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## SĀMOA

The Samoan general elections dominated headlines in 2020–2021. Samoans worldwide watched intently as the two leading political parties battled for seats in the XVII Parliament during the April 2021 general elections. The Human Rights Protection Party (HRPP), which had been in power for over thirty years, was challenged by a newly formed opposition party, Fa'atuatua i le Atua Sāmoa ua Tasi (FAST). This year's political review also includes the passing of the controversial Land and Titles Court

(LTC) bills, the breakaway of key members of the HRPP, the beginning and rise in popularity of FAST, political gridlock in the general elections, and the swearing in of Sāmoa's first female prime minister.

Sāmoa's newest political party was launched in July 2020 by a former HRPP member and cabinet minister, La'aulialemalietoa Leuatea Schmidt (La'auli hereafter) of Gagaifomauga No 3 of Savai'i. An outspoken critic of HRPP leader and Prime Minister Tuila'epa Aiono Dr Sa'ilele Maliele-gaoi, La'auli resigned from the party in May 2020 over HRPP accusations against his dishonest dealings and his "contempt of Parliament" (SO, 31 Dec 2020). As mentioned in the previous year's review, after pleading his innocence, La'auli announced his resignation from the HRPP and Parliament, with rumors that he planned to start a new political party (Alofaituli 2021). The Speaker of Parliament, Leaupepe Tole'afoa Fa'afisi, immediately declared the Gagaifomauga No 3 seat vacant and announced that a by-election would fill the vacancy (SO, 8 July 2020). In July 2020, a couple of months after leaving the HRPP, La'auli revealed his new political party, FAST. Running under FAST, the veteran MP won the by-election against an independent candidate by a landslide, making history as the first FAST candidate to win a seat in Sāmoa's Parliament (SO, 31 Dec 2020). The new party gained momentum with Samoans throughout the islands and in the diaspora following this win, and it officially registered and joined seven other political parties for the upcoming April 2021 general elections. In an exciting turn of events, in September

2020, the two leading opposition parties, FAST and the Sāmoa National Democratic Party, joined forces under the FAST name to contest the 2021 general elections. Both parties agreed to maintain their own manifestos despite the call for unification.

Tuila'epa, HRPP leader and Sāmoa's longest-serving prime minister, seemed unfazed by the opposition's efforts and instead "welcomed" the new party. Toward the end of 2020, another prominent HRPP member left the party, resigned from her cabinet position, and became an independent member of Parliament. Hon Fiamē Naomi Mata'afa strongly disagreed with the party's strong support of the LTC bills, which included the Judicature Bill 2020, Lands and Titles Bill 2020, and the Constitutional Amendment Bill 2020. For Fiamē, the three bills would make the existing Land and Titles Court not "subject to judicial oversight by the Supreme Court" (SO, 11 Sept 2020). Furthermore, the bills would determine matters of landownership according to Samoan customary law and give the court its appellate structure (RNZ, 13 April 2021). In parliamentary discussions, both Fiamē and Tuila'epa publicly debated the bills' benefits, issues, and related concerns. Fiamē claimed that the bills were "rushed" and that members would need more time to discuss them with their constituencies throughout Sāmoa (RNZ, 29 April 2020). In September 2020, she met with the leaders and chiefs of her constituency in Lotofaga. As a result of that meeting, Lotofaga unanimously decided that the government should address their concerns regarding the bills because there are "too many gaps" and the

“gaps will allow the people to play if they are not closed” (SO, 9 Sept 2020).

The Sāmoa Law Society, along with local judges and other law institutions—including the Law Council of Australia, the New Zealand Law Society, Amnesty International, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, and the International Bar Association’s Human Rights Institute—made bold statements against the passage of the three bills. Despite this criticism from domestic and international legal experts, the bills passed Parliament on 15 December 2020 (SO, 31 Dec 2020). Tuila’epa called the passing of the bills a “new era” for democracy in Sāmoa. However, ongoing legal petitions would soon question the bills’ constitutionality. Independent MP Olo Fiti Va’ai, former HRPP and now Independent MP Faumuina Wayne Fong, and FAST MP La’auli joined Fiamē to contest the bills’ passage (SO, 31 Dec 2020).

Fiamē made it clear to both critics and supporters in Sāmoa and abroad that her reason for leaving the HRPP was not a desire to join FAST but rather her disapproval of the three bills. Naturally, FAST Chairman La’auli approached Fiamē regarding the chance to have her join the newly formed party, but she initially turned down the request. A veteran politician from Lotofaga, Fiamē is the daughter of Sāmoa’s first prime minister, Hon Mata’afa Fiamē Mulinu’u II. After her father’s sudden passing in 1975, she received the paramount chiefly title Fiamē. Lotofaga elected their young paramount chief to represent their village and constituency in the 1985 Parliament at the age of twenty-seven

(TA, 27 July 2021). Fiamē has served her constituency as an MP for nearly forty years.

As 2020 came to a close, the opposition’s politics and momentum led Sāmoa into uncharted waters. FAST kicked off the new year with a roadshow that highlighted their political platform and candidates as Sāmoa geared up for its national elections in April. Starting on ‘Upolu, FAST candidates and members of their constituencies visited the different islands in January to promote the party’s manifesto, which was scheduled for release in March before the general election. Their campaign addressed government-sponsored legislation on the clergy tax, the restructuring of the judiciary, and other related issues (SO, 5 Jan 2021). With the recent passing of the LTC bills, the opposition went into detail on the new laws and their ramifications. That same week, the bills received the consent of the head of state, His Highness Tuimaleali’ifano Va’aletoa Sualauvi II, who signed them into law. As a result, the Land and Titles Court will be able to carry out its appeal and review process without the Supreme Court reviewing its decisions. Samoans in Sāmoa and abroad took to social media to make comments on both sides of the issue.

The FAST campaign garnered more support as its popularity heightened during the roadshow. Tuila’epa, adamant about using “traditional ways” of making announcements and advertisements within villages and districts, immediately criticized the roadshow as “a foreign practice” and a “brainwashing” tactic (SO, 13 Jan 2021). Despite criticism from the prime minister and the HRPP, FAST

targeted specific constituencies on both ‘Upolu and Savai‘i. In addition, FAST used social media to communicate to diasporic communities in the United States, Aotearoa/New Zealand, and Australia. Online interviews and forums with FAST members became a popular and effective campaign strategy. With multiple pro-FAST groups on social media, the party’s objectives, candidates, and leaders soared in popularity well before the general elections. On the heels of the roadshow, Fiamē officially announced that she would formally join FAST. The announcement was met with excitement and cheers throughout the party and Samoan communities. The MP for Lotofaga claimed that the reason she and others left the HRPP was “due to extreme abuse of power” (SO, 12 Jan 2021). As FAST gained momentum in the race for Parliament, so did the possibility that Sāmoa would soon see its first female prime minister.

Before the general elections, the Electoral Office commissioner announced changes to the 2021 election process. For the first time, Sāmoa would allow certain groups of voters to cast their votes during pre-polling from 5 to 8 April. Pre-pollers included citizens over sixty-five years of age, citizens with disabilities and their carers, essential service workers, and those planning to travel out of the country (SO, 13 Jan 2021). With the election only twelve weeks away, both parties used traditional and online media outlets to communicate their objectives and plans for the next five years.

In March 2021, FAST’s fifty-two-member caucus unanimously elected Fiamē to lead their party. The sixty-

three-year-old political veteran would run uncontested in the Lotofaga constituency. After thirty-five years of serving as an MP for the HRPP, Fiamē made it clear that her membership in the FAST party was not based on its being a new party or her intention to become its leader but rather was part of her service to Sāmoa. Within a week, both FAST and the HRPP launched their political manifestos ahead of the general election. The HRPP revealed plans for a new hospital in Savai‘i, proposed new developments throughout Sāmoa, and highlighted the many projects and successful ventures by Tuila‘epa and the HRPP. Tuila‘epa reminded Sāmoa of his party’s political successes during its tenure as the leading party of Sāmoa, such as the building of access roads to hard-to-reach areas, the increase in seasonal work in Australia and New Zealand, and the promotion of academic opportunities for young Samoans (SO, 18 March 2021). On the other hand, FAST summarized the party’s manifesto in a twenty-page booklet centered on “human development” in housing, medical care, education, agriculture, strengthening tourism, and other projects. FAST’s vision would “secure an environment that embraces freedom, safety and social harmony for all the people of Sāmoa” (SO, 29 Mar 2021).

In April, polling booths opened throughout Sāmoa for early voting. A total of 189 candidates, including twenty-one women, vied for the 51 seats of Parliament for a five-year term. The HRPP had 105 registered candidates, FAST 52, Tautua Sāmoa 14, Sāmoa First 5, and the Sovereign Independent party 1, and 12 candi-

dates ran as independent (RNZ, 5 April 2021). About eight thousand citizens went to the pre-polling stations to cast their votes. The HRPP took an early lead; however, Sāmoa witnessed an unprecedented challenge to the ruling party as the general election convened. As it turned out, the HRPP and FAST won 25 seats each, and one independent candidate, Tuala Tevaga Iosefo Ponifasio won Gaga'emauga No 1 in Savai'i. FAST gained immense support from Samoans throughout the islands and the diaspora, who helped finance their efforts. As stated by the Electoral Commission after the elections, FAST won 15 seats in Savai'i and 10 in 'Upolu. The HRPP won most of the 'Upolu constituencies, with only 4 seats in Savai'i. As the election results revealed, 'Upolu favored the HRPP, whereas Savai'i favored FAST (RNZ, 17 April 2021).

Given the 25–25 tie between the HRPP and FAST, both party leaders reached out to Tuala to encourage him to join their party. Tuila'epa called Tuala and offered him a senior role in the cabinet, and FAST reached out to do the same. As a result, newspaper and online media immediately dubbed Tuala the “kingmaker.” The HRPP had a feeling that Tuala would select the FAST party, so in desperation, they found a “flaw” in the system that allowed them an extra parliamentary seat.

As the Constitution of the Independent State of Sāmoa, article 44, section 1A, states, “Subject to this Article, women Members of the Legislative Assembly shall: (a) consist of a minimum of 10% of the Members of the Legislative Assembly specified under clause (1) which for the avoidance

of doubt is presently 5.” Further, the Constitution Amendment Act 2013 ensures a 10 percent quota for female candidates. Of the 51 MP seats contested in the 2021 general elections, five went to women, the most successful outcome for female candidates in Sāmoa's history (SO, 19 April 2021). FAST had three women elected—Fiamē, Matumua Seumanu Pulumaka, and Mulipola Anarosa Molio'o—and the HRPP had two—Faimalotoa Kila Stowers Ah-Kau and new member Leota Tima Leavai. However, the HRPP questioned whether this number met the 10 percent quota required by law (SO, 19 April 2021). The Office of the Electoral Commission and the head of state confirmed that at only 9.8 percent, it did not. As a result, an extra seat was added for a woman to meet the constitutional specification. The HRPP requested that the “female candidate who came closest to winning an electorate seat” be chosen to ensure the 10 percent female membership (RNZ, 21 April 2021). Electoral Commissioner Faimalomatumua Matthew Lemisio approved this request, installing female HRPP member Ali'imalemanu Moti Moemoe-mausu Alofa Tu'uau of Alataua Sisifo, who collected 464 ballots. The head of state declared that a warrant of the election was issued to Ali'imalemanu, thus giving the HRPP 26 seats to FAST's 25, with Tuala as the only Independent. With the HRPP leading by one seat, Tuala, the “kingmaker,” joined FAST the next day, officially bringing the election count to 26 HRPP and 26 FAST.

FAST challenged the decision by the electoral commissioner and head of state in the Supreme Court. In addi-

tion, Samoan courts had over twenty-five challenges by members who had lost their constituencies (RNZ, 4 May 2021). As a result of the 26–26 deadlock, Sāmoa's head of state immediately called for a second election on 21 May. However, Chief Justice Satiu Simativa Perese and a panel of judges overruled this call and ordered the government to convene within forty-five days of the 9 April election. This followed another ruling by the courts that voided the unelected women's seat. With the removal of the extra seat, FAST led by I. Following such a historic win, Fiamē and the FAST party were eager to convene Parliament, and a majority of Samoans were anxious to have a running government.

With a one-seat majority in Parliament, FAST was prepared to swear in Sāmoa's first female prime minister. However, Tuila'epa did not officially concede the elections, and the HRPP, with over forty years in government, appealed the decision to remove Ali'imalemanu's seat in the Appellate Court.

On Friday afternoon, 21 May 2021, Tuimaleali'ifano officially recognized FAST as the winner of the general elections, and on Monday, 24 May, he proclaimed the convening of Parliament—a responsibility that is solely given to the head of state. Only a couple of days later, however, he issued another proclamation that shocked the nation: he revoked his initial statement and suspended the official opening of the XVII Parliament. Legal professionals throughout Sāmoa called the latest order by Tuimaleali'ifano a constitutional nightmare. Unfortunately, the head of state announced his proclamation

without a clear explanation of the reasons behind it. On Sunday afternoon, the chief justice and the other Supreme Court justices met to discuss the proclamation's constitutionality, and after hours of close deliberation, the Supreme Court overturned the order to suspend the scheduled swearing in of Fiamē and the members of the XVII Parliament of Sāmoa. Again, the court had found in favor of FAST.

As the country anxiously awaited Sāmoa's first female prime minister's swearing in, with crowds outside the Parliament building, Speaker Leaupepe announced that the Supreme Court ruling would be disregarded. He explained that a statement from the head of state was required to convene Parliament, and he invoked Section 30 of the Legislative Assembly Powers and Privileges Ordinance 1966 to continue his role as Speaker (RNZ, 24 May 2021). As the police commissioner, the chief justice, and other judges walked to Parliament to inspect the proceedings, the doors to the Parliament building were locked. According to the house clerk, Tiatia Tualaulelei, he was instructed by the Speaker and the prime minister to keep the doors closed and locked, as the specific members needed to witness the proceedings were not present. He elaborated that Parliament cannot officially sit in the absence of the head of state, so without Tuimaleali'ifano present, the swearing in would not be recognized (SO, 24 May 2021). After hours of waiting, FAST leaders agreed to move forward and swear in the newly elected members of Parliament and Prime Minister Fiamē. Since the parliamentary chambers remained locked, Fiamē and the MPs who were

present were sworn in during an ad hoc ceremony under a large marquee.

Tuila'epa and members of the HRPP refused to acknowledge the new government. They claimed that only the head of state had the power to convene Parliament, so the HRPP would remain in power. Tuila'epa defied the ruling of the courts and likened the FAST takeover to a coup.

In a Supreme Court ruling in late June 2021, the court found the swearing in illegal but ordered Parliament to convene seven days from their ruling. Tuila'epa remained adamant that Parliament could not convene until all electoral constituencies were represented, despite the court ruling. The Court of Appeals would make the final decision in July. In the meantime, Sāmoa had two governments in power, with Tuila'epa and the HRPP refusing to vacate their offices.

In late July 2021, the Court of Appeals ruled in favor of FAST to form their new government. The party's swearing in was "legitimate under the doctrine of necessity" (RNZ, 30 July 2021). The judgement, signed by Chief Justice Perese, Justice Mata Keli Tuatagaloa, and Justice Tafaoimalo Leilani Tuala-Warren, finally put to rest the political struggle faced by Sāmoa. Following the decision, Tuila'epa at last conceded defeat and later vacated his office along with other HRPP cabinet ministers.

Since gaining its independence from New Zealand in 1962, Sāmoa has worked diligently to balance fa'a Sāmoa (Samoan way of life) and its chiefly authority with Western governance systems, globalization, migration, democracy, and economic growth. Sāmoa's democratic system

was tested during the general election in April 2021, leading to gridlock between the two competing political parties, the HRPP and FAST. Sāmoa's longest-serving prime minister, Tuila'epa, refused to concede the elections that FAST had won. Despite the political turmoil Sāmoa faced, the events that unfolded represented a country in transition. As the first Pacific Island nation to gain its independence, Sāmoa will continue to evolve like other free democratic systems throughout the world. No governing system is perfect, but fortunately, Sāmoa's transition of power was peaceful. That is a testament to the cultural, religious, and democratic values Sāmoa inherited from its forefathers, who set the nation on this trajectory of independence.

BRIAN T ALOFAITULI

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