

---

## BOOK REVIEW

---

---

---

### LINE-NOUE MEMEA KRUSE, *THE PACIFIC INSULAR CASE OF AMERICAN SĀMOA: LAND RIGHTS AND LAW IN UNINCORPORATED US TERRITORIES*

---

---

JOHN COOK\*

The United States Territory of American Sāmoa sits in Oceania.<sup>1</sup> In her recent book, *The Pacific Insular Case of American Sāmoa: Land Rights and Law in Unincorporated US Territories*, Line-Noue Memea Kruse presents an in-depth history of American Sāmoa's interactions with the United States of America and a depiction of how this connection has negatively affected Sāmoan culture through the erosion of traditional Sāmoan land ownership. In doing so, not only does Kruse's work provide a comprehensive overview of how the United States has modified American Sāmoan traditional culture through changes to land use law, but it also contains significant information about American Sāmoa more broadly—as well as about the other United States territories. These features make this book an

---

\* John Cook is a Legal Method and Communication Fellow at Elon University School of Law. He is a former Assistant Attorney General in the Civil Division of the Office of the Attorney General of the Northern Mariana Islands and twice served as the Commonwealth of the Northern Mariana Islands Archivist at Northern Marianas College. The author would like to express his thanks to Emily Benson Chatzky, Elon University School of Law Class of 2019, for her invaluable assistance working with him to get this book review to publication.

<sup>1</sup> *Where Is American Samoa?* WORLD ATLAS, <https://www.worldatlas.com/oc/as/where-is-american-samoa.html> (last updated Oct. 2, 2015); John Moen, *American Samoa*, WORLD ATLAS, <https://www.worldatlas.com/webimage/countrys/oceania/as.htm> (last updated July 12, 2016).

excellent resource for anyone interested in learning more about American Sāmoa, either in terms of its land use law or generally. Moreover, the book's contents are accessible to non-lawyers, but are not "watered-down" in a way that would diminish their value to a legally-trained reader.

Chapter One opens the book and outlines where Kruse intends to take the reader. Noting that "Executive Order No. 125-A[] . . . plac[ed] the 'Sāmoan Group' under control of the Naval Department[.]"<sup>2</sup> Kruse opines that, in turn, "[t]he Naval Department had supreme legislative, executive, and judicial power."<sup>3</sup> Setting out her roadmap, Kruse notes that American Sāmoa experienced Westernized property law, including adverse possession's, imposition by the Navy. Kruse argues that the Sāmoan protocol of *fa'asāmoa*<sup>4</sup> and "communal land tenure"<sup>5</sup> have been degraded by adverse possession. Kruse believes that cultural harm has been caused by individual possession of land's increasing frequency. For Kruse, "[p]reserving what remains of communal land tenure cannot be achieved without examining the political and legal relationship between American Sāmoa and the United States."<sup>6</sup> She next sets forth that she "examine[s] these relationships to recommend practical alternatives to shelter Sāmoan cultural institutions within the American body-politic."<sup>7</sup> She continues with a brief discussion of "*āiga*"<sup>8</sup> and then "*fa'amātai* . . . and *mātai*."<sup>9</sup>

---

<sup>2</sup>LINE-NOUE MEMEA KRUSE, *THE PACIFIC INSULAR CASE OF AMERICAN SĀMOA: LAND RIGHTS AND LAW IN UNINCORPORATED US TERRITORIES* 1 (2018) (footnote omitted). This executive order carried out "[t]he February 19, 1900 General Order No. 540 of the US Naval Department." *Id.*

<sup>3</sup>*Id.* (citing J.A.C. GRAY, *AMERIKA SAMOA: A HISTORY OF AMERICAN SAMOA AND ITS UNITED STATES NAVAL ADMINISTRATION* 232 (1960)).

<sup>4</sup>Kruse states that "*fa'asāmoa* culture [is] [c]ustoms and daily respectful behavior practiced by every Sāmoan[.]" *Id.* (footnote omitted); *see also id.* at 1, n.2, *id.* at 199.

<sup>5</sup>*Id.* at 1.

<sup>6</sup>*Id.* at 2.

<sup>7</sup>*Id.*

<sup>8</sup>*Id.* "*Āiga* [is] [f]amily, kin[.]" *Id.* at 2; *see also id.* at 199.

<sup>9</sup>*Id.* at 2. "[*Fa'amātai* is the Sāmoan chiefly system . . . . Every single *mātai* (chief) title has authority through which they may exercise their oversight responsibilities over the *āiga*." *Id.* Kruse later defines a *mātai* as the "[t]itled head of a Sāmoan extended family[]" and *fa'amātai* as the "[c]omplex configuration of *mātai* titles, all ordered relative to each other." *Id.* at 199–200.

With the basic tenets of the book set forth, Kruse sets "Sāmoa and Traditional Land Tenure"<sup>10</sup> as her topic for Chapter Two. This chapter is particularly valuable for anyone unfamiliar with the territory and sets the groundwork for the remainder of the book. Kruse describes the climate and landscape of American Sāmoa before noting that, for both economic and military purposes, the United States prized its anchorage in Pago Pago. Kruse then notes that "*mātai* . . . signed . . . 'Deeds of Cession' with the United States[] . . . [And] US President William McKinley . . . authorized all ceded islands to be directly under the US Secretary of the Navy for a naval station."<sup>11</sup>

With this brief history completed, Kruse proceeds to illustrate the *mātai* structure in greater detail. In doing so, Kruse makes the claim that "[t]he power and authority within the *fa'amātai* cannot be overstated."<sup>12</sup> Given that "[t]he *mātai* title holder grants resources, responsibilities, access to a use of all *āiga* communal lands[,]"<sup>13</sup> and, as Kruse also notes, only *mātai* can be members of the Senate of the American Sāmoa Legislature,<sup>14</sup> this statement seems quite valid. Several historical foreign interactions, including Sāmoan exploration from Europe, end the chapter.

In Chapter Three, Kruse remarks that "[t]he Northwest Territory . . . was the first 'territory' of the United States. . . . [It] became the common property of the United States, fulfilling the desire of the colonists to further the expansion and collective power of the [American] confederation."<sup>15</sup> "[W]hen Spain ceded Puerto Rico, Guam, and the Philippines in 1898 to America[,] . . . [t]hese American-colonial outposts were governed under the territorial structure laid out 111 years earlier by the Northwest Ordinance."<sup>16</sup> Kruse next turns to Sāmoa and the United States' interactions. From there, the chapter

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.* at 6 (citing 48 U.S.C. §§ 1661, 1662). In 1929, "Congressional ratification of the Deeds of Cession was . . . signed . . ." *Id.*

<sup>12</sup> *Id.* at 13.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 10 (citing REVISED CONST. AM. SAM. art. II, § 3). No such dictate abides for members of the House of Representatives, however. See REVISED CONST. AM. SAM. art. II, § 3, available at [https://www.asbar.org/2019/index.php?option=com\\_content&view=article&id=1961&Itemid=177#sec203](https://www.asbar.org/2019/index.php?option=com_content&view=article&id=1961&Itemid=177#sec203) (last visited Apr. 30, 2020).

<sup>15</sup> KRUSE, *supra* note 2, at 23 (citing HENRY ADAMS, HISTORY OF THE UNITED STATES OF AMERICA 43 (1896-1904)).

<sup>16</sup> *Id.* at 25–26 (citation omitted).

moves to the 1875 political situation in Sāmoa and then the 1899 Tripartite Convention.<sup>17</sup> Kruse then resumes discussion of the Deeds of Cession. As a final portion of the chapter, she takes the useful step of "compar[ing] . . . American Sāmoa with the other four US territories."<sup>18</sup> Also, according to Kruse, "[p]rior to western contact, all the islands shared a common bond: land was highly valued but had no exchange value in a moneyed market."<sup>19</sup> Interestingly, Kruse also remarks that "[c]ustomary land tenure has also placed a significant damper on the economic development of the territory, while in territories like the Virgin Islands and Guam, land is freely sold and invested in by foreigners."<sup>20</sup>

In Chapter Four, Kruse discusses the Naval Administration. American Sāmoa abided absent government with an overarching structure prior to 1900. However, "[t]he Navy established a central government in 1900 and a legislature in 1948. . . . The Navy established the judicial, legislative, and civil administration for the islands."<sup>21</sup> Kruse then notes that "[t]he Naval Court introduced adverse possession principles to decide land disputes[.]"<sup>22</sup> With "[a]dverse land possession . . . . Communally owned land can be disentangled from the *āiga* and village, then owned as 'individually,' . . . . Land can now be taken from a family and owned by another person without permission or adherence to cultural protocol."<sup>23</sup> Kruse also remarks that "[t]o Sāmoans, the idea that land could be 'owned' without consent from *mātai* or

---

<sup>17</sup> Kruse notes that "[i]n 1875, . . . the high chiefs decided . . . to establish the 'Kingship,' or rule for four-year periods, with the throne rotating[.]" *Id.* at 29. Furthermore, "[i]n March 1889, American, British, and German naval ships were . . . ready for outright war over exclusive rights to Pago Pago harbor . . . . [When] [a] two-day hurricane hit the Sāmoa Islands, . . . . [D]estr[oying] . . . all military vessels." *Id.* at 30 (citation omitted). As it turned out, "[t]he drawn-out conflict among Germany, America, and Great Britain, coupled with the dreadful hurricanes in the Sāmoa Islands, compelled the major powers to negotiate the Tripartite Convention . . . [in] 1899[.] [which] was . . . ratified in 1900 by the US Congress." *Id.* at 31.

<sup>18</sup> *Id.* at 36. As Kruse later notes, "American Sāmoa is one of five territories under the US flag. American Sāmoa, the Virgin Islands, and Guam are plainly known as territories. Puerto Rico and the Commonwealth of the Northern Mariana Islands (CNMI) are politically designated as commonwealths[,] but [are] legally classified as US territories." *Id.* at 76.

<sup>19</sup> *Id.* at 37.

<sup>20</sup> *Id.* at 38.

<sup>21</sup> *Id.* at 49.

<sup>22</sup> *Id.* at 51.

<sup>23</sup> *Id.* at 52.

the village was unheard of before adverse possession."<sup>24</sup> Kruse considers adverse possession's repercussions in further detail and concludes that "[a]dverse possession rights are an ultimate threat to the terms of the Deeds of Cession, which specifically require that Sāmoan lands and the entire structure of Sāmoan culture be respected and protected."<sup>25</sup> The chapter concludes with the "[f]ive categories compris[ing] the traditional land tenure system today. . . . '[F]reehold lands' . . . . '[G]overnment-owned lands' . . . . '[C]hurch-owned lands' . . . . '[I]ndividually owned lands' . . . . [And] [l]astly, 'communal or native lands.'"<sup>26</sup>

Chapter Five reviews the insular cases and the concept of "ex proprio vigore." Kruse describes "Elmer Adams and Carman F. Randolph[s] propos[al] that the Constitution follows the flag 'ex proprio vigore,' whatever territory was absorbed into the US body-politic, the Constitution and all its rights and privileges automatically followed."<sup>27</sup> Ultimately, "[t]he [courts] . . . decided . . . that [only] for incorporated territories, [does] the Constitution appl[y] ex proprio vigore."<sup>28</sup> Kruse next describes a number of the insular cases (by way of a multiple page chart), including *Reid v. Covert*<sup>29</sup> and *Balzac v. Porto Rico*,<sup>30</sup> and then considers "*Downes v. Bidwell*,"<sup>31</sup> [outside of the chart] [a]s the landmark [insular] case . . . ."<sup>32</sup> Kruse then addresses "territory classification . . . subdivisions: unincorporated[,]. . . organized[,]. or unorganized."<sup>33</sup> In doing so, she remarks that "[a]ll five of the island territories are branded as 'unincorporated' . . . because they are not

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 58.

<sup>26</sup> *Id.* at 59–60 (footnotes omitted) (citations omitted).

<sup>27</sup> *Id.* at 66 (citing Carman F. Randolph, *Constitutional Aspects of Annexation*, 12 HARV. L. REV. 291, 292–315) (while Kruse also lists Elmer Adams as a co-author of this article, this does not appear to be the case; an "Elmer B. Adams" did, however, publish an article in the Yale Law Journal in 1898, the same year as Randolph's work; see Elmer B. Adams, *The Causes and Results of Our War with Spain from a Legal Standpoint*, 8 YALE L.J. 119).

<sup>28</sup> *Id.*

<sup>29</sup> 354 U.S. 1 (1957).

<sup>30</sup> 258 U.S. 298 (1922).

<sup>31</sup> 182 U.S. 244 (1901).

<sup>32</sup> KRUSE, *supra* note 2, at 73. Kruse also includes *Downes* in the chart. *Id.* at 67 tbl. 5.1. "The [*Downes*] justices agreed that the Constitution is operative in connection to the express powers of the US Congress over the insular areas, but, . . . the more relevant question was whether Puerto Rico was incorporated 'into and forms a part of the United States.'" *Id.* at 73 (quoting *Downes*, 182 U.S. at 292).

<sup>33</sup> *Id.* at 76 (citing Northwest Territory Ordinance of 1787, ch. 8, 1 Stat. 50 § 6.5).

inevitably destined to become states"<sup>34</sup> and "[a] territory that does not have an Organic Act is defined as unorganized in US law."<sup>35</sup> After noting that "[c]itizenship status of people living in insular territories is determined . . . through an Organic Act[.]"<sup>36</sup> Kruse then discusses "US [c]itizenship and American Sāmoa."<sup>37</sup> This section notes "a lawsuit by the Constitutional Accountability Center (CAC) . . . for automatic US citizenship for individuals born in American Sāmoa. They argue that the Fourteenth Amendment's Citizenship Clause extends to American Sāmoa[] . . . ." <sup>38</sup> According to Kruse:

If the CAC lawsuit [had been] successful and the federal courts mandated automatic citizenship in American Sāmoa based on the Fourteenth Amendment and the citizenship clause, then the equal protection and due process clauses would also come into play. . . . American Sāmoa currently violates the equal protection and due process clauses of the Fourteenth Amendment by practicing ethnicity-based land ownership, adhering to a nobility system (*māta'i*), and following an election process that requires of civil servants to the Senate performance of *chiefly* custom. . . . If the citizenship clause is mandated, American Sāmoa will not be allowed to continue with these "unconstitutional," traditional cultural practices.<sup>39</sup>

She next reviews modern American Sāmoa. The chapter ends with information regarding the "Philippines, Puerto Rico, and Guam[] [as] [u]nincorporated . . . US [t]erritories."<sup>40</sup>

In Chapter Six, Kruse outlines the 1900-1941 evolution of law in American Sāmoa. Citing *Talala v. Logo*,<sup>41</sup> Kruse states that "[i]ndigenous

<sup>34</sup> *Id.* (citing Jon M. Van Dyke, *The Evolving Legal Relationships Between the United States and Its Affiliated U.S.-Flag Islands*, 14 U. HAW. L. REV. 445, 445–50 (1992)).

<sup>35</sup> *Id.* (Kruse describes "[a]n Organic Act [a]s an act of the US Congress that establishes a territory within the US body-politic or what can be labeled as being within the 'domestic sphere.'").

<sup>36</sup> *Id.* at 77.

<sup>37</sup> *Id.* at 79. Kruse notes that "American Sāmoans are US nationals and not US citizens (8 U.S.C. á 1101(22)(b))." *Id.* at 80.

<sup>38</sup> *Id.* at 82.

<sup>39</sup> *Id.* at 87 (citations omitted). *But see Fitiseanu v. United States*, Case No. 1:18-cv-36, 2019 WL 6766502, at \*37, (D. Utah Dec. 12, 2019) ("Persons born in American Samoa are citizens of the United States by virtue of the Citizenship Clause of the Fourteenth Amendment.").

<sup>40</sup> KRUSE, *supra* note 2, at 94.

<sup>41</sup> 1 A.S.R. 166 (1907).

culture was not a consideration within the legal framework or the initial American administration in American Sāmoa[.]”<sup>42</sup> She then proceeds to argue that “USN Commandant Charles Moore[] . . . unequivocally supported adverse land possession rights because these rights were accepted by ‘civilized’ countries.”<sup>43</sup> Kruses notes that, in *Talala* “Moore declared[] [that] [i]t is not worthwhile for this Court to cite the numberless authorities on the question of the settlement of titles by adverse possession. The doctrine is so well understood that it is a waste of time to discuss it.”<sup>44</sup> Kruse then discusses other adverse possession cases such as *Faitialofa v. Fagamalo*,<sup>45</sup> *Talo v. Poi*,<sup>46</sup> *Tufaga v. Liufau*,<sup>47</sup> and *Laapui v. Taua*,<sup>48</sup> and next turns to the “express[] recogni[tion] and allow[ance] of the adverse possession of land”<sup>49</sup> in the 1900 Promulgation and Publication of Law by then-Navy Commandant Benjamin F. Tilley.<sup>50</sup>

Kruse also notes the taxation of copra by the Navy.<sup>51</sup> “[E]ach village was mandated by military proclamations that every *mātai* family, and person cultivate their lands to produce enough agricultural staples to pay the government the monthly copra tax.”<sup>52</sup> Furthermore, “[c]ultivation is a principal element of adverse land possession; a claimant must show evidence that they farmed the land, a feat that became easier to prove when the military regulated the cultivation of lands for copra taxes.”<sup>53</sup> Accordingly, “[t]axation and plantation cultivation changed communal land holdings. . . . Without deeds or an established system of surveyances of land boundaries, evidence of cultivation and possession were the primary evidence the High Court used to award titles in adverse land possession claims.”<sup>54</sup> Kruse

<sup>42</sup> KRUSE, *supra* note 2, at 112 (citing *Talala*, 1 A.S.R. at 171).

<sup>43</sup> *Id.* at 112–13.

<sup>44</sup> *Id.* at 113 (quoting *Talala*, 1 A.S.R. at 174).

<sup>45</sup> LT. No. 5-1903.

<sup>46</sup> 2 A.S.R. 66 (1938).

<sup>47</sup> 1 A.S.R. 184 (1903).

<sup>48</sup> 1 A.S.R. 24 (1901).

<sup>49</sup> KRUSE, *supra* note 2, at 115.

<sup>50</sup> Although Kruse refers to him as “USN Commandant Tilley” on page 115 and elsewhere, “Benjamin F. Tilley” is given as the most complete version of Tilley’s name. *See id.* at 100, n.15.

<sup>51</sup> *Id.* at 116 (citing U.S. Navy Regulation Nos. 21-1900, 1-1917, 3-1921).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 124 (footnote omitted).

concludes this chapter with a contemplation of "[d]ividing [c]ustomary [l]ands]"<sup>55</sup> and then a section on "[l]and and [c]hanging [s]ociety."<sup>56</sup>

Chapter Seven continues to describe communal land and lone dominion. According to Kruse, "[t]here has been a significant increase in individually owned lands from 1979, when less than four percent of lands were individually owned to 2013, when 25.7 percent are now registered as individually owned."<sup>57</sup> Kruse further notes "that the burden of proof for ownership rights now rests on the *āiga*."<sup>58</sup> This chapter later reviews "[o]ral [t]radition [being] [t]ermed '[h]earsay'"<sup>59</sup> before covering a number of court cases, including *Government v. Letuli*<sup>60</sup> and *Sapela v. Magea*.<sup>61</sup>

In Chapter Eight, Kruse describes how community land in American Sāmoa may be safeguarded. Kruse remarks that the Land Registration Act has augmented individual ownership's creation by the High Court. As Kruse notes, "[t]his Act provides: . . . any individual can register a claim to 'any land [ . . . ] not previously registered,' which comprises [the] majority of land in the territory, if no one objects in 60 days."<sup>62</sup> Kruse then returns to reviewing court cases, before noting individual land ownership's acknowledgment by the American Sāmoa Legislature in 1962.<sup>63</sup> In the remainder of the chapter, Kruse considers the "American Sāmoa '[n]ative' [d]efinition,"<sup>64</sup> and then "[e]fforts to [r]etain [c]ustomary [l]and and [the] [*m*]ātai system."<sup>65</sup> Kruse

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 128.

<sup>57</sup> *Id.* at 136 (citing *American Samoa: Statistical Yearbook*, AM. SAM. GOV'T: DEPT COM. 97 (2013)). See *American Samoa: Statistical Yearbook*, *supra* note 57, at 80, available at <http://doc.as/wp-content/uploads/2011/06/2013-Statistical-Yearbook-Final-Draft.pdf>.

<sup>58</sup> KRUSE, *supra* note 2, at 136.

<sup>59</sup> *Id.* at 140.

<sup>60</sup> LT No. 016-63 (1963).

<sup>61</sup> 1 A.S.R. 125 (1905).

<sup>62</sup> KRUSE, *supra* note 2, at 160.

<sup>63</sup> [O]wnership [was limited] to: (1) a full blood[ed] American Sāmoan or (2) a person who is of at least one-half Sāmoan blood, was born in American Sāmoa, is a descendant of an American-Sāmoan family, lives with Sāmoans as a Sāmoan, has lived in American Sāmoa for more than five years, and has officially declared his intention to make American Sāmoa his home for life (A.S.C.A. § 37.0201 (1999); 37.0204 et. seq. (1982)).

*Id.* at 163 (first and second alterations added, third alteration in original).

<sup>64</sup> *Id.* at 165.

<sup>65</sup> *Id.* at 167.

ends the chapter noting several "[u]nanswered [q]uestions."<sup>66</sup> After setting these forth, she presents her belief that "[t]he only way to solve these conundrums, . . . is for the *Fono* to institute parameters and definitions[.]"<sup>67</sup>

In Chapter Nine, Kruse next examines "Legal and Political Futures for American Sāmoa."<sup>68</sup> She remarks that "American Sāmoa's legal and political relationship with the United States is currently being re-examined due to the growing number of off-island American Sāmoans wanting automatic US citizenship[.]"<sup>69</sup> and then notes that the "Independent State of Sāmoa (Sāmoa), Palau, and [the Northern] Mariana Islands . . . [have] similar, although not parallel, political status and history that have intersected at times with the history of American Sāmoa."<sup>70</sup> Kruse describes "Sāmoa [a]s a Westminster parliamentary democratic country . . . . [With] national protections for Sāmoan customs."<sup>71</sup> "[C]ustom and customary land disputes, [where] there is no codification of customary law[.]"<sup>72</sup> are handled solely by the Land and Titles Court. On the other hand, "Palau is an independent country that has a free association with the United States . . . ."<sup>73</sup> Kruse states that "Palau operates as a presidential representative democratic republic . . . . [I]ts sources of law [are] the Constitution, statutes (Palau National Code), and English Common law."<sup>74</sup> Kruse notes "the Northern Mariana Islands [i]s an organized jurisdiction that is unincorporated within the US national body-politic."<sup>75</sup> According to Kruse, "[t]he Commonwealth Covenant established a presidential representative democratic government with a Constitution."<sup>76</sup> Also, "[t]he [Northern] Mariana Islands [may] have a Constitution, but the Commonwealth Covenant expressly includes [that] specific provisions of the US Constitution, US treaties, pre-Commonwealth laws, and US laws reign supreme."<sup>77</sup> Furthermore,

<sup>66</sup> *Id.* at 169.

<sup>67</sup> *Id.* at 170.

<sup>68</sup> *Id.* at 173.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 177 (citations omitted).

<sup>72</sup> *Id.* at 179.

<sup>73</sup> *Id.* at 180. "Palau is . . . the 185th member state of the UN." *Id.* at 181.

<sup>74</sup> *Id.* at 182 (citation omitted).

<sup>75</sup> *Id.* at 184.

<sup>76</sup> *Id.* at 185. Kruse's description is curious because a governor, not a president, is the Northern Mariana Islands' chief executive. See N. MAR. I. CONST. art. III, § 1.

<sup>77</sup> KRUSE, *supra* note 2, at 186.

"land ownership is restricted to only Northern Mariana ancestry[] . . . ."<sup>78</sup> Kruse then opines that "[p]lausible alternative legal relationships with the United States are examined in this chapter, their experiences and roadmaps to self-determination offer hard-won lessons and insights for the indigenous people of American Sāmoa."<sup>79</sup> However, in her view, "changes to the present relationship should be undertaken only after careful analysis of the potential challenges contained in alternative political models."<sup>80</sup>

In Chapter Ten, Kruse ends her work. In doing so, she notes that "[s]ome of the historical texts reveal that neither the Navy nor Congress conspired to abolish Sāmoan indigenous culture or destroy the communal land tenure when the islands were ceded to the United States."<sup>81</sup> She further opines that "[a]t this present time, the practice of traditional Sāmoan customs within a global market demands land tenure modification to the existing structure[.]"<sup>82</sup> and then proposes that:

Unless the *Fono* stops the individualization of land that removes land from customary stewardship and under the *fa'amātai*, a balance of cultural protections and economic growth could be found through codifying individual lands similar to the classification of freehold lands. This would allow the owner to freely transfer land (with or without American Sāmoan ancestry). American Sāmoa could also approach this issue with a firm hand and move for the dissolution of individual land ownership . . . .

Perhaps, this is the time to legislate this hybrid lifestyle into the land tenure classification system by protecting virgin and customary lands from further alienation while also allowing freehold and individual lands to be freely transferable.<sup>83</sup>

Next, noting that the subjects in her book have not been researched extensively, Kruse then ends this final chapter with the

---

<sup>78</sup> *Id.* at 187.

<sup>79</sup> *Id.* at 188.

<sup>80</sup> *Id.* at 189 (citation omitted).

<sup>81</sup> *Id.* at 195.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 195–96.

"sincere hope . . . that this book will incite more examination and conversation."<sup>84</sup>

Overall, this book does a fantastic job of communicating much information in a single volume. It covers significant ground and leaves even a novice reader with a well-reasoned understanding of American Sāmoa and the clout the United States has had on its communal land system. Moreover, despite Kruse's clearly strongly favorable views of the communal land system, she is willing to acknowledge that it is not one-sidedly positive. That said, there are certainly a few places where Kruse could have developed her work further. For instance, Kruse does not provide much background on the High Court of American Sāmoa.<sup>85</sup> Kruse also does not discuss that "American Samoa does not have a federal court like the [Northern Mariana Islands], Guam, or [Virgin Islands]] . . ." <sup>86</sup> That she does not address these topics is most certainly the reader's loss. Given the caliber of the rest her work, it would be very interesting to know her thoughts.

<sup>84</sup> *Id.* at 196.

<sup>85</sup> One issue of note in this regard is that Kruse does not address in detail is "the current practice where the Secretary of Interior appoints the chief justice and associate justice of the High Court." Fili Sagapolutele, *Gov Says DOI Asks AS to Look Into the Appointments of Its Chief & Associate Judges*, SAMOA NEWS (Oct. 27, 2016, 2:53 PM), <https://samoanews.com/local-news/gov-says-doi-asks-look-appointments-its-chief-associate-judges>; see also REVISED CONST. AM. SAM. art. III, § 3, available at [https://www.asbar.org/2019/index.php?option=com\\_content&view=article&id=1961&Itemid=177#sec303](https://www.asbar.org/2019/index.php?option=com_content&view=article&id=1961&Itemid=177#sec303) (last visited Apr. 30, 2020) ("The Secretary of the Interior shall appoint a Chief Justice . . . and such Associate Justices as he may deem necessary."). See generally Bill Raftery, *American Samoa: 2010 Proposed Constitutional Amendments Failed, but Shed Light on Judicial Selection*, GAVEL TO GAVEL (July 19, 2011), <http://gaveltogavel.us/2011/07/19/american-samoa-2010-proposed-constitutional-amendments-failed-but-shed-light-on-judicial-selection/>; Joseph McDermott, *Appointment of Justices to the High Court in American Samoa*, Briefing Paper for the 2011 Senior Plenary Session of the IGIA (Mar. 1, 2011), [https://www.doi.gov/sites/doi.gov/files/uploads/AMERICAN-SAMOA-2-Appointment-of-Justices-to-High-Court\\_Feb\\_2011.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/AMERICAN-SAMOA-2-Appointment-of-Justices-to-High-Court_Feb_2011.pdf).

<sup>86</sup> U.S. GOV'T ACCOUNTABILITY OFF., GAO-08-1124T, AMERICAN SAMOA: ISSUES ASSOCIATED WITH SOME FEDERAL COURT OPTIONS (2008), <https://www.gao.gov/assets/130/121189.pdf>. See generally *id.*; Michael W. Weaver, *The Territory Federal Jurisdiction Forgot: The Question of Greater Federal Jurisdiction in American Samoa*, 17 PAC. RIM L. & POL'Y J. 325 (2008); Tapaau Daniel F. Aga, *Written Statement of the American Samoa Government On Behalf of the Honorable Lolo Matalasi Moliga, Governor of American Samoa*, 1, 6-7 (2017), <https://www.un.org/es/decolonization/pdf/Statement%20of%20American%20Samoa.Rev.pdf> (stating that "American Samoa has been careful not to federalize its courts or immigration. American Samoa is the only part of the US not formally included into the US federal court system."). See also Fili Sagapolutele, *UN Decolonization Committee Hears About "Samoan Way of Life"*, SAMOA NEWS (June 15, 2017, 11:41 AM), <http://www.samoanews.com/local-news/un-decolonization-committee-hears-about-samoan-way-life>.

Regardless of these criticisms, this is an outstanding book. For anyone who studies the United States territories, or who wishes to learn more about them generally or American Sāmoa in particular, it is a must-read. Even for someone who is already well-versed in American Sāmoan land law, one would be hard-pressed to believe that a book of this caliber would not be of significant worth.