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EXPERT COMMENTARY

The Pacific: A Continuum of Sovereign States
and Overseas Territories

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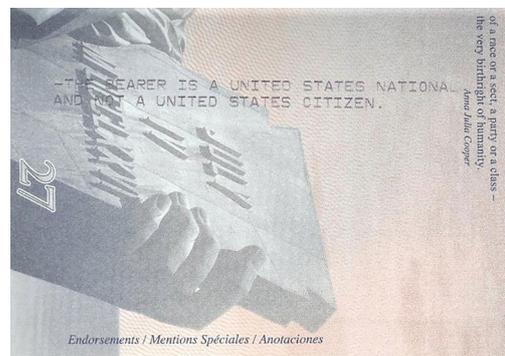


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When endeavoring to rank the quality of nationalities – as legal statuses of attachment to states – in the Pacific, two challenges emerge. First, there is no clear line dividing the Pacific islands into states – defined as ‘sovereign territorial entities’ earlier in the QNI – and non-sovereign territories. Instead, the Pacific region’s islands are better understood when placed on a continuum with sovereign states at one end of the scale and islands which are overseas territories of states located thousands of miles away at the other end. Examples of islands which are sovereign states are Tonga, Fiji and Papua New Guinea. Examples of Pacific islands whose nationality is taken from sovereign states thousands of miles away are Hawaii (from the US), Rapa Nui (from Chile) or New Caledonia (from France). Between these two extremes lies an array of islands that have very diverse constitutional and legal arrangements which continue to tie them to the Pacific’s (former) colonial metropolises: France, the US and New Zealand. As a consequence, assessing the external value of these nationalities for the purpose of the QNI would need to be done on a case-by-case basis: plenty of islands will simply have no fully-fledged specific nationality of their own.

A few examples illustrate the uniqueness of each nationality of the territories in the middle part of this continuum. American Samoa is legally defined as an ‘unincorporated territory of the US’, which leaves its people with an American passport imprinted with the message ‘The bearer of this passport is a US national and not a US citizen’. These passport-holders have the right to reside and work in the US, but they cannot vote.

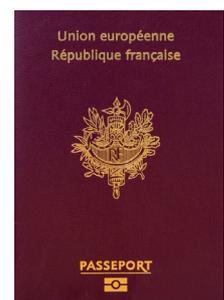


An inscription in an American Samoa-issued US passport specifying that the bearer is a US national without citizenship

They are entitled to enroll in the US army (they have, in fact, the highest rate of military enlistment of any US territory), but they cannot own concealed weapons and are excluded from most government employment opportunities. The island state of Guam, on the other hand, is legally defined as an ‘unincorporated and organized territory of the United States’ and their US passport has no residency or employment restrictions, although some of their civil rights are curtailed. (They can, for example, elect a senator to the US House of Representatives, but this senator’s status is reduced to that of a ‘non-voting delegate’).

Another example to illustrate the uniqueness of many Pacific nationality statuses is the Niuean nationality. Niue is a self-governing state in free association with New Zealand. People on Niue hold dual citizenship: they combine Niue citizenship with that of New Zealand. They travel on a New Zealand passport and can benefit from all the New Zealand citizenship rights and entitlements, provided they apply for the passport in New Zealand. If they acquire Niuean citizenship in Niue, that document does not automatically transfer into a New Zealand passport. Moreover, the arrangement is not mutual and a New Zealand passport does not entitle the holder to the rights on Niue that Niuean citizens have. Practically, this means not only restrictions to residence and employment on Niue for ‘non-Niuean New Zealanders’, but also that New Zealand nationals traveling to Niue need to buy a return airfare unless they prove they are Niuean by birth or are descendants of a Niuean. The Cook Islands, another country in free association with New Zealand, do not issue their own citizenship documents, but they have detailed specific regulations with regard to residence, investment and employment on the islands. A permanent residency permit requires 10 year’s residence (three years for New Zealand citizens) and an individual application, which is regularly turned down.

In essence, these examples show that the terms and benefits of a legal status connecting a person with a Pacific territory come in layers, forming a picture which is not straight-forward. This complicates an assessment of the two external aspects of the QNI General Ranking – Travel Freedom and Settlement Freedom – for each Pacific nationality. Nonetheless, a few patterns can be noted for each aspect. With regard to Travel Freedom, the Pacific region is divided into two distinct groups of nations. On the one side, there are the islands whose people carry passports of their (former) colonial metropolises and benefit in full from the associated travel and Settlement Freedom, all ranking in the top tier of the QNI General Ranking. People holding residence status or a local citizenship in French Polynesia, New Caledonia, and Wallis and Futuna benefit from France’s Extremely High Quality nationality ranking of 2nd out of 159 in the General Ranking of the QNI, thus possessing one of the most elite nationalities in the world. It also scores at the top in Settlement Freedom, allowing free settlement to 44 countries and territories, and is ranked 4th in the Travel Freedom ranking, allowing visa-free or visa-on-arrival travel to 174 countries and territories. Followed at some distance, but in the Very High Quality tier, are people from American Samoa, Guam, and the Northern Mariana Islands, who travel on a US passport ranked 29th in the General Ranking and 8th in the Travel Freedom ranking, allowing visa-free travel or visa-on-arrival to 174 countries and territories. These are followed closely by people from the Cook Islands, Niue and Tokelau who travel on a New Zealand passport which is of Very High Quality, ranked 32nd in the General Ranking and 12th



There are, for example, three times more Cook Islanders residing in New Zealand than on the Cook Islands. Auckland is described as having the largest concentration of Polynesians in the world. The latter – migration into the Pacific islands – is often subject to several conditions which vary across the Pacific, but often consider birthplace and family lineage. By extension, the opportunities for private investment in and ownership of land in most Pacific territories are generally subject to legal restrictions and influenced strongly by local cultural practices.

In addition, it should be noted that where Pacific territories retain constitutional and legal arrangements with their (former) colonial metropolises of France, the US and New Zealand, these arrangements are often subject to repeated or continuous renegotiations between each individual territory and the metropole. These renegotiations affect the conditions of travel and settlement associated with the Pacific territories involved. New Caledonia, for example, has had 10 different constitutional arrangements with France since 1946, leading some analysts to speak of the ‘waltz of statuses’ or the ‘institutional yo-yo’. This has implications for the quality of nationality in New Caledonia, Wallis and Futuna, and French Polynesia, even if all people living in these French territories are French citizens.

The latest round of renegotiation in New Caledonia – resulting in the Nouméa Agreement of 1998 – differentiates voting and employment conditions between, on the one hand, the territory’s indigenous population and those on the electoral roll before 1998 and people who arrived or enrolled later, on the other. The later arrivals cannot vote in the 2018 referendum on independence. Employment in the public sector of French or EU citizens who arrived in New Caledonia after 1998 is curtailed by the requirement that they can only be hired if there is no equally qualified New Caledonian native or long-term resident available. Since 2015, this principle has become applicable to employment in the private sector too. In contrast, French Polynesia does not have such employment restrictions for non-resident citizens. On the other hand, whereas there are no restrictions for non-resident French or EU citizens to purchase freehold land in New Caledonia, the purchase of freehold land in French Polynesia by non-resident citizens is subject to government scrutiny and possible restrictions. In short, the quality of French or EU nationalities in the Pacific region is partly determined by uniquely local regulations at a sub-national level which are subject to constant change. New Caledonia’s 2018 referendum on independence will, undoubtedly, trigger another series of changes which will affect the quality of nationality and citizenship in New Caledonia.

After the complexities which result from the differentiation between the local nationality and residence rights and the citizenship of the metropole held by a large chunk of the population in the Pacific, the second challenge in ranking the Pacific’s nationalities results from the fact that many of the Pacific’s territories have rather small populations and limited public service capabilities. This means the public data on these territories is often too limited to assess the internal value of the quality of their nationalities for the QNI. To illustrate this challenge, a brief look at the population size of the Pacific territories suffices. Once the three largest Pacific nations are excluded (Australia, Papua New Guinea, and New Zealand), there are no Pacific territories with a population of over one million people. In fact, once Fiji and the Solomon Islands are also excluded, all the remaining 20-something territories have populations of less than 300,000. Inevitably, many of these territories do not have, or do not publish reliable data on their GDP and international bodies overlook or omit them in their rankings – as is the case with the Human Development Index or the Global Peace Index.

Pacific territories have been undertaking several initiatives to deal with the challenge of small populations, limited public services and regional collaboration. Two of these initiatives are likely to grow in relevance and may, eventually, impinge on the quality of the nationalities of their members. First, the Pacific Island Forum which was established as the South Pacific Forum in 1971, but its mandate and membership have expanded steadily since the 2000s. With the admission of New Caledonia and French Polynesia in September 2016, its membership now includes 18 independent and self-governing states and a handful of associate members and observers – reflecting the continuum of shades of sovereignty mentioned earlier. Most of its activities are directed at inter-governmental cooperation and international representation. However, it seems only a matter of time until issues of nationality and citizenship appear on the Forum's agenda. Similarly, a second regional initiative is the Melanesian Spearhead Group, founded in 1986 by Fiji, Papua New Guinea, the Solomon Islands, Vanuatu and the political party representing the indigenous people of New Caledonia. As of 2007, it began expanding its mandate and membership, focusing increasingly on trade and exchanges between its members. Both these initiatives for regional collaboration have the potential to improve the internal value of their members' nationalities by increasing their economic opportunities and reducing risks from poor governance and domestic conflict.

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