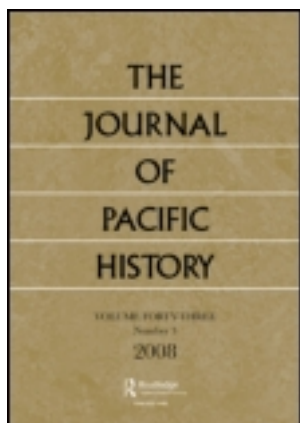


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Samoa's Price for 25 Years of Political Stability

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PACIFIC CURRENTS

Samoa's Price for 25 Years of Political Stability

ABSTRACT

Samoa has a distinctive reputation in the Pacific for political stability. Over the last quarter of a century, Samoa has enjoyed the rule of law, consistency in policy-making, and law and order while simultaneously undertaking critical social, political and economic reform. By way of contrast, other countries in the region have notably suffered coups, violent conflict, economic decline, and breakdowns in law and order. This article analyses the factors contributing to Samoa's stability, in particular the political dominance of the Human Rights Protection Party (HRPP), which has ruled continuously since 1988. The HRPP has been successful in maintaining the loyalty of members; keeping the opposition weak; managing, and arguably turning to its advantage, the government's balance of power with traditional institutions; and effectively limiting the ability of the media to inform the public. While the rule of the HRPP has contributed significantly to Samoa's political stability, this has, however, come at a price.

How does a Pacific Islands country maintain political stability while undertaking social, economic and political reforms that elsewhere in the region have caused coups, violent conflicts, deterioration of law and order, and economic decline?¹ Samoa appears to have found the answer. If political stability means respect for the rule of law, the absence of a breakdown in law and order, and consistency in policy making, then over the past 25 years Samoa can be considered to have achieved this. Indeed, it is a defining feature of Samoan politics over this period. Several events in Samoa could have caused deterioration, but these were controlled, and Samoa maintained law and order and kept its legal and political system intact.² This paper examines how it achieved this.

Many factors might have contributed to Samoa's political stability, but three in particular stand out. First, governance in Samoa blends the traditional and the modern. The melding of Samoa's traditional political system, the *fa'amatai*, with the Westminster style of democracy has appeased both traditionalists and modernists, allowing both sides to feel part of the current political system, thereby giving it legitimacy among Samoans. Similar combinations of the 'indigenous' and 'introduced'

¹ For a general discussion of conflicts and crises in the region, see Terence Wesley-Smith, 'There goes the neighbourhood: the politics of failed states and regional intervention in the Pacific', in Jenny Bryant-Tokelau and Ian Frazer (eds), *Redefining the Pacific? Regionalism, past, present, and future* (Aldershot 2006), 121–6; John Henderson, 'Introduction', *Securing a Peaceful Pacific* (Canterbury 2005), 3–13.

² Asofou So'o, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', in Stewart Firth (ed.), *Globalisation and Governance in the Pacific Islands* (Canberra 2006), 350–1.

include the Land and Titles Court, inherited from the New Zealand colonial administration.³ It provides another layer of resolution for traditional disputes within the state structure and links local and national levels of governance.⁴ Overall, in Samoa the pace of change in adopting foreign social, economic, and political institutions and systems has been steady.⁵ Second, traditional institutions such as the *matai* (family leader) and *fono a le nu'u* (village council) continue to hold sway at the local level, and ensure a high level of compliance with law and order among *aiga* (extended family) and village members.⁶ Third, the Human Rights Protection Party (HRPP), in uninterrupted government since 1988, has played a significant role in minimising and controlling the factors that might have contributed to political volatility.⁷ It has been able to implement policies for over five parliamentary terms, thus enabling a consistent approach to social, economic and political development. While Samoan scholar Lau Asafou So'o, surveying the period from the mid-1980s to mid-2000, acknowledges the range of factors contributing to Samoa's political stability, he notes many of these are HRPP-related, such as 'the HRPP leadership style, HRPP consolidation strategies, HRPP policies, ... and the ability of the HRPP to bring the Public Service into its political orbit'.⁸ Because the HRPP has formed government for 25 years (and has arguably controlled power for 28 years, as discussed below) the story of how the national government has achieved political stability is really a story of the HRPP. This paper is concerned with its role in this achievement.

Samoa: A Pacific Model of Political and Economic Stability

Throughout the Pacific region, Samoa has garnered a reputation for political stability⁹ – a reputation of which the Samoan government is proud.¹⁰ Government

³In 1899, Germany assumed control of the western islands of the Samoan archipelago while the US assumed control over the eastern islands. In 1914, New Zealand replaced Germany as the administering power. In 1962, Western Samoa gained independence and, in 1997, deleted 'Western' from its name. American Samoa remains an unincorporated US territory. For a general history, see Malama Meleisea, *The Making of Modern Samoa* (Suva 1987).

⁴A comprehensive account of the establishment of the Land and Titles Court can be found in *ibid.*, 183–207. For concerns about the effects on Samoa of the working of the court, see Morgan Tuimaleali'ifano, 'Who will be the next Mālietoa? Will there be another Mālietoa? History and politics of succession to a paramount *tama'aiga* title of Sāmoa', *Journal of Pacific History*, 48:4 (2013).

⁵W.M. Osman, *Western Samoa Economic Report* (Honolulu 1997), 10.

⁶So'o, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 359–60; Misa Telefoni, 'Strong cultural foundation for a successful development and reform agenda – speech', 2007. Available online at: http://www.mcil.gov.ws/minister_speeches/strong_cultural_foundation_successful_development.pdf (accessed 4 Nov. 2010).

⁷So'o, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party'.

⁸*Ibid.*, 349.

⁹John E. Hay and Tapa Sueasi, *Regional: Mainstreaming Environmental Considerations in Economic and Development Planning Processes in Selected Pacific Developing Member Countries* (Phillipines 2006); European Community, *Independent State of Samoa – European Community EDF 10* (2006), 8, available online at http://ec.europa.eu/development/icenter/repository/scanned_ws_csp10_en.pdf (accessed 4 Nov. 2010); 'Identifying a new head of state for Samoa', *Fiji Times*, 24 June 2007, available online at <http://www.fijitimes.com/story.aspx?id=65133> (accessed 4 Nov. 2011); Government of Samoa, Ministry of Foreign Affairs and Trade, 'Analysis of the national business environment – National Export Strategy Project (NESP)', available online at <http://www.mfat.gov.ws/Trade/NationalExportStrategy/tabid/2339/language/en-US/Default.aspx> (accessed 4 Nov. 2011).

¹⁰Business Advantage International, *Business Advantage Samoa 2008/9* (Melbourne 2008), 5.

agencies emphasise Samoa's 'socio-political stability' as a point of difference from 'the unfortunate unrest in some other South Pacific countries'.¹¹ The claim that Samoa is politically stable, especially when made by the government, can prompt cynicism. However, the claim has foundation.

The idea that Samoa is politically stable is based on two ways of conceptualising political stability. First, political stability can mean the consolidation of a single political framework, such as set out in a country's constitution. This idea does not preclude changes to the framework, so long as these are undertaken within the rules of that framework. Thus, a constitution may be changed several times, but if these changes are made within the parameters of the constitution itself, they are legitimate. So'o, for example, uses this characterisation of political stability: he strongly associates it with the absence of 'drastic social and political upheavals' or 'public disorder and lawlessness'.¹² In other words, over the last quarter century, Samoa's legal and political framework has never been changed in an unlawful way.

Second, political stability can be characterised as the persistence of a particular political ideology and/or policy approach. It is difficult to give a single label to the ideological approach followed by the government since 1988. However, it has throughout pursued a reform programme that bears a strong resemblance to neo-liberalism, emphasising a market-driven economy with minimal government interference. This approach is outlined in a series of government documents: *A New Partnership: a statement of economic strategy*, *Strengthening the Partnership* and *Partnership for a Prosperous Society*.¹³ The reforms were interrupted in 1990–91 because of several natural disasters, including two cyclones, but were resumed in the mid-1990 s.¹⁴ They resemble the reforms advocated by multilateral development agencies such as the World Bank, the International Monetary Fund and the Asia Development Bank, which call for limited and market-friendly government intervention in the economy,¹⁵ with the private sector replacing the public sector as the 'engine of economic growth'.¹⁶ The government of Samoa states that 'state-owned enterprises have been wholly or partially privatised', 'deep cuts have been made to public expenditure', important public services have been contracted out to private businesses, and that the government is committed to promoting the private sector as the 'engine of economic growth'.¹⁷ This ideological and policy approach has won Samoa a very favourable reputation with donors and multilateral development organisations.¹⁸

¹¹ Angela Gregory, 'Safe and stable Samoa luring tourists', *New Zealand Herald*, 8 Dec. 2006.

¹² So'o, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 349, 351.

¹³ Government of Samoa (hereinafter GoS), *A New Partnership: a statement of economic strategy 1996–1997* (Apia 1996); GoS, *Strengthening the Partnership: a statement of economic strategy 1998–1999* (Apia 1998); GoS, *Partnership for a Prosperous Society: a statement of economic strategy 2000–2001* (Apia 2000).

¹⁴ Bruce Knapman and Cedric Saldanha, *Reforms in the Pacific: an assessment of the Asian Development Bank's assistance for reform programs in the Pacific* (Manila 1999), 101.

¹⁵ Ray Kiely, 'Neo-liberalism revised? A critical account of World Bank concepts of good governance and market friendly intervention', *Capital and Class*, 64 (1998), 66–70.

¹⁶ Asian Development Bank, *A Pacific Strategy for the New Millennium* (Manila 2000), 22.

¹⁷ GoS, *A New Partnership*, 3.

¹⁸ AusAID, 'Samoa sets the standard for stability', *Focus*, June (Canberra 2001), 11–12; Cherelle Jackson, "'Samoa is a pinup star,'" says Peters', *New Zealand Herald*, 13 July 2007, available online at http://www.nzherald.co.nz/economy/news/article.cfm?c_id=34&objectid=10451368 (accessed 4 Nov. 2011).

It is not unusual to characterise political stability in these ways. Claude Ake, in his 1975 article on the topic, provides similar characterisations.¹⁹ According to Ake, a political structure is 'the network of political role expectations'. This network controls the flow of political exchanges that alter or maintain 'patterns of the distribution of the power to make decisions for the society'.²⁰ Political stability is achieved when there is a 'regularity of flows of political exchanges',²¹ and the integrity of the political structure is maintained. Conversely, instability occurs when political exchanges transgress these limits and/or overturn the structure. Based on this conceptualisation, instances of political instability include widespread civil disobedience or frequent changes of governments by violence or coup d'état. By contrast, political stability would include such characteristics as consistent government policy and the maintenance of a single political framework.

Since independence in 1962, Samoa's record of political stability has been outstanding, not only because this stability has lasted so long, but also because it was achieved in a challenging social, economic and political environment. Prior to colonisation and even up to 1962, people's identity and governance systems were largely confined to *nu'u* (small polities akin to villages). In 1962, the Samoan nation was formally created out of various *nu'u* on the islands of Upolu, Savai'i, Manono and Apolima. Since independence, both identity and governance systems have undergone significant transformation. Samoans had to forge a national identity and create a sense of nationalism on a level and with an intensity that had not existed before. In addition, they had to adopt a largely foreign political system, the Westminster style of democracy, and combine it with their traditional *fa'amatai* institutions. Furthermore, they had to develop a national economy based on free-market principles, which was then subjected to international forces through foreign aid, loans and international trade agreements, such as the Lome Convention and the Cotonou Agreement. Given these challenges, it might be expected that Samoa would experience politically destabilising events.

Political instability has certainly featured in post-independence experiences elsewhere in the Pacific. There, the challenges facing new nation-states have caused or at least contributed significantly to social and political upheaval.²² The list of crises across the region relating to nation-state formation is impressive. Papua New Guinea, for instance, has consistently struggled with law and order, in addition to experiencing one of the Pacific's biggest and longest running conflicts, the Bougainville conflict, which perhaps resulted in as many as 10,000 deaths.²³ The Solomon Islands conflict displaced an estimated 20,000 people and led to a regional expeditionary force, the Regional Assistance Mission to the Solomon Islands (RAMSI) entering

¹⁹ Claude Ake, 'A definition of political stability', *Comparative Politics*, 7: 2 (1975), 272.

²⁰ *Ibid.*

²¹ *Ibid.*, 273.

²² Terence Wesley-Smith, 'Self-determination in Oceania', *Race and Class*, 48:3 (2007), 34–8; for a controversial thesis of Pacific instability, see Ben Reilly, 'The Africanisation of the South Pacific', *Australian Journal of International Affairs*, 54:3 (2000), 265–7.

²³ Henderson, 'Introduction', 5; for fuller discussion, see Anthony J. Regan, 'Causes and course of the Bougainville conflict', *Journal of Pacific History*, 33 (1998), 269–85.

the country in 2003 to restore and maintain law and order.²⁴ The 2006 riot in Tonga required Australian and New Zealand military assistance to quell, and left eight people dead and destroyed much of the capital, Nuku'alofa.²⁵ Fiji has experienced four coups d'état since 1987.²⁶ The latest is still in effect at the time of writing.

To be sure, Samoa has ventured to the brink of political instability on several occasions. Events such as the public servants' strikes in the early 1980s, the political defections that resulted in a change of government in 1986, the nationwide political protests led by Tumua and Pule (a group of *matai* representing traditional centres of power in Samoa) in the mid-1990s, and the 1999 assassination of a government minister had the potential to spiral out of control. Numerous disputes between the national government and villages over matters such as land rights and village banishments have challenged the legitimacy of the national political framework. Also, the constitution has been amended at least eight times. While changing the constitution does not constitute political instability if the change is made according to the appropriate legal and political provisions, when such constitutional changes occur frequently, they can prompt questions about the susceptibility of the political framework to abuse. Any and all these factors could have sparked political unrest and instability, but they did not.²⁷

The eight constitutional amendments made by the HRPP government since coming to power are less significant for their number than for what they do; often, they appear to serve the purpose of self-aggrandisement. In 1992, for example, the HRPP government changed the parliamentary term from three to five years. Normally, one would not expect this change to be enforced until after the next elections. To do so earlier borders on being undemocratic; the ruling party would simply be lengthening its own term in office, thereby making it, rather than the people, the source of political power. Nevertheless, this is precisely what the HRPP did; it enforced the change immediately, adding an additional two years to what voters had mandated. In 1995, during this extended term in office, the HRPP government then removed key constitutional safeguards against the abuse of political power by the executive: it amended the constitutional provisions for the office of the controller and chief auditor,²⁸ undermining the position's independence and subjecting it to both the executive and the legislature. Specifically, the position was changed from being a lifetime to a three-year appointment. The prime minister now has the authority both to appoint and, in effect, suspend the auditor general. Although by law the auditor general can only be removed from office by the legislative assembly,²⁹ this protection

²⁴ Elsa Wainwright, 'Responding to state failure – the case of Australia and Solomon Islands', *Australian Journal of International Affairs*, 57:3 (2003), 485–92; for a broad treatment of the Solomon Islands crisis, see Clive Moore (ed.), 'Tingting Baek, Lukluk Raon: Solomon Islands, History and Predicament', special issue, *Journal of Pacific History*, 42:2 (2007).

²⁵ I.C. Campbell, 'Across the threshold: regime change and uncertainty in Tonga 2005–2007', *Journal of Pacific History*, 43 (2008), 105–7; see also Graeme Smith, 'Chinese reactions to anti-Asian riots in the Pacific', *Journal of Pacific History*, 43 (2012), 93–109.

²⁶ Brij V. Lal, '“Anxiety, uncertainty and fear in our land”: Fiji's road to military coup', in Jon Fraenkel, Stewart Firth and Brij V. Lal (eds), *The 2006 Military Takeover in Fiji: a coup to end all coups?* (Canberra 2009), 21–42.

²⁷ So'o, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 350–1.

²⁸ This will be referred to from here onwards as the auditor general.

²⁹ Constitutional Amendment Act 1997 – no. 3, section 2(1)(5)(7).

is negligible if the party in power controls more than two-thirds of the assembly. The HRPP has had this majority continuously since 1988.

The HRPP's length of time in office is important for understanding the long-term consistency in Samoan policy, the government's authority for dealing with potentially destabilising events, and its confidence. Officially, it lost power in 1986, partway through its second term in office, when members of the party defected and formed a coalition led by opposition leader and former prime minister, Tupua Tamasese.³⁰ However, because HRPP members helped to form the coalition, were strongly represented in the executive, and former HRPP prime minister, Kolone Vaai, was elected as deputy prime minister, it might be argued that, even during this period, the HRPP still held some reins of political power. In 1988, the HRPP regained control over the government by the narrowest of margins, with the support of 24 out of 47 members of parliament. Since then the HRPP has won every election.

One question to be answered is: how has the HRPP held power for so long? This question can be addressed in a number of ways. One possible response is to examine the HRPP's relationship to various institutions that are critical for maintaining political power, such as the bureaucracy, the political opposition and traditional political institutions, and analyse how it managed this network in order to keep itself in power. It is the option adopted in this paper.

The HRPP: Keeping Members Loyal

From 1986 to 1988, while the HRPP was in opposition, it learnt some valuable lessons. Important among them was the need to secure the loyalty of its members. It has done this in several ways, made possible through the HRPP's control of the executive and legislature. In 1988, the HRPP implemented a party-pledge system under which members of parliament (MPs) who formally pledged their support to the HRPP were to be fined \$50,000 if they left.³¹ Also in that year, the HRPP government passed the Parliamentary Under-Secretaries Act 1988, creating in effect a subsidiary tier of ministerial office through the new position of 'Parliamentary Under-Secretary'. A parliamentary under-secretary is selected from members of parliament, and can exercise the 'duties, and functions' of a minister, under the directions of the latter or the prime minister. The 2006 Parliamentary Under-Secretaries Amendment Act changed the title of 'Parliamentary Under-Secretary' to 'Associate Minister'.

The executive exercises considerable control over the position of associate minister. The head of state appoints and dismisses an associate minister, but only on the prime minister's advice. The associate minister's salary and other remuneration are determined by the Remuneration Tribunal.³² The tribunal is a three-member body

³⁰Tupua Tamasese is known by other names, including Tupuola Efi, Tupuola Taisi Efi and, more recently, Tui Atua Tupua Tamasese. Here, he will be referred to by the name he is most commonly known by, Tupua Tamasese. The list of defectors to the HRPP include other prominent MPs, such as the current deputy prime minister, Misa Telefoni, former leader of the Samoa Development United Party (SDUP), Le Mamea Ropati, and the infamous Toi Aukuso, who helped the 1999 assassination of the then minister of public works, Luagalau Levaula Kamu.

³¹So'o, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 356. Throughout, \$ are assumed to be Samoan currency.

³²Remuneration Tribunal Act 2003, section 3.

appointed by the head of state, but includes one prime ministerial appointee.³³ It must act on the advice of cabinet; although the tribunal helps to set remuneration levels, cabinet finalises them.³⁴ Shortly after the act was passed, eight MPs, all from the HRPP, were selected as parliamentary undersecretaries.³⁵

The 1986 defections also taught the HRPP, and particularly its leader Tofilau Eti Alesana, that some members' loyalty depended on their selection as cabinet ministers. As So'oto notes, 'Alesana consistently argued that the defection of the 11 HRPP MPs to form the coalition government had arisen out of unhappiness with his selection of HRPP MPs to be in his cabinet'.³⁶ In 1991, the HRPP government to an extent remedied this problem by amending the constitution to provide for an increase in cabinet ministers from eight to 12.³⁷ The amendment could be explained in at least one or all three of the following ways. First, it was necessary to cater for an increase in cabinet's workload. Second, by selecting ministers and associate ministers, both of whom receive higher remuneration than ordinary MPs, the ruling party could secure the loyalty of its members as well as attract members away from the opposition. Third, the act made it easier for the ruling party to command greater numbers in parliament. So'oto notes,

With 13 ministers in cabinet including the prime minister and 13 parliamentary undersecretaries, the HRPP already had the guaranteed support of 26 MPs. In a parliament of 49 seats, the HRPP would already have the support of the majority.³⁸

All three explanations for increasing the number of ministerial positions are plausible, but the mathematics of the last, which guarantees a parliamentary majority, is inconceivably desirable for any party intent on rule.

The HRPP and the Bureaucracy

The HRPP government has considerable control over the bureaucracy. The Public Service (Special Posts) Act 1989 places heads of departments and ministries under cabinet control. The act transfers the authority from the Public Service Commission to cabinet to, for example, hire, fire, set remuneration levels and make promotions. In doing so, the act provides a way for the government to control the bureaucracy as a whole. So'oto notes, 'It [Public Service (Special Posts) Act 1990] was a subtle way of obtaining HRPP support from among the senior public servants and holders of corporate positions and through them the political support of lower-ranked employees'.³⁹

The Remuneration Tribunal Act 2003 further underscores the executive's control over the bureaucracy. The tribunal is charged with inquiring and reporting to cabinet on salary matters for holders of public office, who include the heads of department for the public sector. However, the tribunal can only advise and inform; the final decision

³³ *Ibid.*, section 4.

³⁴ *Ibid.*, section 9.

³⁵ *Samoan Observer* [hereinafter *SO*], 21 Sept. 1988.

³⁶ So'oto, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 357.

³⁷ Constitution Amendment Act 1991 no. 15.

³⁸ So'oto, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 357.

³⁹ So'oto, 'More than 20 years of political stability in Samoa under the Human Rights Protection Party', 357.

is made by cabinet. Section 9(2) states, 'Cabinet, in advising the Head of State, shall not be obliged to accept any recommendation of the Tribunal'; section 9(4) states, 'The Head of State, acting on the advice of Cabinet under subsection (1), may, by Order in writing, determine the salary, allowances and other benefits of a public office or class of public offices'. Executive control over bureaucratic appointments and remuneration gives it tremendous influence over the bureaucracy. It might even be argued that this control politicises the bureaucracy, which cannot act independently of the executive.

A case involving the auditor general illustrates the power of the executive – in particular the HRPP government – over the bureaucracy. In principle, the auditor general plays a key role in effecting political accountability. According to the constitution of Samoa, the auditor general is responsible for auditing government accounts, reporting at least once a year to parliament, and drawing attention to any irregularities in public spending. Until 1995, constitutional provisions protected the auditor general from political interference; the appointee could only be dismissed by a two-thirds majority vote in parliament, or when he or she reached the age of 65. These protections were removed in 1995, following a disagreement between the then auditor general and the HRPP government.

In 1994, the auditor general, Su'a Rimoni Ah Chong tabled a report in parliament that exposed widespread irregularities in government operations. At the public works department, for example, the auditor general found numerous instances of corrupt activities and poor management. The list of charges included the misappropriation of public resources, the violation of treasury guidelines for the handling of public monies and resources, the establishment of 'unlawful and "secret" accounts without the knowledge and approval of Government and Treasury', and overriding, circumventing and violating official government procedures.⁴⁰ Other departments implicated in the report included the Customs Department; the Department of Lands, Survey and Environment; the Public Trust Office; the Inland Revenue; the Treasury; and the Department of Agriculture, Forestry, Fisheries and Meteorology. The number of departments implicated was astonishing.⁴¹

The report also raised issues about the lack of political accountability. Political representatives and public servants were reportedly acting without any regard for relevant rules and regulations. The report alleged that some ministers and senior officials had used, without fear of legal consequences, public servants to carry out private work during office hours. At the public works department, for example, it noted that public servants, including the director, and the minister disregarded, circumvented and overrode relevant instructions from treasury and other government procedures. The report notes, 'some people have acquired almost an "impunity syndrome" driving them to do all sorts of actions which are clearly a breach of their lawful duties and responsibilities'.⁴²

⁴⁰ *SO*, 15 July 1994.

⁴¹ *SO*, 17 July, 20 July, 1994.

⁴² *SO*, 15 July 1994.

The HRPP government treated the auditor general's report in peculiar way. Within a week of its being tabled, the prime minister, Tofilau Eti, moved to appoint a commission of enquiry to investigate its allegations. This was the first time that an auditor general's report had been handled in this manner. The procedure deviated from that laid out in the constitution. This required that the auditor general's report be tabled and discussed in parliament, with further enquiries made by a parliamentary review committee, and possibly the attorney general and police. The prime minister was acutely aware of this requirement. During a radio interview, he admitted that the normal procedure was for the report to be tabled, submitted to the Public Accounts Committee on parliament's approval, and then returned to parliament when investigations were completed. Despite this, the prime minister opted for the commission of enquiry.

The logic for the procedural change was odd. Tolifau explained that before the report was tabled, he knew of the serious allegations made against government ministers and high-ranking officials, and did not want the report stalled or lost in the Public Accounts Committee as, he claimed, had happened to other reports before.⁴³ Yet, if the prime minister knew that the Public Accounts Committee had previously mishandled reports, why did the government not do something about it earlier? After all, by this time, the HRPP had controlled the government for over ten years, and had thus had ample opportunity to address any problems with this committee. The government's decision to bypass the committee raises several questions. Was the executive trying to divert the report from being independently analysed, and if so, why? Did the executive consider the allegations credible, and in particular the indictments against its members? Whatever the case, the procedural change blunted parliament's and the public's ability to scrutinise the report and possibly agitate for greater accountability.

The selection procedure for the commission of enquiry was highly controversial; cabinet selected the commission members, even though seven of the 13 cabinet ministers were implicated in the auditor general's report. Because the auditor general reported to parliament, and parliament was, by law, ultimately in control of the auditor general's report, it would have been more appropriate for parliament to select the commission.

There were also issues concerning conflicts of interest within the commission. The commission chair was the Samoan ombudsman, Maiava Iulai Toma. The ombudsman is chosen by the executive, and Maiava was appointed as ombudsman before the auditor general's report was tabled in parliament, but around the time when the prime minister, according to his later statements, knew about the report's allegations. Then less than a month later Toma was appointed chair of the commission too. The secretary for the commission held the same *matai* title as the director of works, who was implicated in the report. There is a strong possibility that they were related. Another commission member, Pala Lima, was employed by a company owned by a cabinet minister.⁴⁴ During the inquiry, it was discovered that another member, Oloi-poloa Terence Betham, had worked for the accounting firm, Coopers & Lybrand,

⁴³ *SO*, 21 Aug. 1994.

⁴⁴ Apelu Tielu, 'Will we or will we not – letter to the editor?', *SO*, 27 July 1994. Savea Sano Malifa, 'Commission of enquiry or cover up? Prove this piece wrong', *SO*, 29 July 1994.

which had acted as auditor for several government corporations, some of which were implicated in the report.⁴⁵ Despite these problems, the HRPP government proceeded with the appointments, indicating, among other things, confidence.

On 20 October 1994, the commission of enquiry tabled its report in the legislative assembly. By and large, the report condemned the auditor general and vindicated the government and, in particular, the cabinet ministers indicted by the report. Although the commission concluded that the auditor general's report was, in general, accurate, it criticised it on several points.⁴⁶ Notably, the commission criticised the auditor general for going beyond what it deemed to be his 'jurisdiction and legitimate sphere of concern'.⁴⁷ The commission argued that the auditor general's analyses should have been limited to the government's financial activities. It criticised the auditor general for disregarding 'mechanisms laid down by law to determine the correctness or legality of certain actions by government officials'.⁴⁸ Moreover, it argued that the auditor general had 'improperly taken unto himself the function of declaring such actions as wrong or unlawful in his Report'.⁴⁹ The commission's report dealt a significant blow to the process for political accountability.

The commission's report also provided a platform for the HRPP government to lessen the office of auditor general. Within months of the report's tabling, the government announced that it would examine audit office regulations and make changes. Among other things, it intended to define the matters that the auditor general had to refer to cabinet before tabling his report. The constitution was in fact clear on what the auditor general's functions were; any confusion about these functions had arisen primarily from the commission of enquiry's report.

Later, the auditor general was suspended on salary, and the constitution was amended to allow for his dismissal.⁵⁰ By reducing the auditor general's tenure to a three-year term, the amendment removed an important protection of the auditor general's independence,⁵¹ and markedly reduced its capacity to hold the executive accountable – an ability in effect reduced even further by the extension of the parliamentary term from three to five years. Under these new provisions, an auditor general could not audit a government's full term in office, unless the incumbent were to be re-appointed at the discretion of that government. So'o and co-authors aptly state the problems caused by the amendment,

the reduction of the CCA's [Controller and Chief Auditor's] term has effectively meant that the CCA is now dependent on the Executive for the security of his position rather than the Legislature, as the founding fathers of the Sāmoan Constitution had envisaged. Such a change could inhibit criticism of government operations by the CCA.⁵²

⁴⁵ *SO*, 15 July 1994.

⁴⁶ *SO*, 25 Nov. 1994.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ Sophie Hilderbrand, 'The hand that rocks the cradle', *Pacific Islands Monthly*, 68:4 (1998), 12.

⁵¹ Economist Intelligence Unit, *Country Report. Pacific Islands – Fiji, New Caledonia, Samoa, Solomon Islands, Tonga, Vanuatu. Quarters: 1, 2, 3, 4* (London 1997).

⁵² Asofou So'o et al., *Samoa 2004: National Integrity Systems – Transparency International Country Study Report* (Canberra 2004), 19.

If there was any office in the bureaucracy that could have stood its ground against the executive, it was the auditor general. Its demise would have served as a warning to other government bodies intent on challenging the executive's power.

Over the past 25 years, the HRPP has benefited from favourable treatment by other government bodies, as exemplified in a case involving the registrar of the Land and Titles Court and the 1988 election results. In the 1988 elections, long-time HRPP member Fiaame Naomi lost her seat to a newcomer, Fata Siaoisi. Shortly afterwards, the registrar of the Land and Titles Court stripped Siaoisi of his *matai* title, disqualifying him from being a member of parliament. A by-election was immediately held, and Naomi regained her seat.

The events surrounding Siaoisi's disqualification were intriguing. The role played by the registrar Namulau'ulu Netina was especially so. In stripping Siaoisi of his *matai* title, the registrar argued that a 1979 court order determined that the bestowal of the Fata title on Siaoisi was invalid. Suspicions that the registrar's decision was somehow related to Siaoisi's election victory were countered by sources within the Land and Titles Court; they stipulated that an interim order had been issued three months before the general elections, barring Siaoisi from using the Fata title.⁵³ However, these sources proved questionable when it was later revealed that the Land Titles Court only reopened the case after the elections. Furthermore, Siaoisi had voted in the 1985 elections under the Fata title with no complaints. Perhaps most intriguing was the action taken after the decision to invalidate Siaoisi's title. His title was struck off the list of eligible electors immediately, even though at the time Siaoisi was appealing the decision. This disqualified him from running for the by-election in which Naomi regained her seat.⁵⁴ Fata Siaoisi ultimately won the court case to have his *matai* title reinstated, ironically in the Land and Titles Court.⁵⁵ The victory was bitter sweet. Although the court found that he rightfully held the Fata title, he did not regain the seat he had legally won. Moreover, despite the courts confirmation of his title, he was informed by the acting registrar Mataafa Lemau that he and three other *matai* had to have their titles bestowed again.⁵⁶

The HRPP and Political Opposition

Over the past 25 years, the political opposition has grown progressively weaker, and the HRPP has played a crucial role in bringing this about. The events surrounding the 1990 suspension of an opposition MP, Leota Ituau Ale, exemplifies how political events, influenced by the HRPP, can combine to protect the government and punish opposition members. In March 1990, the speaker of the legislative assembly Peniamina Leavai suspended Ale for the parliamentary term on the grounds that he had made unsubstantiated allegations against the prime minister. Ale provided written evidence in support of his claims, but the speaker considered these insufficient. The suspension had both personal and public ramifications. On the basis of a

⁵³ *SO*, 20 Apr. 1988.

⁵⁴ *SO*, 13 July 1988.

⁵⁵ *SO*, 13 Oct. 1988.

⁵⁶ *SO*, 26 Oct. 1988.

resolution by the legislative assembly, the suspension led to Ale's pay and parliamentary privileges being withheld. Furthermore, Ale's constituency, Anoamaa i Sisifo, was left without a representative in parliament.⁵⁷ The severity of these outcomes seems disproportionate to the nature of the accusations against him.

The suspension appears even more curious, given that unsubstantiated allegations were not uncommon in the Samoan parliament. At the time, Tupua Tamasese criticised the government for being hypocritical. He noted that government MPs were not asked to substantiate their allegations against other MPs. In fact, it was in response to unsubstantiated accusations by government MPs, questioning Ale's integrity, which prompted Ale to launch allegations against the government. According to Tupua Tamasese, government MPs brought Ale's integrity into question, and he simply 'dished it right back'. It was then that 'the government started talking about verifications including a motion calling on Leota to front up'.⁵⁸ To Ale's credit, he at least attempted to provide evidence for his claims. He even called for a commission of enquiry to investigate them. Unfortunately, he was not afforded these opportunities.⁵⁹ The case would later become even more intriguing.

In 1991, one of Ale's allegations against the prime minister featured prominently in another case, involving the then auditor general, Mark Harris. Ale had alleged that the prime minister had personally used \$20,988, which had been collected for the 1983 South Pacific Games. In August 1990, the prime minister was cleared of this allegation in a report signed by Harris and tabled in parliament.⁶⁰ In January 1991, Harris was accused of theft; the accountant for Aggie Grey's hotel, Tom Overhoff, confirmed in a newspaper report that Harris fled the country without paying a \$22,000 debt to the hotel. Intriguingly, Harris flew out of the country the same day that a writ of arrest was to be served on him for this debt. Harris's departure was shrouded in mystery. Overhoff noted, 'He [Harris] made no travel booking and his name was not on the passenger list' of the plane on which he departed.⁶¹ This raises a number of obvious questions. First, was Harris's departure related to the issuance of the writ, and if so, how did he know about it? Second, how did Harris depart on a flight on which he was not a listed passenger, and who arranged it? Few people or organisations could have had the capacity to facilitate Harris's sudden departure, but the government would have been one of them.

This was not the first time that Harris incurred a debt at Aggie Grey's or was embroiled in controversy involving the government. He also had an outstanding debt in 1990. However, the government paid this, shortly after Harris tabled his 1990 report in parliament – the same report that had cleared the allegations against the prime minister. Overhoff, also a former auditor general, openly alluded to the possible connection between the two events. In reference to Harris's previous debt, he stated: 'He [Harris] exonerated the prime minister, and soon after that,

⁵⁷ *SO*, 9 Mar. 1990.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *SO*, 10 Aug. 1990.

⁶¹ *SO*, 18 Jan. 1991.

we [Aggie Grey's] got our money.'⁶² According to the *Samoa Observer*, the Harris report that cleared the prime minister noted that the money had been deposited into a bank in New Zealand from where it was transferred to the appropriate account in Samoa. However, '[e]nquiries made to the bank in New Zealand from which the money had been drawn, failed to clarify where exactly the money went'.⁶³

Despite the questionable merits of the speaker's decision to suspend Ale, the latter, as mentioned above, suffered consequences. After being suspended, Ale's parliamentary privileges and salary were withheld. The clerk of the Legislative Assembly, Mase Toia Alama, refused to sign Ale's salary vouchers, despite receiving advice from the attorney general's office that Ale was entitled to these. Alama claimed that she asked the parliamentary counsel for his view and was informed not to go against the resolution of the house.⁶⁴ Ale's case indicates the extraordinary challenges that opposition MPs can face from political institutions, and the assistance that these same institutions can provide to the government. Ale's treatment sent a clear warning to other opposition MPs of what they might face if they followed a course of action similar to Ale's. Had his been an isolated case, there would be little cause to question whether the political opposition is treated fairly and the extent to which it can balance the government's power and control. Unfortunately, Ale's case is not isolated.

On many occasions, the government's treatment of the political opposition raises questions of fairness. In 1990, Tupua Tamasese was also suspended from parliament, after responding to accusations by a government MP, the deputy prime minister, Tui-laepa Sailele Malielegaoi. The *Samoa Observer* then compared parliamentary dismissals under three of Samoa's prime ministers: Kolone Vaai (HRRP/opposition), Tupua Tamasese (opposition) and Tofilau Eti (HRPP). According to the *Observer*, no MPs were suspended under Kolone Vaai, and only one was ordered out of parliament under Tupua Tamasese. By contrast, in the six years Tofilau Eti had been prime minister, there had been six suspensions. Interestingly, during Tofilau Eti's term, a newspaper editor, Fata Faalogo Pito, was also removed from parliament simply for 'shaking his head'. Pito is reported to have stated, 'It's my head. I can do anything with my head anytime and anywhere I want'.⁶⁵ Apparently, there were more restrictions on what Pito could do with his head in parliament than he had imagined. Over the last 25 years, opposition MPs have been, perhaps, making a similar mistake in thinking they had more liberty in parliament than they really did. Their treatment draws attention to the treatment of opposition MPs by the speaker of the legislative assembly, and whether it is fair.

This issue was again brought to the fore in April 2005 by the suspension of Asiata Saleimoa Vaai. The Privileges and Ethics Committee found him guilty of making defamatory remarks in a letter to the Inter Parliamentary Union (IPU) and Commonwealth Parliamentary Association. In the letter, Vaai alleged misinterpretation of parliamentary rules, unfairness and discrimination against members of his party, the

⁶² Ibid.

⁶³ Ibid.

⁶⁴ *SO*, 11 May 1990.

⁶⁵ *SO*, 14 Dec. 1990.

Samoa Development United Party (SDUP). The government objected that the letter defamed the prime minister, the speaker and parliament. The committee agreed. However, the IPU adopted a different view. It sent a delegation to investigate. It recommended that Vaai be reinstated, his salary restored and that any loss incurred during his suspension be repaid. It also recommended that the government recognise the SDUP as an official parliamentary party, and that a list of words considered inappropriate for use in parliament be compiled.⁶⁶

The last recommendation seemed inconsequential, but in fact went straight to the heart of a problem for many opposition MPs: they did not know which words the speaker considered inappropriate. Opposition MPs often found themselves on the wrong side of these decisions, even when their language was similar to that of government MPs. When Tupua Tamasese was suspended from parliament in 1990, the *Samoa Observer* noted that the prime minister, Tofilau Eti Alesana, had called an MP a 'dog', a 'swine', and told another MP that he would be 'roasted in the oven' if he came into his electorate, but yet was not removed from parliament.⁶⁷

The government, or more precisely the HRPP, was not impressed with the IPU report or its delegation. The nature of HRPP feelings was perhaps summed up in Tui-laepa Malielegaoi's description of the delegation, consisting of two female members, as '*fa'avasivasi* [mentally retarded] old women'.⁶⁸ However, members of the IPU delegation apparently had greater understanding of proper political and parliamentary procedures than Malielegaoi gave them credit for; they correctly questioned the procedures used in Asiata's suspension, and in particular the participation of the prime minister in the hearings of the Privileges and Ethics Committee.⁶⁹

The difficulties experienced by the political opposition have increased over recent years, compounded by several government policies. In 2006, the government amended the parliament standing orders so that political parties with less than eight members would not be officially recognised in parliament.⁷⁰ This negatively impacts the political opposition in many ways. Public funding is available for political parties, but only if they are officially recognised in parliament. Since 2007, the only political party thus recognised has been the HRPP. Consequently, it is the only party eligible for this funding. One might argue that, because the HRPP is the only officially recognised party in parliament, it becomes much more attractive than opposition parties, which have very limited financial resources.

The difficulties facing the political opposition can be seen in the experience of the Tautua Samoa Party (TSP). The TSP was launched in December 2008, formed by independent MPs and former SDUP and HRPP members who found common ground in being opposed to several controversial government policies: the Road Transport Reform Act 2008, the Water Resources Management Act 2008, and the

⁶⁶ Unasa Va'a, 'Samoa: country review', *The Contemporary Pacific*, 19:1 (2007), 249.

⁶⁷ *SO*, 14 Dec. 1990.

⁶⁸ *SO*, 27 Aug. 2005.

⁶⁹ Va'a, 'Samoa: country review', 249.

⁷⁰ Standing Order 20 of the Standing Orders of the Parliament of Samoa, available online at http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Samoa_National%20Assembly%20Standing%20Orders_2005%20amended%202006_en.pdf (accessed 5 July 2013).

Land Titles Registration Act 2008.⁷¹ One of TSP's primary goals was to strengthen the political opposition. However, it quickly discovered why the opposition was weak in the first place. According to parliament Standing Order 20, members of parliament who switch between elections to an officially recognised party must stand in by-elections.⁷² Because TSP was formed outside parliament, its members were not obligated to vacate their seats and stand in by-elections. However, the speaker of the legislative assembly pressured TSP members of parliament to declare its status; when they did not, he annulled them and called for by-elections.

The speaker's moves were unfortunate; they helped undermine the development of what appeared to be a promising political opposition. The TSP began with 12 members, but by the end of the year it was reduced to nine. Several months after its formation, one member resigned, in part because of the potential benefits available from supporting the HRPP.⁷³ In the months that followed, two other members resigned. One resigned a day after the speaker ordered TSP to declare its status,⁷⁴ and the other resigned shortly after the speaker annulled the seats of TSP members and called for by-elections.⁷⁵ The TSP took court action, questioning the legality of the speaker's decisions. The courts found that the decision by the speaker to disqualify the applications was not supported by the Electoral Act 1963, confirming what many already knew: the speaker had acted illegally.⁷⁶

Unfortunately, the TSP's victory was short lived. Hard upon the court ruling, the government passed the Electoral Amendment Act 2009, which makes vacant the seat of an MP who 'holds himself or herself out' as representing or being a member of an organisation that has political aims 'where such party or organisation is not registered as a political party' under the act, or where the party is different to the one that the member was a part of when he or she took the oath of allegiance.⁷⁷ On the one hand, this can be seen as a way to enhance political stability, by discouraging MPs from party-hopping. On the other, it can be seen as a way for the party in power to discourage its members from joining the opposition. Whatever the case, the act further weakened the TSP. Shortly after the law was passed, three of its members were compelled to vacate their seats and run in by-elections.⁷⁸ A leading TSP figure, Lealailepule Rimoni Aiafi, lost his seat.

The HRRP has been adept at controlling those factors directly linked to the national political framework. However, the network of forces that impinges on its political influence and ability to remain in power is broader, and includes traditional government institutions and the media. The HRPP's relationship with these is considered next.

⁷¹ Iati Iati, 'Samoa – Polynesia in review', *The Contemporary Pacific*, 22:1 (2010), 194.

⁷² Standing Order 20 of the Standing Orders of the Parliament of Samoa.

⁷³ *SO*, 6 Dec. 2008.

⁷⁴ *SO*, 23 Jan. 2009.

⁷⁵ *SO*, 11 June 2009.

⁷⁶ Supreme Court of Samoa, *Aiafi v Speaker of the Legislative Assembly* [2009] WSSC 65 (8 July 2009), available online at <http://www.samlii.org/ws/cases/WSSC/2009/65.html> (accessed 5 July 2013).

⁷⁷ Samoa Electoral Amendment Act 2009, section 5.

⁷⁸ Allan Ah Mu, 'PM needs check-up: Tautua', *SO*, 4 Apr. 2010.

The HRPP and Traditional Governance Institutions

Samoa divides political power between two centres: the national government and the *fono a le nu'u* (village council). The national government is the central power-holder at the national level, and the *fono a le nu'u* is the key political institution and power-holder at the *nu'u* level. Since independence, both the government and *fono a le nu'u* have claimed authority over their respective jurisdictions.⁷⁹ The relationship has, at times, been tense, particularly in areas where both claim authority, such as over people's rights to movement and residency. *Fono a le nu'u* claim the right to banish members of the *nu'u* as punishment for certain deviant behaviours. It is a customary right⁸⁰ reinforced by the Village Fono Act 1990, which 'validate[s] and empower[s] the exercise of power and authority by Village Fono in accordance with the custom and usage of their villages'.⁸¹ The national government and all its relevant organs, in particular the Supreme Court, is the guarantor of fundamental human rights, including the freedom of movement.⁸² Often, it is difficult to enforce this right in cases of village banishments.⁸³ Often, the national government must negotiate with traditional authority, in particular the *fono a le nu'u*.

While the HRPP does not control traditional institutions, it seems to be gaining ascendancy in the balance of power between the two. This was evident in the standoff between the government and a protest movement during the mid-1990s, led by a traditional political institution, the Tumua and Pule. This institution was a significant power-broker in Samoan politics at a national level before Germany assumed control of the islands in 1899. Although traditional Samoan politics operated primarily within the confines of the *nu'u*, when the occasion required leadership and policies over what may now be considered the national political realm, Tumua and Pule were often at the forefront. The Tumua and Pule are a group of *matai* who represent the centres of 11 traditionally marked districts throughout Samoa. One of their key roles was, and still is, to bestow *matai* titles that have political prominence at both the local and national level. Various policies by the German and New Zealand administrations had significantly undermined its authority during the colonial period.⁸⁴ After independence, the extent of its continuing influence was uncertain until this protest movement. Indeed, the HRPP's treatment of it demonstrated where traditional leadership and institutions stood in relation to the authority of the government.

The movement led by Tumua and Pule criticised the government's handling of the 1994 auditor general's report, its failure to arrest a rising cost of living, and a

⁷⁹ Unasa Va'a, 'Local government in Samoa and the search for balance', in Elise Huffer and Asofou So'o (eds), *Governance in Samoa: Pulega i Samoa* (Canberra and Suva 2000), 160–7.

⁸⁰ Meleisea, *The Making of Modern Samoa*, 132; Saleimoa Vaai, *Samoa Fa'amatai and the Rule of Law* (Apia 1999), 50.

⁸¹ Village Fono Act 1990, Preamble, available online at http://www.thecommonwealth.org/Shared_ASP_Files/UploadedFiles/F3877A07-54DC-43BD-9726-CF868A26EE37_VillageFonoAct1990.pdf (accessed 5 July 2013).

⁸² *Ibid.*, article 4.

⁸³ Terry Tavita, 'Samoa religious exiles enjoy relative peace', *SO*, 10 July 2002; Radio New Zealand International, 'Samoa bible group ban ruled unconstitutional', 1 May 2003; United States Department of State, *Samoa: Country Reports on Human Rights Practices – 2002* (2003), available online at <http://www.state.gov/g/drl/rls/hrrpt/2002/18262.htm> (accessed 4 Nov. 2011).

⁸⁴ J.W. Davidson, *Samoa mo Samoa* (Melbourne 1967), 82–3, 113–39.

government-imposed 'value added goods and services tax' (VAGST). The movement organised mass marches and, for up to two weeks, protesters occupied government land directly in front of government offices in Apia. They also lodged a petition with the head of state, asking for a reversal of the VAGST policy, a reduction in the cost of living, and for the government to address the issues contained in the 1994 auditor general's report.⁸⁵

The government's handling of the petition shows the HRPP's power in the face of protest that combined organised public opinion with traditional political institutions. The petition was lodged on 10 March 1995 and contained 133,354 names. While a significant minority of 10,400 petitioners were Samoans living in New Zealand, 122,954 petitioners were listed as living in Samoa. At a time when Samoa had an estimated population of 164,000,⁸⁶ the petitioners comprised an overwhelming majority of resident Samoans. The government, as it had done with the auditor general's report, appointed a commission of enquiry to investigate the petition's legitimacy. The commission's report invalidated the petition, deeming it illegal because it had not been presented to parliament. Furthermore, it concluded that only 11 of the 133,354 names on the petition were valid.⁸⁷ According to So'o, the main reason for excluding all but 11 signatures was that the rest 'had not personally signed their names'.⁸⁸ It is uncertain whether this assessment is accurate.

The commission's finding is, on the one hand, extremely puzzling. An estimated 15,000 people had participated in the initial protest march and sit-in protest, and approximately 6,000 protesters had walked to deliver the petition to the head of state.⁸⁹ How could these people have endured the most difficult requirements of the protest, but fail to meet its easiest: write their name on the petition? On the other hand, the commission's finding is not surprising: it is in line with how the government dealt with the 1994 auditor general's report.

A failure to ensure political accountability contributed to one of Samoa's most infamous political events of the past quarter century. In 1999, Samoa suffered its first, and so far only, political assassination since independence. On 16 July 1999, Luagalau Levaula Kamu, minister of public works, was shot during a function to mark the HRPP's 20th anniversary. The shooter, Eletise Leafa Vitale, was the son of Leafa Vitale, an HRPP member of parliament. Despite denials at the time by Prime Minister Malielegaoi that the assassination was politically motivated,⁹⁰ Leafa Vitale and another government MP, Toi Aukuso, were later found guilty of plotting the assassination. Kamu had replaced Vitale as the minister of public works, and there was speculation that the assassination was Leafa Vitale's retribution. While this may have been a consideration, another explanation also accounts for Aukuso's involvement: Leafa Vitale and Aukuso arranged the assassination because Kamu was

⁸⁵ 'Executive Council to meet on VAGST', *SO*, 12 Mar. 1995; '40,000 oppose 10% VAGST', *SO*, 25 Sept. 1994; Tui Atua Tupua Tamasese, 'Tumua and Pule and the VAGST', *SO*, 6 Jan. 1995.

⁸⁶ 'Executive Council to meet on VAGST', *SO* 12 Mar. 1995.

⁸⁷ *Samoa Times*, 10 May 1995.

⁸⁸ Asofou So'o, *Democracy and Custom in Samoa: an uneasy alliance* (Suva 2008), 189.

⁸⁹ *Samoa Times*, 10 May 1995; *SO*, 12 Mar. 1995.

⁹⁰ *SO*, 19 July 1999.

leading investigations into corrupt activities, which, according to the auditor general's 1994 report, implicated them both. As Vui Clarence Joseph Nelson, currently a Supreme Court judge, observed, 'there is a widely held belief that the killing was part retribution and partly an effort to remove an obstacle to the defendants' illegal and corrupt activities'.⁹¹

Interestingly, if the assassination is rightly linked to the allegations in the auditor general's 1994 report that implicated Vitale and Aukuso, it might be argued that, had stronger measures been taken against them then, they might not have had the opportunity to carry out their assassination plans. The auditor general's 1994 report highlighted corruption. It should have prompted concerted efforts to arrest the problem, but this opportunity was lost when the auditor general's report was, effectively, shelved, and the auditor general's position weakened. Consequently corruption continued to proliferate without control. Nelson aptly conveys the relationship between the earlier and later events: 'The final act of the 1994 Chief Auditor's report was played out in 1999', referring to the assassination.⁹²

Village banishments over the last 25 years indicate that the authority of village government continues to be an important factor in Samoan politics, even though the national government appears to be gaining the ascendancy. Moreover, they show that issues central to tensions between national and village government persist. In one infamous case of village banishments, a large number of people, one estimate putting the figure close to 200, were evicted from the village of Falealupo because they disobeyed a village council ruling that prohibited their religious teachings. Only three religious denominations could have their beliefs taught within the village, and the evictees' denomination was not one of these.⁹³ Several evictees took their case to court, and won. The courts ruled that they could return to their village, but many were reluctant to do so, fearing retribution from the village.⁹⁴ The case highlighted differences between national and village levels of authority, but more importantly, showed the difficulty of enforcing court decisions within the village.

Yet, recent cases involving land disputes between *nu'u* and *aiga* on the one side and the national government on the other indicate the growing ascendancy of the latter. In several cases over recent years, the courts have annulled customary village and family rights to land. In September 2008, for example, the courts denied claims to traditional land by *matai* from the village of Vailoa in Palauli. The courts held that the lands had been legally transferred to various other parties, including a prominent company in Apia, despite the principle that customary lands cannot be alienated.⁹⁵ The village has not been able to reassert its rights to these lands. In 2009, the government and

⁹¹ Clarence Joseph Nelson, 'Country Report: Samoa', *Resource Material Series*, no. 73, UNAFEI (Tokyo 2007), 146.

⁹² *Ibid.*

⁹³ The three churches were the Catholic Church, the Congregational Christian Church of Samoa (EFKS), and the Church of Latter Day Saints (Mormon).

⁹⁴ *Samoa News*, 12 June 2002, available online at <http://pidp.org/archive/2002/June/06-18-21.htm> (accessed 4 November 2011); Rex Tauati Adar, 'The scope of the right of religious freedom in Samoa', *Journal of Church and State*, advance access 8 May 2012, available online at <http://jcs.oxfordjournals.org/content/early/2012/05/08/jcs.css047.full.pdf+html> (accessed 17 May 2013).

⁹⁵ *Sia'aga v O. F. Nelson Properties Ltd* [2008] WSCA 14, 19 Sept. 2008.

the village of Lepea came into conflict over land. A government road-widening project required the use of village land, and the village opposed. At the height of the conflict, the government dismissed the village mayor, but the village refused to recognise this action. Ultimately, the village conceded and provided some of its land for the project. However, it was not the area of land the government initially wanted.⁹⁶ These cases provide a modest indication of the government's power in relation to the village council, at least in land matters.

Nevertheless, certain links between the national government and traditional institutions probably assist the HRPP in its maintenance of power. Traditional institutions such as *matai* and *fono a le nu'u* influence the outcome of national elections, by instructing their members whom to vote for. Macpherson and Macpherson note, 'Evidence is, however, periodically produced to suggest that significant numbers of "individual" voters in rural villages are instructed to vote in certain ways to honour undertakings made to candidates by their *matai* or household heads.'⁹⁷ Those who do not vote accordingly are punished and, in some cases, the authority of the *fono* is such that the selection of a member of parliament is effectively finalised before the election takes place; all other candidates stand down.⁹⁸ A national government that can control the traditional institutions will have considerable control over its ability to be re-elected.

The HRPP and the Media

The HRPP government has had and continues to have a tense relationship with the Samoan media, in particular one independent newspaper, the *Samoa Observer*. The *Samoa Observer* has been a vocal critic of the HRPP government over the past 25 years. In return, the HRPP government has launched several lawsuits against the owner and editor Savea Sano Malifa.⁹⁹ The *Samoa Observer's* problems are compounded because the government has inhibited media freedom, through the enactment of legislation such as the Newspaper and Printers Act 1992, which compels publishers to reveal their sources, including 'any correspondences'.¹⁰⁰ Moreover, it has failed to provide a piece of legislation that would be highly beneficial for both the media and the public, an Official Information Act.

In tensions between the HRPP government and the media, the government has received third-party assistance. In 1994, the *Samoa Observer's* premises were burnt down immediately after it published a stinging article about the HRPP government.¹⁰¹ In 2007, the owner of the largest radio station in Samoa, Radio Polynesia,

⁹⁶ *SO*, 11 Feb. 2009; Iati, 'Samoa – Polynesia in review'.

⁹⁷ Cluny Macpherson and La'avasa Macpherson, 'Creeping paralysis: dependency and sovereignty in peripheral Pacific states', in Peter Larmour (ed.), *Governance and Reform in the South Pacific* (Canberra 1998), 85.

⁹⁸ Iati Iati, 'Civil society and political accountability in Samoa: a critical response to the good governance agenda for civil society from a Pacific Island perspective', PhD thesis, University of Hawai'i at Manoa (Honolulu 2007), 251–4.

⁹⁹ 'Samoa: lawsuits plague Samoan daily', *Pacific Islands Monthly*, August 1997, available online at <http://www.pmw.c2o.org/docs/au23sam.html> (accessed 17 May 2013); Roger Kaplan and Nicholas Rescher (eds), *Freedom in the World: the annual survey of political rights and civil liberties* (New York 1999), 397.

¹⁰⁰ Samoa Newspapers and Printers Act 1992/1993, section 10.

¹⁰¹ Dev Nadkarni, 'Samoan media extends its boundaries', *Islands Business*, 2007, available online at http://www.islandsbusiness.com/home_samoa/samoa_media/ (accessed 4 Nov. 2011).

prohibited the station's crew from attending press conferences by the then leader of the SDUP, Asiata Saleimoa Vaai. The prohibition did not apply if Vaai paid the station for the interview.¹⁰²

The HRPP has also received help from the judiciary, and other government bodies. In January 1990, the acting chief justice Tiavaasue Falefatu Sapolu remanded the *Samoa Times* editor, Leota Uelese Petaia, for contempt. The charges were unclear. The *Samoa Observer* suggested that the charges related to a story carried by the *Samoa Times*, which implicated the acting chief justice in a murder case then being heard in the Supreme Court. The *Samoa Times* noted a conflict of interest: Sapolu was the attorney general, but taking leave to preside over the case as the acting chief justice; his sister was the defence counsel; and the prosecutor was the attorney general's office. The *Samoa Times* argued Sapolu had to disqualify himself from the case.¹⁰³ Petaia's lawyer argued that his client should not have been remanded until his court hearing, but Sapolu claimed that his office had the power to order and arrest anyone it felt was in contempt of court, and that this was consistent with the common law.¹⁰⁴ Two weeks after Petaia was remanded, the Supreme Court fined him \$1,500 for being in contempt of the court. Sapolu gave Petaia a day to pay or be jailed for ten weeks. Sapolu's closing arguments reflected the curious nature of this case. In defending his right to adjudicate the murder case, Sapolu noted that, before the trial began, both the defence and the prosecution felt that his involvement did not pose a conflict of interest. Furthermore, he stipulated that editors did not have the right to comment on legal matters because they were not lawyers.¹⁰⁵

Media freedom is crucial for democracy; it gives the public the opportunity to scrutinise the actions of its leaders. Moreover, it provides for better informed decision making during election time. The Samoan media has struggled to provide such information for the Samoan people. The extent to which this failure to inform has resulted in the HRPP's election successes can be examined in another study, but needs to be kept in mind when considering why the HRPP has remained in power for so long.

Samoa's reputation for political stability since independence is well founded. The nation has maintained the same political framework that was instituted at independence, and all changes to it have occurred within the allowed parameters. In addition, since at least 1988, there has been a consistent political ideology, prioritising the role of private enterprise in the country's social, economic and political development. This reputation bodes well for the country; at the very minimum it gives the tourist industry an attractive selling point. In a region where political instability abounds, this is crucial.

¹⁰² Cherele Jackson, 'Letter from Samoa: media freedom and living longer', *New Zealand Herald*, 3 June 2007, available online at http://www.nzherald.co.nz/radio-broadcasting/news/article.cfm?c_id=263&objectid=10443412 (accessed 10 Nov. 2011).

¹⁰³ *SO*, 31 Jan. 1990.

¹⁰⁴ *SO*, 9 Feb. 1990.

¹⁰⁵ *SO*, 14 Feb. 1990.

Chief among the many factors that have contributed to the country's political stability is the HRPP. Having ruled the country for the past 25 years, it has been ideally placed to resolve tensions that could have led to disorder and lawlessness. Its length of time in power is a key variable for understanding political stability over this period. The question this paper posed is: how has the HRPP managed to hold power for so long?

An examination of the HRPP's relationships with institutions and systems important for political stability indicates several factors that have worked favourably for the party. It has used its position in government well, particularly in its domination of the executive and legislative branches. It has enacted various laws that have consolidated the loyalty of its members and attracted members of the opposition to its ranks. It has also used legislation to undermine opposition to its rule. The auditor general's and the TSP's demise and the difficulties experienced by the media exemplify what opposition forces face when challenging the HRPP's power. Although traditional institutions continue as a distinctive governance system with special sway at the local level, the HRPP government is slowly gaining ascendancy over these in a trend that could bring the HRPP even greater control. If the stability gained over the past 25 years indicates anything, it is that HRPP rule can have positive implications for Samoa. However, this should be attended by a warning: the price of stability may be greater government control of Samoan society.

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