

Fa'asāmoa Forever – The Sacred Circle. The Politics of Encompassment and Consensus

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Abstract: This article examines the remarkable permanence of *fa'asāmoa*, Sāmoan custom, throughout the upheavals of history. The strength of this permanence lies in a particular configuration of what brings the community together at meetings when an important decision has to be taken: an equality of positions in the community circle where everyone faces one another, in the sense that everyone is seated at the same level. But this equality is maintained by a bond of higher value, sometimes called the 'country', 'custom' or even 'God'. This is what the Sāmoans call the 'sacred circle'. Each time, this hierarchy of references makes it possible to find a way not to ignore but to position the conflict at an 'encompassed' level, leaving the community value at the 'encompassing' level. The article describes how this works through historical examples, from German colonization via the construction of independence in the 1960s to the latest national elections in 2021, which saw fierce competition between two political parties, as well as considering the way in which consensus is favoured over majority voting.

[*Sāmoa, politics, consensus, custom, holism*]

Introduction

Within the multiplicities of the *fa'asāmoa* (the Sāmoan Way) are various socio-cultural configurations of value that we can see at work today and can trace historically for some 150 years. This article focuses on an unchanging value: the ability to encompass rivalries, conflicts and individualistic strategies within the *fa'asāmoa* through the politics of encompassment and the prevalence of consensus over majority voting. It examines a question along the lines offered by our co-convenors: 'why and how does Sāmoanness remain intact (or rather has meaningful value), despite ongoing transformations? How is it being reshaped but not ruptured, thereby maintaining its integrity within flexible boundaries?'. Part of the answer is a central social tool: the 'sacred circle' (*alofi sā*).

The concept of 'Sāmoanness' held by Sāmoans – whether they live in the islands or overseas, and whether they agree or sharply oppose each other in political debates – is termed *fa'asāmoa*, or 'how to be Sāmoan'. The phrase spans both language and social structure: *fa'asāmoa* translates both 'do you speak *fa'asāmoa*?' and 'do you do/act *fa'asāmoa*?'. Reflecting this concept is one of the most popular songs in Sāmoa, which glorifies the idea of being Sāmoan, with words in English and Sāmoan. The song, entitled *We are Sāmoa*, defines 'we' as being *uso* (men as 'brothers', women as 'sisters') and expresses the sentiment that all Sāmoans are under 'the guidance of God'.

We are Sāmoa
And our heritage lives on [...]
We are Sāmoa
And we trust in Thee
Sāmoa [...]
O sasae ma sisifo e tasi [from west to east all together] [...]
Aiga ma nuu taitasi [clans and villages all together] [...]
Ta pepese faatasi [let us sing in unison]
Uso Sāmoa [siblings of Sāmoa] [...]
Sāmoa mo oe [Sāmoa for you]
Sāmoa mo Le Atua [Sāmoa for God]

Specifics of the Sacred Circle: Hierarchy and Equality

People who are mutually *uso* (same-sex siblings) in a metaphorical sense meet in the *fa'asāmoa* way, whether within a family or at the higher level of the village or district where are the *usoali'i* (chiefs as brothers). The spatial arrangement is a circle where everyone faces one another, all sitting at the same level, and a prayer to God opens and closes the meeting. This applies to very traditional occasions when people meet up as well as very modern occasions. One such modern occasion happened in 2021, at the installation of all the newly elected Members of Parliament sitting under a tent erected in haste as a temporary shelter. This was because the proper Parliament building had been locked by the previous government, which did not want to recognize its electoral defeat). Another example was the 2017 foundational meeting of the transgender community, where for the first time transgender MtF and FtM groups came together as one (Luamanu 2017, Tcherkézoff 2022a: Ch. 9).

But the sameness as *uso* is specific: God's presence 'up there' introduces a subtle but strong hierarchy of ranks within the circle of sameness. It is this interaction between equality and hierarchy, embedded within one and the same common language, that imbues the Sāmoan *alofi sā* with its ability to be adapted. This adaptability allows it to inform most radical social transformations and to be largely able to encompass conflict and prevent the eruption of generalized violence.

Let me recall two methodological suggestions that I put forward a long time ago. One, directly inspired by the work of Louis Dumont in his anthropology of Indian society, concerns the need to differentiate between 'holistic' and 'stratified' social distinctions, that is, between hierarchy, understood solely in the holistic sense, and social stratification in the classical sense of twentieth-century British social anthropology (Tcherkézoff 1987, 1993a, 1994a, 1995). I used this first proposal in my ethnographic analyses of Sāmoa (published in French, too numerous to be referenced here; see <https://www.serge-tcherkezoff.fr/-Publications->) and some in English (1993b, 1994b,

1998, 2008, 2011, 2019), which allowed a dialogue with the all too few researchers who were sensitive to the presence of this form of hierarchy in Sāmoa (Schoeffel 1978, 1979, 1987, 1995); Meleisea 1987; Meleisea and Schoeffel 2016).

The other proposal is that a hierarchical social structure (in the holistic sense) makes it possible to confront the event, the unforeseen change, the history, through the integration of the novelty 'at a certain level', an integration by means of an 'encompassment' (in the holistic sense), instead of a confrontation in terms of all or nothing, and thus also a peaceful integration instead of a violent confrontation. Here again, Sāmoa was for me a remarkable example, both during colonization and after achieving its independence (Tchekézo 1997a & b, 1998, 2000a & b, 2005, 2008, 2020).

Hierarchy and Consensus

In the Pacific, one of the values promoted by the 'Pacific Way', a reference to a well-known phrase of Sir Ratu Mara dating from 1970), is decision-making through consensus, as opposed to a decision made through simple majority voting. Consensus has been and is practised in all Sāmoan meetings in all contexts at the family, village and district levels as far back as our information goes, but it is *not* practised in the parliamentary elections that have been held since independence.

Consensus does not mean that everyone thinks the same way. In a majority vote, the voters come out on opposing sides. However, reaching a consensus involves allowing time for discussion, as long as is needed, until one side begins to feel that they are beginning to persuade a majority of those present, while the other side gives up the hope of persuading everybody else. Once this feeling is strongly established, people agree to share a common drink (the well-known *kava*), from the same bowl or *tanoa*, with the same cup or *ipu* going around. The first cup is raised 'to God' and thus fixes the seal of a superior order, which encompasses the divisions and testifies to the solidity of the consensus. Then people can come out of the meeting as one.

Of course, this does not prevent the side which *de facto* did not win the discussion from trying at the next available opportunity to persuade the assembly again. However, the participants come out of the meeting all together, after having shared into the same sacred drink, having sat together in the sacred circle or *alofi sā*. This prevents the crowd from being divided into a 'winning side' or *itu mālō* and a 'losing side' or *itu vaivai*.

Hierarchy in the Vocabulary of 'Respect'

Another example is the so-called vocabulary of 'respect' or *fū'aaloalo*, which is entirely different from what foreign observers had thought they had discovered in these socie-

ties of Western Polynesia. The latter divided this vocabulary into the ‘chief’s language’ and the ‘commoner’s language’, based on a misunderstanding. They thought that the *matai* (chiefs) used certain words between themselves – the lexicon of ‘nobility’, they called it – while commoners used other words. In fact, the system works very differently: when a person of inferior rank is addressing a superior, they abstain from using so-called ‘ordinary’ words and use different ones. This is done because it is *tapu* (roughly akin to ‘taboo’, more commonly called *sa* in Sāmoan) to ‘touch’ a superior, whether physically or using ordinary words. ‘Is the sickness of your wife better?’, the inferior asks the superior, using a non-ordinary word for sickness (*gasegase* instead of *ma’i*) and a non-ordinary word for wife (*masiofo*, *faletua* or *tausi* instead of *to’alua*). However, the *matai* in his answer will use the ordinary words in response. In this way, the *matai* encompasses and integrates the commoner, using the same register that this ‘commoner’ uses with other people of the same status.

The Path to Sāmoan Independence and to an Encompassing Citizenship¹

Another remarkable example of holistic integration successfully carried out by and in the fa’asāmoa is the way in which the opposition created by colonial references to ‘race’ was encompassed within a new national unity during the twentieth century.

The German Period

At the end of the nineteenth century, Apia was a trading post and home to dozens of Sāmoan villages. It had a foreign or mixed population (unions of foreign men with Sāmoan women), more or less organized into a system of ‘consuls’ representing the main nationalities (English, German, American) and a ‘municipal’ council. In 1899, following the major colonial divisions decided in western capitals, the western part of the archipelago became German. This colonization ended when, at the outbreak of the First World War, Germany lost all its overseas possessions. Deutsche Sāmoa was then administered by New Zealand under the name of Western Sāmoa.

During the German and New Zealand periods, the Sāmoan ‘race’ was said to be one of the last ‘pure Polynesian races’ left; it was therefore felt necessary to preserve it from mixing with others. Regardless of the German terminology (*Eingeborener / Fremd* etc.; see Winter 2017: 6), communication with the local community was mainly in English. The Germans therefore made a sharp distinction between ‘natives’ and ‘aliens’

¹ For a more detailed analysis and bibliographical references, see Tcherkézoff (in press). On the history of the ‘racial’ issue, the initial and main study is Salesa (2000, 2011).

among the local population, as well as between 'natives' and people of mixed origin. The subsequent New Zealand administration did not change this distinction.

I will use the word 'Métis', with a capital letter, to keep a sense of distance from the overused and unpleasant term 'half-caste'. The Germans spoke of *Halbblut* and *Mischlings*, but in English of *halfcaste* (as in the whole British Empire), a term that became official under the New Zealand administration and was incorporated by the Sāmoans into their own language as *afakasi*.

The Germans had made their distinctions along the lines defined by the local 'consuls' of the second half of the nineteenth century. Mixed-race children from a duly recognized marriage (the vast majority were cases of a foreign man marrying a Sāmoan woman) were given the status of their father if their father had been able to register his marriage at a consulate. Decades later, however, the proof of registration may have been discarded or lost, and various Sāmoans descended from 'European Métis' could not obtain a passport recognizing their status as citizens of their father's or forefather's country of origin because they did not have sufficient official proof. They then became 'residents with foreign status', known as 'European Métis', a reference to their fathers. But Métis children from an illegitimate marriage that had not been registered at a consulate, so were lacking in papers, could not inherit their father's status. Since they could not be 'foreigners', they were necessarily 'Indigenous'. Thus, in the end, two categories were created: 'Métis European' and 'Métis indigenous'. In 1947, the word 'indigenous' was systematically replaced by 'Sāmoan' in New Zealand government documents.

In addition to the internal classification imposed on the Métis, the *de facto* distinction between the Métis in general and both the Europeans and the Sāmoans in particular must be stressed. The officials of the German colony, including the prominent businessmen who arrived, especially from the 1870-1880s (sent by companies already existing in Europe or elsewhere in the Pacific), together with the 'consuls' (positions that began to exist in the 1840s and 1850s), not to mention the Protestant missionaries present since 1836, were all European men who had come to Sāmoa with their European wives, unlike the adventurers and small settler-merchants who had come alone since the 1820s and continuing throughout the nineteenth century. The Europeans had a two-fold contempt for the Métis. On the one hand, these Europeans officials considered that the European admixture endangered the 'purity of the Sāmoan race'. On the other hand, they considered that a European who married a Sāmoan woman was 'indulging himself in savagery', and even becoming a 'savage'.

The Germans called this *verkanakern*, 'to become a Kanak', a term used for the indigenous people of New Caledonia which had become a trans-Pacific colonial and racist term. This was a sad irony of history when one considers that the term was originally used by Polynesian crews on European trading ships to mean simply 'men [are in sight]' (*tagata, kanaka*). However, it was interpreted and used by European captains as a derogatory term for the 'savages of the place', giving rise to the term 'Canaques' in French. This lasted until the reversal of value by Jean Marie Tjibaou in the 1970s, under a slogan expressing the pride of being 'Kanak'.

The New Zealand Administration

After a small New Zealand contingent took possession of Sāmoa in 1914 on behalf of Britain, the post-war League of Nations gave New Zealand an administrative ‘mandate’ to run the territory. Things did not change with the establishment of this administration in the 1920s and 1930s: the idea remained that ‘half-castes are responsible for the greatest social problems in the country’. This was also the time when the Sāmoan word *afakasi* became dominant. The word ‘half-caste’ could be parsed into Sāmoan as *totolua*, meaning ‘two bloods’, but it was the word *afakasi*, a transcription of the English, that became dominant in the early New Zealand period. This notion does not so much indicate the degree of mixing (‘half’ or not) as the associated fall in social status, the exit from the ‘pure’ category in which one should have remained.

The respective preoccupations with social class and ‘race’ interacted with one another. The missionaries and consuls arrived ‘in Polynesia’, and therefore in societies ‘with chieftaincy or kingship’, according to what they had read. They therefore sought to deal with the ‘great chiefs’ of the country systematically, and they even constantly tried, from 1860 to 1899, to bring about a single ‘royalty’. All of this created a superior statutory relationship between some Sāmoans and some Europeans, a relationship that at first did not include intermarriage between them. As a result of this relationship, both sides had a certain contempt for the Métis, who were mostly small-scale adventurer-traders.

At the end of the Second World War, the UN’s decolonization programme came together with the wishes of the New Zealand Labour government to rapidly set in motion a process of reflecting on the future independence of Western Sāmoa. Some of the Métis, who were classified as ‘Europeans’, were reluctant to merge with the other Sāmoans. However, the division created since the German period between the ‘European Métis’ and the ‘Indigenous Métis’ prevented the formation of a united Métis opposition. On the other hand, not even the ‘European Métis’ group was united: the differences in wealth and lifestyles were just too great. Also, they suffered from having been systematically side-lined politically and economically by the German and then New Zealand administrations, which had imposed the status of ‘resident alien’ on them. Hence, a good number of Métis acquired a certain aspiration for national independence that would allow them to play a role.

It was this combination of factors that made the march to independence relatively easy. The majority of the Métis eventually accepted that they could be united with the Sāmoans in a single status of ‘Sāmoan citizens’ of the future state. In turn, this acceptance of a ‘Sāmoan’ national unity at an *encompassing* level, both conceptually and politically, allowed for the perpetuation of certain strong differences at *secondary* levels of value. Three contexts were at issue: keeping hold of another nationality as well, differentiation in land rights, and differentiation in political representation through the electoral system.

The Question of Nationality

This issue was resolved by a joint Working Committee that included both Métis and non-Métis Sāmoans, accompanied by two 'advisers' who were academics: J.W. Davidson, known for his knowledge of regional colonial history (Pacific, British Empire); and a jurist, C. Aikman, known for his expertise in constitutional law.

Although we have only Davidson's (1967: 362–3) very brief account, it is nevertheless illuminating. Davidson tells us that the Sāmoans (he does not mention the views of the 'European' members of the Committee) tended to see the problem in terms of the rule or rights of blood, and that he and Aikman promoted another view, in terms of the rights of the soil. The Sāmoans would have liked any individual of Sāmoan descent to have the opportunity to acquire citizenship if they so desired, which immediately raised the issue of Sāmoans in American Sāmoa (the smaller eastern part of the archipelago). Some would have liked to see only those of Sāmoan descent who were living according to the principles of classification as 'Sāmoan' to be given this opportunity, but this would have rendered stateless the many 'Europeans' in Sāmoa who did not have a passport from the country of their European ancestor, and some would never have been able to obtain one because they did not have the necessary papers. Sāmoans would also have liked to see anyone who already held another nationality prevented from becoming a Sāmoan citizen. This posed the problem of various members of the local 'European' community who had been born in Sāmoa but had been able to retain the nationality of their European ancestors and whose whole lives were rooted there.

In response to these arguments, Davidson and Aikman 'explained that citizenship relates to a person's place of birth (and to that of his father), not to ethnic origin' (*ibid.*). They also stated that consideration could be given to the strictest possible conditions for obtaining Sāmoan citizenship for those who had another nationality, but that Sāmoa had no control over the status a person might have in another country. In short, one could exclude someone from membership of the future state, but one could not force that person to give up the status they had elsewhere. Finally, special arrangements could be made for individuals from American Sāmoa who wished to migrate to Western Sāmoa, without defining such access in racial terms. The result was to define a single citizenship status, with all the rights and duties that go with it, without racial exclusion, but accepting that some 'Europeans' might have dual nationality while making it clear that this other nationality did not have any additional rights within Sāmoa.

The text was drafted and accepted by everyone. Henceforth Sāmoan 'citizen' was a person who was born on Sāmoan soil or whose father is a citizen by birth (or the mother if the child's parents are not married). A foreigner who has been a permanent resident for more than five years may also apply for naturalization. Finally, it was clarified that a Sāmoan citizen who took another nationality would not automatically lose his Sāmoan nationality. Thus, today many Sāmoans who have settled in New Zealand or were even born there, and who are residents or even citizens of that country, are also Sāmoan citizens. The 1959 Ordinance and the Constitutional text only included the notion of

‘citizen’. The 1972 Act clarified what had become obvious: the terminological distinction ‘Sāmoan’ / ‘European’ in the 1921 and 1944 Acts no longer had any legal existence.

The Question of Land Tenure

The fundamental point here is that land tenure was subordinated to the question of citizenship. It was declared that only a Sāmoan citizen could hold, and therefore buy and sell, land under private law. The long-standing fear of land-grabbing by foreigners was thus allayed at the same time as the *de facto* situation created in the nineteenth century was recognized. The land that had been recognized as being under the ‘ownership’ of a ‘European’ settler at that time remained under the ‘private property’ land regime; anyone could own it, regardless of origin, but on the express condition that they were a Sāmoan citizen. I shall come back to the question of land tenure in the context of the recent political events in 2021.

The Question of the Electoral System

The 1959 UN Mission, after stressing the importance of defining a single citizenship, indicated that it was necessary to recognize the Sāmoans’ attachment to the matai or ‘chief’ system, but also to recognize ‘the different way of life of many persons in the public service, in commerce and in other employments’. This was a reference to the professional background of the ‘Europeans’, though they were no longer named as such.

This was a call to subordinate differences to national unity and only to characterize differences that did not rely on racial, territorial or national vocabulary, in order to limit oneself to the prevailing form of sociality. The differentiated group, this time not by origins but by the social mode of interacting, were the following. 1) On the one hand are those who are within the ‘tradition’ of fa’asāmoa, and therefore within the matai system and the *fa’amatai*, according to which each individual is above all a member of a clan (an extended family or *aiga*) and thus a ‘supporter’ of his matai, who is therefore meant to represent the members of this aiga in all circumstances. 2) On the other hand are those who are ‘outside’ this tradition and thus legitimately wish to make their individual voices heard.

The Mission realized, with great regret, that it would not succeed in establishing a system of universal suffrage for parliamentary elections because of the strength of the Sāmoan demand that every Sāmoan be represented by his matai, or head of extended household. Consequently they suggested that this difference in sociality could be expressed in the electoral system. On the one hand, this meant seats for voting by extended families represented by their matai, and on the other hand, seats for a register of ‘individual voters’, in proportion to the number of individuals who identify with one or the other system respectively.

The outcome was as follows. The future parliament would have 45 seats ‘in the Sāmoan tradition’ or fa’asāmoa, to which would be added five ‘European’ seats elected

by the universal suffrage of those who opted for this logic of 'individual vote'. For the fa'asāmoa seats, the electoral method would 'for the moment' be the following. In each district, only the matai or chiefs could vote and choose among themselves who will sit in the parliament, on the condition that they provide a list showing a majority of signatures in favour of each name; in the case of disagreement, there would be a secret ballot among the matai at that district level. The distinction between 'Sāmoans' and 'Europeans' thus continued at a secondary level, in a limited way, being transferred and restricted to the electoral level only.

The country became independent under this system. The constitution specified the existence of two electoral arrangements. The 45 territorial constituencies would each elect their own MPs: 'One member elected for each of forty-five territorial constituencies'. There are 41 constituencies to be exact; four of these had two seats. There were also five 'European' seats under the system decided in 1957. In subsequent years, it was decided to give two MPs to two other large constituencies; other MPs would be elected by 'persons whose names appear on the individual voters' roll' (WS Constitution §44). This roll was opened everywhere, and some individuals could register and thus vote directly, in their own name, instead of delegating their vote to a matai leader. After one year, and every five years thereafter, the officer in charge of the electoral registers would have to calculate the number of seats 'to be elected by the persons whose names appear on the register of individual voters'. The officer was expected to do this by maintaining a proportion between the number of inhabitants related to this 'individual' election and the seats to be filled, comparable to the proportion between the overall population and the 45 seats 'to be elected by territorial constituencies'. The only constitutional requirement for being an MP was to 'be a citizen'. Independence was then declared in 1962.

The Samoan Status Act of 1963 specified that, in order to hold the title of matai and thus have rights to so-called 'customary' land, one had to be not only a citizen but also to have a share of Sāmoan blood. This partial return to the right of blood may be surprising. It must be understood in the context of the constant concern to protect land rights. It was a way of prohibiting a foreigner who had come to settle in Sāmoa, become naturalized and then eventually obtained the title of matai from his Sāmoan wife's family from eventually exercising authority over a portion of the territory. The problem was that in the Sāmoan tradition, each extended family can choose to give a title, a secondary or even the main title, to a non-consanguine if this person is married into the extended family. Here again one can see in this an attempt to restrict a contradiction to the main value within a secondary level. The effort of the councillors was to remove from the Constitution the prevalence of the right of blood to create a notion of universal 'Samoan' citizenship regardless of one's possibly 'mixed blood' history. This was ultimately fully embraced and supported by Sāmoans. But once this principle had been established at the main level (the Constitution), it was then possible for Sāmoans to reintroduce the right of blood in the limited context of access to a matai title by a simple legislative act.

The foregoing history shows that the spirit of consensus, so central in the ideology of the 'Pacific Way', can go quite far if and when it is desired to promote it. When it came to thinking about the appointment of the Head of State of this new state, Western Sāmoa, historical evidence and contemporary status pointed to the heads of the two great extended families (aiga) who had dominated local history in the nineteenth century and had also dominated interaction with the Europeans and the conduct of the first consultative territorial assembly. Everyone told the UN commissioners that there must be no risk of reviving old rivalries, irreconcilable for a century, nor any question of risking a return to the wars of the distant past. Thus, they told the UN Commissioners that the country would become independent on condition that it could have 'two Heads of State' simultaneously and with equal authority (the main 'chief' of each of the two great aiga). Then when one died the other would continue until his death. Only then would the new Constitution be followed and the election of the Head of State by Parliament be introduced.

Again, as with the question of limited suffrage restricted to matai chiefs for Parliamentary seats, the UN Commission had to accept this exception (unique in the world, it seems), knowing that it would only last for one generation. It so happened that one of the two chiefs-cum-heads of state died of an illness a few years later, and the other remained the now sole head of state of Western Sāmoa for almost half a century until his passing in 2007, after which the constitutionally mandated system came into effect.

A Changing Political Landscape and the Law of the Land

That is the logic of holistic hierarchy, as opposed to stratification: in political terms, the latter is in congruence with a majority voting process (as opposed to a consensus). Let us cross decades from the years of independence in the 1960s to the last national election in 2021.

It would have made things easier if the National Parliamentary elections in Sāmoa had been based on consensus. In fact, the very first election after independence in 1962 followed the consensus model, which did not allow multiple candidates in one and the same district. However, at the next election in 1965, the knowledge and experience of the prestige and benefits gained from being an MP became better known, and of course there were multiple candidates.

Then, shortly afterwards, the beginnings of 'party politics' emerged in Parliament. This became crucial, as the party which had a majority after the elections would be the one designating the Prime Minister, naturally the leader of that party. Through various strategies, one party became dominant in the mid-to-late 1980s: the HRPP (Human Rights Protection Party). Very astutely, the early leaders had chosen a name that would evoke the main values of all Western democracies. Then, in the early 1990s, the HRPP engaged in a manoeuvre to change the constitution by enlarging the voting base (from

matai only to universal suffrage over 21, but keeping candidacies for matai only) and to extend one legislative period from three years to five years. Being now in power; they wanted to stay longer (Tcherkézoff 1998).

The majority voting system had a subtle additional requirement that every individual should register on the voting rolls and have a professional picture on their individual electoral identity cards. This all increased the influential weight of the urban and peri-urban parts of the country, which were expanding every year to the detriment of the rural zone, soon to be called in Sāmoan the '*tuaback*' ('back zone') villages. Thus, the HRPP had a strong majority, which grew with every consecutive election. Then they took one large misstep regarding the law of the land.

The party thought they could also, even only partly, change the law of the land and bring land tenure closer to a *fa'apapālagi* system: the so-called 'Torrens system' as it is commonly called in juridical debates, from the name of a former colonial administrator (for the Sāmoan case, see Ye 2009, Meleisea and Schoeffel 2015, Iati 2016, Tcherkézoff 2022b). This system strongly individualizes the definition of ownership, even if land remains 'customary' and cannot be brought onto the private market of buying and selling (a market that covers only a small part of the total area of the country). The debate on land tenure quickly became very virulent locally (Iati 2022, Meleisea and Schoeffel 2022).²

At that point, some key members of the HRPP decided to leave the party and create one of their own, called FAST.³ They did not just wait for the next election: they began to tour the country, and to deliberate with all the matai and families of each of its villages. These discussions were held in the old 'consensus' way.

We know the outcome. The national elections of April 2021 and their aftermath were in the international news for weeks. For some it seemed like the first time in many respects, but it could also be read as being so uniquely 'Sāmoan', at least when looking at the attitudes of all the political opponents. There were many reasons to fear an eruption of violence, but all we saw on our screens (TV, Facebook) were people holding the Bible and singing church songs, at the same time that crucial transformations were on their way, including an attempt to dismiss a government that had been established for forty years. There were accusations of grave corruption, but also an unexpected debate on the extent of political rights 'for women', used by both sides, but in diametrically opposed ways. There were 'road shows' by both parties to try and gain support from

2 For the context before 2021, see also <https://devnet.org.nz/wp-content/uploads/2018/07/Iatilati> 'Controversial Land Legislation in Sāmoa: It's not just about the land'. For a recent debate, see also <https://Sāmoaglobalnews.com/lrc-amendment-bill-removes-court-assessors11/>; <https://Sāmoaglobalnews.com/sls-bills-fundamentally-technically-defective/>; <https://www.lowyinstitute.org/the-interpreter/Sāmoa-s-constitutional-crisis-undermining-rule-law> and the debate spread internationally (see the June 2020 position papers of the International Bar Association (<https://www.ibanet.org>)).

3 *Fa'atuatua i le Atua Sāmoa ua Tāsi*. ('Sāmoa as one under God's guidance'), often translated too briefly as 'Sāmoa united in Faith'.

villages and districts, and sometimes there was the fear that one side would violently block the marching of the other, though this did not happen.

At the last national elections in April 2021, the HRPP – up to then uncontested, and with a vast majority – suffered a shock. The result was 25/25 + 1 ‘independent’, then 26/25 when this one independent MP took sides with the new opposition. This is when the losing party (the HRPP) refused to recognize its defeat, locked the parliament building and refused to vacate the offices. There was real anxiety in the country that violence could erupt.

Significantly, the new majority party – the FAST – abstained from forcing the gates of the Parliament building and officially opened Parliament in a tent in front of the building, thanking God and sitting as a sacred circle or *alofi sã* in the explicit presence of God. Weeks went by, but in the end the strength of this peaceful and respectful new authority was successful, and a new *mālō* or government was recognized. The losing party agreed to vacate the government offices and to Parliament opened properly.

Seats for Women

During that final episode, another remarkable consequence of the majority voting system versus the consensus system created a dilemma that will remain in the annals of all specialists in constitutional law.

Right after the April results turned out to be 26/25, a margin, albeit narrow, that seemed to seal the defeat of the incumbent HRPP, the judicial advisers of the losing side came up with a new idea. The Sāmoan Constitution, amended in 2013, stipulated that at least 10 per cent of the seats in Parliament must be held by women (Meleisea et al. 2015). At that time, the country was divided into 49 districts, meaning that five seats needed to be held by women. In April 2021, it happened that five districts had actually been won by women, so there seemed to be no need of any further action. However, everyone, including the judicial advisers of the Prime Minister facing the loss of the election, knew that two years earlier the Electoral Commission and government had decided to create two more districts in the most densely populated part of the country. They suddenly realized the consequence of this change. The number of districts had increased to 51, 10 per cent of which is 5.1. On an arithmetical basis, 5.1 is closer to 5 than 6, meaning that the 5 seats already held by women would be sufficient. But in a real-world applications, 0.1 of a human could be considered illogical, so 5.1 human beings should be rounded up to 6, giving women an extra seat.

The HRPP, facing a loss but acting as if it were still the established government, argued that indeed it should be 6 seats now, and not 5, and designated an additional female candidate who had gained many votes in her district without actually winning it. Of course, the candidate in question was a member of the HRPP, which applied a ‘majority’ logic to the system established in the revised 2013 Constitution: if the general

election results in fewer than 10 per cent of seats being won by women, additional seats go to the highest-placed women candidates who did not secure seats. The total number of seats in such a Parliament then grows accordingly, up to at least 5 (or at least 6, if the logic of 5.1 equating to 6 prevails). Somehow a constitutional question remained pending: whether the 'highest' placed woman candidate was the one with the highest number of total valid votes gathered by a woman candidate throughout the country, or whether she had obtained the highest percentage share of the votes, in any district, of the women candidates who did not win in the general election. The former situation did *not* apply to the woman designated by the HRPP, but the latter did.

It would take a book-length analysis to describe the ensuing arguments that were debated at the various levels of the judicial system. In the end, the arithmetic logic of six seats for women prevailed, as did the second interpretation of appointing the 'highest-placed woman'. As a result, the losing HRPP was about to find itself with a 26-strong majority again. However, a number of by-elections took place in districts where the results had been rejected after various complaints and checks. The HRPP ultimately lost by a much larger margin than only one seat, thus overriding the debates mentioned above.⁴

The episode of the seats for women, and the resulting constitutional debate, is a further example of the difficulties created by having a majority voting system rather than a consensus. The technicalities and the dozens of pages of argument regarding various interpretations of the Constitution and of recent court decisions took up an immense amount of time, along with a feeling of unfairness shared by all sides. These outcomes would have been avoided if the issue had been debated with a view to arriving at a fa'asāmoa consensus. Those who felt that their point of view was not supported would still be able to come out of a 'consensual' meeting together with their opponents (and share the same kava bowl). They could then still look forward to the next meeting and discussion, planning how to advance their arguments better and organize a de facto majority next time. By contrast, challenging court decisions by means of hundreds of arguments is a whole different approach, which only specialised law practitioners can handle, all the while benefitting from the exercise.

Conclusion

A last smile is permitted to us when looking towards the future. Now that the Prime Minister is Fiamē Mata'afa, a *tama'ita'i pālemia* (a woman prime minister), there is a chance that the voices of women in politics may be heard more clearly. There is nothing to prevent Sāmoa from extending the rule of 10 per cent for women seats, engaging

⁴ Aficionados of juridical subtleties will enjoy the dozen of pages of High Court debates of the months up to early May 2022, which can be found at: <https://Sāmoaglobalnews.com/supreme-court-decision-on-constitution-art-44-women-members-of-parliament1/>

in all the well-known corollary discussions. One such discussion is around whether attitudes can be made to evolve by enforcing affirmative legal actions, or whether to try other, more consensus-based means of system change. In systems where consensus has totally given way to majority voting, however, it may well be that affirmative actions are the only pathway towards equality.

Glossary of Terms

alofi sâ (sacred circle)
 afakasi (transliteration of English term half-caste, or of mixed race)
 ‘aiga (a member of an extended family)
 fa’aaloalo (respect)
 fa’apapālagi (European way)
 fa’asāmoa (Samoan custom)
 gasegase (illness, formal term)
 ipu (cup)
 itu mālō (winning side)
 itu vaivai (losing side)
 kava (drink)
 mā’i (sickness, informal term)
 Mālō (government)
 masiofo, faletua, tausī (wife, formal term)
 matai (chiefs)
 to’alua (wife, informal term)
 tanoa (bowl)
 tapu (roughly akin to ‘taboo’, more commonly called sa in Samoan)
 tagata, kanaka (a person)
 totolua (meaning ‘two bloods’, referring to a half-caste person or afakasi)
 tuaback (‘back zone’ villages)
 Tama’ita’i pālemia (female prime minister)
 uso (same-sex siblings)
 usoali’i (chiefs as brothers)
 Verkanakern (to become a Kanak)

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