

STATEMENT OF
Honorable Talauega Eleasalo Va'alele Ale
Lieutenant Governor
American Samoa
BEFORE THE
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
May 12, 2021

Good afternoon Chairman Grijalva, Ranking Member Westerman and Members of the Committee. On behalf of Governor Lemanu Mauga and myself, I bring greetings from the people and government of American Samoa. Talofa, Talofa Lava. Thank you for the opportunity to appear before you today to share our strong opposition to the proposed "Insular Cases Resolution – House Resolution 279." This measure, while well-intended and perhaps, in some circumstances justified, is a blunt instrument that will not only hasten the destruction of unique cultures within U.S. Territories and Insular Areas, it will destroy the right of the people of American Samoa to democratic self-determination.

Currently the people of American Samoa have a degree of self-determination and have a voice and a way of protecting our culture and way of life. This arrangement preserves our traditional Samoan way of life, or fa'a Samoa, including communal land ownership, cultural traditions like prayer curfews, and that most of our islands' lands should stay in the hands of persons with Samoan ancestry.

American Samoa has been a U.S. territory since 1900. However, we are not US citizens, but rather non-citizen U.S. nationals. We cannot vote or run for office in the incorporated US or hold certain US government positions. There is a unique difference between American Samoa and the other U.S. territories in that those persons native to Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands become U.S. citizens at birth pursuant to Congressional action.

In December of 2019, U.S. District Court Judge Clark Waddoups in the Utah District tried to change our non-citizen U.S. national status, ruling that American Samoans should also have birthright citizenship. This decision was made without our people in American Samoa voting on the issue or exercising our right to self-determination. Persons born in American Samoa currently have a path to U.S. citizenship, an expedited path if they leave American Samoa and reside in the United States.

Ending application of the Insular Cases, as proposed in HR 279, may well be the correct course for some territories. That could include territories that have democratically self-determined that the status of the people under the law of the Insular Cases is intolerable, and must end immediately by legal mandate without agreed terms or conditions that define a new status other than unincorporated territory.

That is not the case for American Samoa. Each territory has a voice through the local territorial government and a voice in Congress to inform and assist Congress in the exercise of its powers to provide for local self-government in the territories under Article IV, Section 3, Clause 2 of the U.S. Constitution.

Our voice and our message are extremely clear: We want any change in our political status and rights under federal territorial law to be decided by elected leaders in the local government, our people and our elected representative in Congress and fellow members of Congress, not by unelected federal judges who we have no voice in nominating or confirming, who handed down the Insular Cases the last time Congress deferred to the courts on the question of political status of territories in 1901.

Accordingly, we support the intent of the resolution to repudiate the expression of racist attitudes by justices of the U.S. in the Insular Cases. However, we believe all lawsuits and cases in the Federal courts in which the actual law of the Insular Cases is being challenged should be decided on the merits consistent with the U.S. Constitution, law, evidence, and facts presented in court.

This is imperative and critical for American Samoa because of pending litigation in which the courts are being asked to change the political status of the people of American Samoa under Federal law, without local democratic self-determination supporting outcomes of litigation that are unpredictable and/or unwanted.

I understand why lawyers representing plaintiffs in the lawsuit involving U.S. birthright citizenship for persons born in American Samoa, would like Congress and the Department of Justice to be unable to consider the history and meaning of the Insular Cases in adjudicating currently pending cases. That could mean the lawyers for clients who want court-ordered political status changes would prevail, because there would be less U.S. Supreme Court case law to oppose plaintiffs' legal positions.

That is why lawyers are aligned with other special interest groups in current pending cases. These special interest groups have lost past lawsuits, and now are asking Congress to change existing U.S. territorial law, based on racist attitudes expressed by judges 120 years ago, when the vast majority of Americans and the U.S. as a nation were openly engaged in systemic racism.

We have no objection to repudiating the racist and immoral views adopted in the Insular Cases. Indeed, we join our fellow Territories in doing so today. What we oppose is the wholesale rejection of these cases because we believe such an action will have a lasting impact on the underlying structure of our political relationship with the U.S. – the right of self-determination and consent of the governed.

Each US Territory is unique, and any new legislation should recognize the history of the individual territories and their relationship with the U.S. and Congress. A "one size fits all" approach will not work.

American Samoa as an example:

- We are the only one of the five insular territories that did not come under U.S. sovereignty as a result of conquest of or sale by a European or Asian power;
- We are the only territory that controls its own immigration and customs systems;
- We are the only territory that selects part of its legislature through customary means;
- We are the only territory that prohibits the alienation of most of its lands;
- We are the only territory whose residents are not automatically U.S. citizens at birth and prefer to keep it that way.
- We believe being patriotic non-citizen U.S. nationals is not a second-class status but a unique first-class status. Despite not being U.S. citizens, American Samoa has the highest enlistment rate in the U.S. military of any of the U.S. states or territories.

I would like to submit for the record letters from Governor Lemanu Mauga and myself to our counterparts in other insular territories asking them not to support or endorse efforts to deny self-determination and force reclassification of U.S. nationals in American Samoa as U.S. "citizens" without consent of our people. I understand our legislature will take up a resolution to the same effect when it meets in its next regular session.

Thank you again, Mr. Chairman, and Members of the Committee for allowing me to speak for my people on this important matter.