most crimes have been committed by natives of other provinces, generally those who have been discharged from the penal institution and have settled here. If a crime has been committed by a native of the island, the reason, for certain, has been an illicit love affair, concubinage, or adultery.23

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

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


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

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

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

Law and Citizenship

As with other German colonies, the colonized peoples in the Marianas were given the status of “colonial subjects,” under the protection of the German empire; that is, Germany would represent their interests overseas and against other
nations. On one level they were part of the empire, and on another level they were not: two different sets of laws applied for “whites” and “coloreds.” For the “whites,” German law applied, regardless of nationality, while “coloreds” were treated as German “subjects,” unless they were “subjects” of other colonial powers.

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

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

**Developing a Body of Legislation**

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

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

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

The Courts

While the Imperial decree of July 18, 1899 placed the Marianas under German law, the Governor of German New Guinea, as the delegate, was authorized to promulgate regulations governing the minutiae and practicalities. One of the fundamental provisions contained in the regulations Governor von Bennigsen promulgated was that no difference existed in the jurisdiction and the exertion of judicial powers over indigenous and non-indigenous peoples. Moreover, it stipulated that indigenous legal concepts and practices should be taken into account when courts were constituted and that, where necessary, local concepts should be substituted for German court procedures and structures. By January 1, 1901, however, this regulation had already been repealed and a separate court for indigenous people was created.
In theory, there was complete separation between the legislative and executive branches on the one hand, and the judiciary on the other. In reality, however, the small number of expatriates meant that the judiciary consisted of the local administration, while the assessors and deputy assessors were drawn from the subordinate officers and the influential and "respectable" traders and settlers. Assessors were lay people, drawn from "respectable" German citizens residing locally. Their role was to advise and provide counsel, if the magistrate so required, and they had a say in the final outcome of court decisions. Deputy assessors stood in when assessors were unable to attend because of absence or conflict of interest.

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

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

Appeals were sent to the Imperial High Court (Kaiserliches Obergericht)
constituted at the seat of the Governor General at Rabaul. In theory, the next level of appeal was the Imperial Colonial Court in Berlin. However, such appeals never occurred from the Northern Marianas.

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

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

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

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

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

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

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

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

Group III – Crimes and offenses against property (theft, embezzlement,
robbery, blackmail, fraud, forgery, malicious damage, arson, etc.);

Group IV – Other offenses and misdemeanors.

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

**Law Enforcement**

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

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

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

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

**Penal Colonies**

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

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

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

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

**Capital Punishment**

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

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

The trial for Ruttam’s murder was carried out in early February 1907, with Fritz as district judge and Pedro Ada, Ernst Kusserow, Erhard Lotze, and Hermann Woitscheck as assessors. Dr. Dwucet (a teacher) acted as prosecutor, while office
clerk Otto Paulisch conducted the defense. Statements of witnesses and confessions by the defendants left no doubt of the accused’s guilt. Sentenced to death, both were executed on the same day by a firing squad.

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

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

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

Outlook

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

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

¹ Much of the information in this chapter is drawn from my previous work, *Aurora Australis The German Period in the Mariana Islands 1899 – 1914*. Readers desiring more information about life in
<table>
<thead>
<tr>
<th>Local Regulations</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation regarding the circulation of the old Spanish silver and copper money</td>
<td>10 Jan. 1900</td>
</tr>
<tr>
<td>and the import of foreign coins</td>
<td></td>
</tr>
<tr>
<td>Proclamation regarding the ownership and use of firearms</td>
<td>16 Jan. 1900</td>
</tr>
<tr>
<td>Regulation regarding a head tax and required work</td>
<td>17 Jan. 1900</td>
</tr>
<tr>
<td>Proclamation regarding the sale and preparation of alcoholic beverages</td>
<td>17 Jan. 1900</td>
</tr>
<tr>
<td>Proclamation regarding the care and use of animals on Tinian</td>
<td>24 Jan. 1900</td>
</tr>
<tr>
<td>Regulation regarding the levying of a slaughtering tax</td>
<td>7 Feb. 1900</td>
</tr>
<tr>
<td>Proclamation regarding the schools at Garapan, Tanapag and Rota</td>
<td>2 March 1900</td>
</tr>
<tr>
<td>Regulation regarding the levying of a community tax on male dogs</td>
<td>1 June 1900</td>
</tr>
<tr>
<td>Regulation regarding the protection of forests</td>
<td>13 June 1900</td>
</tr>
<tr>
<td>Proclamation regarding religious holidays</td>
<td>3 Oct. 1900</td>
</tr>
<tr>
<td>Regulation regarding the cultivation of private property</td>
<td>4 Feb. 1903</td>
</tr>
<tr>
<td>Regulation regarding the introduction of a dog tax</td>
<td>1 Feb. 1902</td>
</tr>
<tr>
<td>Ordinance regarding the catching of turtles</td>
<td>13 March 1906</td>
</tr>
<tr>
<td>Ordinance regarding submissions to the Imperial district office, district court,</td>
<td>10 July 1906</td>
</tr>
<tr>
<td>marine registry and civil marriage registry</td>
<td></td>
</tr>
<tr>
<td>Regionally Applicable Regulations</td>
<td></td>
</tr>
<tr>
<td>Ordinance banning the sale of weapons, munitions, explosives, and alcoholic</td>
<td>17 Oct. 1899</td>
</tr>
<tr>
<td>beverages to islanders</td>
<td></td>
</tr>
<tr>
<td>Authorization to document vital statistics</td>
<td>1900</td>
</tr>
</tbody>
</table>

the Mariana Islands during this period should refer to this resource.
<table>
<thead>
<tr>
<th>Regulation</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation regarding the acquisition of real estate from islanders</td>
<td>20 Jan. 1900</td>
</tr>
<tr>
<td>Regulation regarding the offering of credit and the execution of contracts with indigenous people regarding items of high value</td>
<td>10 April 1900</td>
</tr>
<tr>
<td>Regulations regarding money conversion and legal tender</td>
<td>20 Sep. 1900</td>
</tr>
<tr>
<td>Regulation regarding the conduct of a number of commercial activities</td>
<td>1903</td>
</tr>
<tr>
<td>Ordinance regarding the establishment of land registry districts</td>
<td>14 July 1903</td>
</tr>
<tr>
<td>Proclamation regarding the Saipan station</td>
<td>29 June 1907</td>
</tr>
<tr>
<td>Order regarding the immigration of destitute persons into the island territory</td>
<td>14 Oct. 1907</td>
</tr>
<tr>
<td>Customs regulations</td>
<td>10 June 1908</td>
</tr>
<tr>
<td>Regulation regarding the taxation of the non-native population</td>
<td>30 June 1908</td>
</tr>
<tr>
<td>Regulation regarding the registration of non-natives</td>
<td>21 Nov. 1908</td>
</tr>
<tr>
<td>Regulation regarding the immigration and introduction of foreign natives into the protectorate</td>
<td>1 Nov. 1908</td>
</tr>
<tr>
<td>Regulation regarding the publication of regulations</td>
<td>15 Jan. 1909</td>
</tr>
<tr>
<td>Regulation regarding the ban on the importation of and trade in used items of clothing</td>
<td>16 Jan. 1909</td>
</tr>
<tr>
<td>Regulation regarding the ban of supply of weapons and ammunition to islanders</td>
<td>1 Oct. 1909</td>
</tr>
<tr>
<td>Regulation regarding the ban of sale of alcoholic beverages to islanders</td>
<td>1 Oct. 1909</td>
</tr>
<tr>
<td>Regulation regarding extending credit to and the making of contracts with islanders</td>
<td>14 May 1910</td>
</tr>
<tr>
<td>Regulation regarding the taxation of islanders in the islands territory</td>
<td>7 Oct. 1910</td>
</tr>
<tr>
<td>Regulation regarding coconuts</td>
<td>14 June 1911</td>
</tr>
<tr>
<td>Regulation regarding the introduction of the German systems of measurements and weights</td>
<td>20 July 1911</td>
</tr>
<tr>
<td>Road ordinance</td>
<td>25 Aug. 1911</td>
</tr>
</tbody>
</table>
Table 2. Caseload of the District Courts of Saipan. (1901-1902, 1904-1906, 1908-1910).

<table>
<thead>
<tr>
<th></th>
<th>Saipan</th>
<th>Yap</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1901</td>
<td>1902</td>
</tr>
<tr>
<td>Civil Cases</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Court cases</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>Other cases *</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Bankruptcies</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Criminal Cases</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative judgments</td>
<td>18</td>
<td>2</td>
</tr>
<tr>
<td>Court cases with assessors</td>
<td>6</td>
<td>–</td>
</tr>
<tr>
<td>Magistrate cases</td>
<td>2</td>
<td>–</td>
</tr>
<tr>
<td>Appeals</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Notariate Items</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guardianship cases</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Inheritance issues</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Trade (de-) registrations</td>
<td>1</td>
<td>–</td>
</tr>
<tr>
<td>Land (de-) registrations</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Ship (de-) registrations</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Other notariate work</td>
<td>–</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>35</td>
<td>6</td>
</tr>
</tbody>
</table>

*Includes distraints, demands of payments and injunctions.
Table 3. Judgments passed by the Saipan (1900-1905) and Yap (1906–1908) district courts against indigenous peoples

<table>
<thead>
<tr>
<th>Year</th>
<th>Group I</th>
<th>Group II</th>
<th>Group III</th>
<th>Group IV</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1902</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1903</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1904</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1905</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1906</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1907</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
<tr>
<td>1908</td>
<td>4948</td>
<td>6690</td>
<td>2417</td>
<td>3589</td>
<td>11610</td>
</tr>
</tbody>
</table>

- 1901-1908: The table provides data on judgments passed by the Saipan and Yap district courts against indigenous peoples from 1901 to 1908. The data is categorized into four groups: Group I, Group II, Group III, and Group IV, each with different types of crimes: Crimes against persons, Crimes against property, and Other offences. The table also includes the number of judgments and the type of sentence (Prison term or money) for each year.
Japan’s forays into Micronesia began many years before Japan became the governing authority in the region. Starting in the late 1800s, Japanese traders were setting up stations in Micronesia, and the Japanese government (unsuccessfully) looked into buying the islands as part of an empire-expanding effort. When Japan declared war on Germany during World War I, Japanese troops went into the Pacific and, with relative ease, ousted Germany from its Micronesian holdings a mere fifteen years after the German administration was established. Japan took control of Saipan on October 14, 1914, and set up a military administration which, as is reported by Don Farrell in History of the Northern Mariana Islands, was primarily concerned with teaching the islands’ residents Japanese language and culture, and with maintaining order.

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

The legal system and courts in Japanese Micronesia can essentially be characterized as extensive and active, and totally under the control of the Japanese government through the military authorities from 1914 to 1922, and then through the authority of the Nan’yo Cho (South Seas Bureau). On September 17, 1914, Dr. Dirk Ballendorf is a retired professor of Micronesian Studies at the University of Guam and an internationally recognized specialist in Micronesian history, politics, education and contemporary affairs.
the acting governor of German New Guinea surrendered his sword to the British, thus turning over all German lands in the Pacific to British authority. However, due to secret agreements made between the Japanese and the British, the German islands north of the equator went to the Japanese, and by the end of October 1914, the Imperial Japanese Navy (IJN) occupied all the district centers and interned the German nationals there.

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

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

**Civil Government of Nan’yo Cho**

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

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

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

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

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

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

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

### CIVIL SUITS AND EXECUTIONS ON SAIPAN (Saipan Local Court)

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

<table>
<thead>
<tr>
<th>Type</th>
<th>Year</th>
<th>Suits</th>
<th>Japanese and Natives</th>
<th>Japanese</th>
<th>Natives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injunctions</td>
<td>1930</td>
<td>5</td>
<td>5</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>1931</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>1932</td>
<td>4</td>
<td>4</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Employment of Sheriff</td>
<td>1930</td>
<td>25</td>
<td>25</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>1931</td>
<td>47</td>
<td>46</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>1932</td>
<td>37</td>
<td>34</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

The number of civil land cases arising between native islanders and dealt with by the Pohnpei Local Court were four in 1923 and one in 1932. These suits were mere cross claims for recognition of the right of ownership of land, and they were all arbitrated. No such suits were brought on Pohnpei between 1924 and 1931, or in 1933. The Japanese contended that the small number of criminals among the
islanders themselves was due to their “meek nature” and to the consequent scarcity of “violent deeds and criminal actions.” The following table shows that there was a wide difference between the number of Japanese and native islander offenders accused of various offenses, with more than half of the charges against the native islanders due to violations of the liquor control law.

**NUMBER OF DEFENDANTS IN 1936**

<table>
<thead>
<tr>
<th>Kind of Offense</th>
<th>Japanese</th>
<th>Natives</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gambling</td>
<td>46</td>
<td>20</td>
<td>66</td>
</tr>
<tr>
<td>Assault</td>
<td>45</td>
<td>27</td>
<td>72</td>
</tr>
<tr>
<td>Theft and Burglary</td>
<td>161</td>
<td>103</td>
<td>264</td>
</tr>
<tr>
<td>Fraud and Blackmail</td>
<td>94</td>
<td>12</td>
<td>106</td>
</tr>
<tr>
<td>Usurpation of Property</td>
<td>22</td>
<td>14</td>
<td>36</td>
</tr>
<tr>
<td>Violation of Liquor Ordinances</td>
<td>150</td>
<td>438</td>
<td>588</td>
</tr>
<tr>
<td>Illegal Fishing</td>
<td>33</td>
<td>5</td>
<td>38</td>
</tr>
</tbody>
</table>

TOTAL (including all offenses) | 551 | 619 | 1,170 |

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

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

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

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

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

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

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Conclusion

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

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


Handbook of the Trust Territory of the Pacific Islands. School of Naval Administration, Hoover Institute, Stanford University. Office of the Chief of Naval Operations, Washington DC, 1948.

The Context for Military Government

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

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

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

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

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

The Governed

The Naval Military Government of the Northern Marianas lasted only a little over three years. In that time – from the battles through the B-29 war on Japan, and then the war’s end and rapid demobilization – the Military Government had to deal with several distinct populations under difficult circumstances.
More than 200,000 U.S. soldiers, sailors, and airmen lived in the Northern Marianas for a good part of this period. By far the largest group in the Northern Marianas, the military alone gave the islands their highest population ever.

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

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

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

The Framework for Law

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

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

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

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

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

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

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

Exceptional Military Courts

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

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

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

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

Intermediate were the Superior Provost Courts. These courts could administer punishments of up to ten years in prison. One or more military officers – usually three – would sit as judges of the Superior Provost Courts. These courts were established only occasionally, as needed for a particular case.
At the bottom were the Summary Provost Courts. These courts, likened to magistrate courts in the United States, were courts of limited jurisdiction. Run by a single military officer sitting as a judge, these courts could not impose the death penalty, any punishment of more than one year in prison, or a fine of more than $2,000. By far, the majority of the cases in the Northern Marianas were heard by a single Navy officer sitting as the Summary Provost Court.

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

[The officer] had never practiced law or served as a judge in civil life. His general approach was rather like that of a young prosecuting attorney interested in a good record of convictions.

He had constructed a dock in which the silent defendants stood, waiting their turn before his desk. The judge would ask if he had heard the charges. The defendant would give a short bow and say yes. The judge would say, “Didn’t you know it was wrong to do so and so?” The defendant always replied yes. So the judge would fine him, say $20 and give him $15 and five days. No witnesses were brought in to verify or refute the charges. No record was made of testimony. Right to counsel existed by convention only, since the judge could rather easily talk anyone out of it.²

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Summary Provost Court. Seated behind the makeshift bench is the staff Judge Advocate, Lt. H.J. Lipp of the United States Navy. Lieutenant Lipp was appointed to the court on August 27, 1945 and heard many cases. Also seated is interpreter Sugano Isami.
A two-page form summarized each case in the Summary Provost Courts. In case after case, a plea of guilty is noted and, under the preprinted heading “Case for the Defense,” is the typed notation, “No evidence for the defense.” If, however, the defendant was a Chamorro or Carolinian, a typed translation of defendant’s version of the facts was usually attached to the form. These statements almost always admitted commission of the offense charged. The record does not generally include similar statements if the defendant was Japanese or Korean.

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

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

**Jurisdiction over Civil Matters**

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

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

**Land Disputes**

“All of the public land office records were lost during the fighting on Saipan, including all the survey maps and nearly all of the individual monuments which marked the corners of land parcels. No complete map of the Japanese surveys was ever found.”

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

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

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

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

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

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

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

Local Courts

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

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

The End of Naval Military Government

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

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

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

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


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


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

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