

Reviews of Niue, Norfolk Island, Tonga, and ‘Uvea (Wallis) and Futuna are not included in this issue.

#### AMERICAN SĀMOA AND SĀMOA

The US citizenship case resurfaced at the end of 2021 in the US territory of American Sāmoa. Toward the end of 2019, American Sāmoa made international news with a US District Court ruling in favor of three American Samoan nationals ([Alofaituli 2021](#)). The verdict in *Fitisemanu v United States* (426 F Supp 3d 1155 (D Utah 2019)) ruled that “Persons born in American Samoa are citizens of the United States by virtue of the Citizenship Clause of the Fourteenth Amendment.” The plaintiffs had argued that although American Samoans serve in the US military, pay taxes to the US government, and can hold a US passport, they are denied recognition as US citizens. According to the plaintiffs, all 3.6 million residents of the US territories owe allegiance to the United States but “do not have equal rights under the law” (*SN*, 30 April 2022). The three plaintiffs in the case—namely, John Fitisemanu, Pale Tuli, and Rosavita Tuli—felt that since they were “in the United States,” their American rights should be afforded to them ([Alofaituli 2021](#)). The discussions surrounding this particular court case are based on the “Insular Cases,” a series of legal decisions regarding US territories that limit the US Constitution’s power for residents of these territories.

Fitisemanu, the initial plaintiff, referred to these cases as racist, as Indigenous peoples living in these US territories are considered “alien races.” Although originally from American Sāmoa, Fitisemanu has lived in Utah for over twenty years. Persistent and determined, Fitisemanu stated, “If I have to take my case to the Supreme Court to be treated as a full and equal citizen, then that’s what I’m going to do” (*SN*, 6 Jan 2022). Fitisemanu and the plaintiffs’ lawsuit have raised eyebrows among American Samoans living and working in the Pacific Islands.

The American Sāmoa government joined federal defendants and appealed the ruling to the US Court of Appeals for the Tenth Circuit because Congress decides citizenship for its territories, not the courts. The three-judge panel heard the case of the lower courts. Justice Carlos F Lucero agreed that the people of American Sāmoa had not had “adequate consideration” and that “their people have not formed a consensus in favour of American citizenship, and urge[d] us not to impose citizenship on an unwilling people form a courthouse thousands of miles away” (*RNZ*, 16 June 2021). Although one dissenting judge supported the plaintiffs, the ruling in favor of the American Sāmoa government and Congresswoman Uifa‘atali Aumua Amata Coleman Radewagen was upheld. In early July 2021, the *Fitisemanu* plaintiffs petitioned for a “rehearing en banc,” or for the full

panel of the Tenth Circuit Court of Appeals to review the June 2021 decision. Most of the panel's eleven judges denied the request for a review on 27 December 2021.

Most likely, the *Fitisemanu* plaintiffs will petition their case to the US Supreme Court. Unfortunately, they are taking the case beyond the islands of American Sāmoa. Although the decision stands with the Tenth Circuit Court of Appeals, the plaintiffs can work with the Government of American Sāmoa to begin discussions within the governing bodies through American Sāmoa's judicial, executive, and legislative systems. Unlike the people of American Sāmoa, the residents of the US territories of Guåhan (Guam) and the Commonwealth of the Northern Marianas Islands are deemed US citizens because of their political relationship with the United States. American Samoans will remain US nationals until the territory's political status with the United States changes. Neil Weare, the lawyer representing the *Fitisemanu* plaintiffs, said in a statement issued by his office, "The dissenting judges were quick to point out the 'exception importance' of this case, and we hope that the Supreme Court will take up and answer this question" (SN, 6 Jan 2022).

The Government of American Sāmoa needs to have a clear say on its political status. The decision by the US Supreme Court, assuming that the court hears the case, will either secure the inalienable rights of the citizens of American Sāmoa or potentially challenge the protection of American Sāmoa's lands and cultural and natural resources. The repercussions of this court case could potentially change

how American Sāmoa is governed in the future. In the meantime, the Government of American Sāmoa and the plaintiffs await a "final" decision sometime in October 2022.

At the beginning of 2022, American Sāmoa's Governor Lemanu Peleti Mauga declared a "Code Red" with the first noted community transmission of COVID-19. All public schools were immediately closed for one week, companies and businesses adjusted their hours of operation, and all passenger air and sea travel was suspended (RNZ, 23 Feb 2022). American Samoans used their resources from the United States to assist in their efforts to control the spread of COVID-19. With a small population of fifty thousand people, there was a surge of over five hundred cases within a month. American Sāmoa was not the only Pacific entity affected, as COVID-19 affected communities throughout the region. Despite government efforts to safeguard the health of its citizens, American Sāmoa recorded its first COVID-19-related death in March 2022 at the Lyndon B Johnson Tropical Medical Center in American Sāmoa (RNZ, 24 March 2022). Fortunately, in May 2022, Governor Lemanu slowly eased COVID-19 restrictions. Entrance into American Sāmoa was permitted with full vaccination and COVID-19 testing clearance, but curfews and requirements for indoor public gatherings and business operations continued.

In other political news in American Sāmoa, the Constitutional Review Committee was tasked to prepare amendments for the upcoming American Sāmoa Constitutional Convention (Con-Con) scheduled for

August 2022. Lieutenant Governor Talauega E V Ale chaired the fifty-four-member committee, which included members of the clergy, Samoan chiefs, members of the executive and legislative branches, business owners, and individuals representing women and youth. Unfortunately, the committee postponed discussions due to the island-wide COVID-19 lockdown. The Con-Con is mandated every ten years, with the most recent convened in 2010. The first was held in the 1960s, and the primary purpose of the Con-Con is to discuss constitutional issues affecting the US territory (RNZ, 22 June 2010). The emphasis has always been placed on protecting the culture and traditions of fa'a Sāmoa (Samoan way of life) through the constitution and putting certain territorial decisions, such as those concerning the economy and welfare, above federal law regulations. The Con-Con was set to begin in August 2022, and in anticipation of the meeting, the review committee debated themes related to women's roles in government, land laws, and American Samoan ancestry.

All the amendments proposed during the review raised questions, but one became particularly controversial. The amendment was to increase women's representation in the House of Representatives and to promote women's security, safety, and justice. Only three women have been appointed to the Senate in American Sāmoa history: Asuega Fa'amamata Lauvai of Pago Pago, Tiumalu Telesia Scanlon of Fagatogo, and Fonoti Aufata Fonoti of Tafuna (SN, 10 June 2022). Approximately ten women have served as representatives, or

faipule, in the US territory. If the proposed amendment had been accepted, it would have promoted the inclusion of women in American Sāmoa in education, employment, and the government and guaranteed their protection from domestic issues and discrimination (SN, 10 June 2022). However, the topic sparked a difficult discussion because some villages ban women from becoming matai (chiefs). Some members of the review committee disagreed that "inclusion" should only be for women and that one group should be singled out; instead, it should be for all citizens, including children, nonresidents, and those in the LGBTQ community (SN, 13 June 2022). According to the review committee, the American Sāmoa Constitution "does not state as a value, the people's commitment to women's inclusion in security and justice" (SN, 13 June 2022). Ultimately, the committee voted not to submit the proposed amendment. The amendments that did pass this first stage of discussions with the committee will advance to the Con-Con discussions in August 2022. If the participating body agrees to an amendment, it will go to the ballot as a referendum. Finally, if the people vote in favor, the amendment will be submitted to the Department of the Interior for review and, if approved, proceed to Congress for final approval (SN, 17 June 2022).

A total of thirteen amendments were proposed, but only eight amendments discussed were approved for consideration. One of the approved amendments would remove the authority of the US Secretary of the Interior to approve amendments to the revised constitution. Instead,

amendments approved by at least two-thirds of votes cast at the general election would become law. One other proposed modification to the constitution would include changing the name of the government from “Government of American Sāmoa” to “American Sāmoa Government” (SN, 21 June 2022). Another significant change is the “impeachment amendment.” If passed, this amendment will revise the constitution to provide a process for impeachment of certain government officials, including governor, lieutenant governor, chief justice, and associate judges (SN, 21 June 2022). The committee also agreed to limit the authority of the US Secretary of the Interior in terms of decisions to review or overturn decisions by the American Samoan High Court (SN, 21 June 2022).

The Con-Con is scheduled for 29 August 2022, the sixth Con-Con of American Sāmoa. District councils have been asked to begin the selection process for their delegates. According to the governor’s executive order, 129 delegates will convene to discuss and debate the proposed changes to the Constitution of American Sāmoa. Governor Lemanu is encouraging a broad representation of women, youth, the elderly, and people with disabilities, including matai. Citizens of American Sāmoa who were on the island during the 2010 Con-Con took to social media and the news to remind the government not to repeat the process that took place then. In that Con-Con, over a dozen amendments were proposed, but rather than being listed separately on the ballot for individual votes, all of the proposed changes were listed under one

question for a single vote of “yes” or “no” (SN, 15 February 2021).

In August 2021, a bill was put forward for a “Samoa Heritage Day” to ensure “that the culture remains alive for generations to come” (SN, 29 August 2021). Senator Malaepule Moliga supported the bill, which sees a society whose culture, mainly fa’a Sāmoa, is threatened and “gradually eroding” (SN, 29 August 2021).

Moliga believed that the government could do more to address the protection of fa’a Sāmoa, including but not limited to its language, arts, and traditions. One month later, another bill on the Samoan language and culture was tabled, this time calling for a commission to provide “authoritative guidelines on Samoan language and culture” in all departments of Sāmoa, including education, government, the economy, and social life (SN, 2 Sept 2022). Cultural changes to the governing systems and cultural authority are inevitable given the changes within the society and its resources. American Sāmoa is being proactive in its efforts to use the systems in place to maintain cultural agency as a territory of the United States. For example, Congresswoman Uifa’atali Amata again mentioned the topic of self-determination in June 2022. The congresswoman said that American Sāmoa maintains a unique status between its laws, customs, and traditions and its status as a US territory (SN, 12 June 2022). She supported the ongoing efforts to balance two governance systems, fa’a Sāmoa and US laws. Finally, although US laws take precedence, American Sāmoa is aware of the fear of making the territory similar to other US territories and adopting similar organic acts.

At the end of July 2022, American Sāmoa hosted bilateral discussions, also called the Atoa o Sāmoa Executive Meeting, between American Sāmoa and the Independent State of Sāmoa (hereafter Sāmoa). The last bilateral talks occurred in 2017, before the borders closed due to COVID-19. Prime Minister Fiamē Naomi Mata'afa led the Samoan delegation, including cabinet members and nineteen members of Parliament, to American Sāmoa. The resumption of the talks was a positive move toward addressing issues shared by the two governments. On the agenda were issues related to immigration, health, reopening borders, agriculture, and trade (SN, 26 July 2022). Fiamē also wanted to explore the possibility of exporting goods from Sāmoa to the United States through American Sāmoa. Both governments expressed the urgency of preserving Samoan culture and language, and they have agreed to continue talks in Upolu in October 2022.

The review period for Sāmoa started with false accusations by Human Rights Protection Party (HRPP) leader Tuila'epa Aiono Dr Sa'ilele Malielegaoi (Tuila'epa hereafter). He alleged that the HRPP was defeated by Fa'atuatua i le Atua Sāmoa ua Tasi (FAST) in the 2021 elections because Aotearoa/New Zealand's prime minister, Jacinda Ardern, had been heavily "involved" in pushing for a female prime minister (SO, 26 Aug 2021). FAST party leader Fiamē became Sāmoa's first female prime minister in 2021. The defeated HRPP had to yield power to the newly formed FAST government. After months of political uncertainty following the April 2021 general elections, Tuila'epa

finally conceded in July. However, in May, the HRPP had boycotted the swearing-in ceremony, which according to the Court of Appeal's ruling was legally binding, so former Prime Minister Tuila'epa and his party's eighteen members-elect were not sworn in.

After the April general elections, the HRPP and FAST moved aggressively to secure their political candidates in Sāmoa by pushing for electoral petitions challenging the results of the elections. In the end, twenty-eight electoral petitions were submitted for review before the courts. Of the twenty-eight petitions, seventeen were withdrawn, with eleven cases set for the Supreme Court (SO, 5 Sept 2021). After further review, six of the eleven electoral petitions and counter petitions were dismissed (SO, 5 Sept 2021). The underdog, Tautua Sāmoa Party, remained vigilant in its quest to secure seats in the seventeenth Parliament and pushed for three candidates in the upcoming elections. Interestingly, when Sāmoa became an independent sovereign state, there were no political parties, and none were provided for in the constitution. Today, Sāmoa has become a society of different political parties. A total of twenty-two candidates registered for the by-elections at the end of the year, two running as independents, ten from FAST, and nine from the HRPP.

The seventeenth Legislative Assembly was set to convene on Tuesday, 14 September, and the newly appointed prime minister had been occupied organizing and finalizing her cabinet members. One of Fiamē's first changes to leadership was to dismiss the HRPP-appointed attorney general, Savalenoa Mareva Betham-Annandale. According

to a statement by Fiamē to the press, she felt that Betham-Annandale did not have her “trust or confidence” to discharge the office functions (SO, 2 Sept 2021). She was replaced by Su’a Hellene Wallwork soon after. Wallwork came to the position with years of service to the Government of Sāmoa and had worked in various senior posts in New Zealand.

During the pre-parliamentary sitting on the morning of Monday, 13 September 2021, before the start of Parliament on Tuesday, the Speaker of the Legislative Assembly of Sāmoa, Papali’i Li’o Taeu Masipau, announced that he would not swear in the eighteen HRPP members, including the former prime minister, Tuila’epa. Although the HRPP members won their seats in the April general elections, they strongly opposed the FAST government and refused to accept the outcome of the elections. They decided not to be officially sworn in on 24 May alongside the winners from the opposition. As mentioned earlier, Tuila’epa did not concede until July 2021, four months after losing the general election to the newly formed FAST party.

HRPP leaders were not allowed in the parliamentary building. Papali’i had banned all members of the public and uninvited guests, including unsworn members of Parliament, from entering the parliamentary proceedings due to threats made. Tuila’epa called the decision a “sad day for Sāmoa” (SO, 14 Sept 2021). The drama escalated when Tuila’epa called for supporters of the HRPP to gather outside the Parliament House building at Tiafau. The Ministry of Police and Prisons beefed up security in Mulinu’u in preparation for the Parliament

sitting due to threats circulating on social media targeting certain political leaders (SO, 13 Sept 2021). Answering the call, hundreds of HRPP supporters from different constituencies came in support of Tuila’epa and their beloved political party. The members who remained unsworn during the opening of the parliamentary proceedings were: Tuila’epa Dr Sailele Malielegaoi (Lepā); Lealailepule Rimoni Aiafi (Faleata No 3); Sulamanaia Fetaiai Tuivasa (Vaimauga No 1); Lenatai Victor Tamapua (Vaimauga No 2); Tapunu’u Niko Lee Hang (Vaimauga No 3); Ale Vena Ale (Faleata No 4); Loau Keneti Sio (Sagaga No 1); Sala Fata Pinati (Sagaga No 3); Lupematasila Tologata Leia (Falelatai ma Samatau); Leaana Ronnie Posini (Safata No 1); Tuuu Anasi’i Leota (Siumu); Fuaava Suluimalo Amataga (Aleipata-Itupa-i-Luga); Mau’u Siaosi Puepuemai (Va’a O Fonoti); Alaiasa Sepulona Moananu (Anoama’a No 1); Fonotoe Pierre Lauofo (Anoama’a No 2); Peseta Vaifou Tevagana (Fa’asalelega No 5); Faimalotoa Kika Stowers (Gaga’ifomauga No 1); and Lautafi Selafi Purcell (Satupa’itea) (SO, 14 Sept 2021).

Tensions flared on Wednesday, the day after the official opening of the seventeenth Parliament. Hundreds of constituents swarmed the parliamentary grounds, with more than three hundred police officers in uniform ready to control the crowds. The National Council of Churches arrived not to give support to one political body but to bring peace to the current situation and speak on behalf of church leaders to play their role in addressing the political turmoil in Sāmoa. For the most part, the crowds

remained peaceful. Given the “urgency and importance” of the matter, the case immediately went before the Supreme Court on a “pickwick basis” (SO, 16 Sept 2021). A pickwick is a practice whereby the “respondent to an ex parte application is invited to appear at the hearing without the need to file written submissions” (SO, 16 Sept 2021). After hearing the case, the chief justices ruled in favor of the HRPP and ordered the Speaker of the House to swear in the eighteen HRPP parliamentarians.

At the end of such a tumultuous week, the eighteen HRPP parliamentarians were finally sworn in. FAST used the situation as an opportunity to try and pass the government’s budget of WS\$982 million (approximately US\$350 million) (SO, 17 Sept 2021), but they were unable to do so on time and eventually had to wait until the new HRPP members of Parliament were officially sworn in. On the day of the swearing in, Tuila’epa showed great grace and class when he shook hands with Prime Minister Fiamē and the cabinet members of the winning side. The four-month “political crisis” ended with both FAST and the HRPP working toward a better Sāmoa. Tuila’epa stated in the news, “I believe other countries from the world are envious [of us] that despite the disagreements, Sāmoa remains peaceful” (SO, 17 Sept 2021). He went on to state, “Why? It is because our customs and culture is well preserved by our village councils and matai that were chosen to rule Sāmoa” (SO, 17 Sept 2021). After the swearing in, Tuila’epa called for moving forward to work toward the prosperity of Sāmoa and future generations—wise,

peaceful words from a man who had led the Samoan government for over twenty years.

In the wake of the political issues in Sāmoa, a member of Parliament appealed to the prime minister and her cabinet to look into having Samoans living abroad in the diaspora vote in the next general election. The contributions of Samoans residing abroad to Sāmoa are immense and therefore should be recognized. In other news, Fiamē had to deal with the impact of the global COVID-19 pandemic on tourism. Sāmoa, like other tourism-dependent economies, struggled with job losses. Hotels and other tourist sites saw a high number of laid-off workers. Fortunately, young and able individuals sought work through apple-picking jobs in New Zealand and Australia. The new government also scrapped the daylight savings time change. According to the *Samoa Observer*, the main point of daylight savings time was for people to socialize more in restaurants and have extra time for sports and activities. After much study, it was concluded that there was concern about working late hours and the safety of children in the early morning while it was still dark. Furthermore, there was little energy saved through electricity use (SO, 20 Sept 2021).

An interesting report by the UN Human Rights Council’s Working Group on the Universal Periodic Review points out women’s lack of leadership roles in villages and districts (SO, 29 Oct 2021). Although Sāmoa has seen a rise in women in politics and public life at the national level over the last twenty years, the village level stands in stark contrast.

A 2015 study revealed that only 22 percent of village-based matai were women (SO, 29 Oct 2021). There was a push by the UN Committee on the Elimination of Discrimination against Women to recommend an amendment to section 5 of the Electoral Act of 1963 allowing women without a matai title to stand for election.

Sāmoa has seen an increase in women promoted to managerial positions and in female judges in both the Supreme Court and Lands and Titles Courts. In 2019, approximately 57 percent of CEO government positions were held by women. With Sāmoa's first female prime minister, there has been a lot of interest in female leadership in Samoan society. Many of these initiatives are part of Sāmoa's objective of satisfying Sustainable Development Goals (SO, 29 Oct 2021).

Discussion of the church ministers' tax resumed during the review period. One of the policies in FAST's manifesto was to remove the taxation law that targeted clergy members. The previous administration had introduced the bill in 2017 to assist with revenue building. All church denominations accepted the call from the government except Sāmoa's largest Christian denomination, the Congregational Christian Church of Sāmoa (CCCS). As part of the church's general assembly meeting, clergy members agreed not to pay taxes. As a result, close to fifty resident CCCS church ministers (faifeau tausinu'u) were charged and appeared in court over tax-related offenses (SO, 30 Oct 2021).

The by-elections were set for 26 November 2021, with pre-polling two days prior. There were seven by-elections as a result of the 9 April

general elections. Six constituencies from Upolu and just one from Savai'i went to the polls (Talane'i, 18 Oct 2021). Of the seven seats up for grabs, the HRPP only won two on by-election day. The FAST party won the elections by a landslide, its total votes having increased from 33.5 percent in the April elections to 57.5 percent of all votes cast in the by-elections. FAST saw its primary vote grow by 72 percent (SO, 1 Dec 2021). Although the HRPP, like FAST, included social media in its campaign strategy, the party was unsuccessful. FAST used multiple social media platforms to build its base in Sāmoa and the diaspora. Following the defeat of the HRPP in the by-elections, one former HRPP cabinet member went public to tell the leaders of his party to "hang their boxing gloves." Another senior HRPP member and member of Parliament called for a "new strategy" and for its "current leadership to exit" (SO, 2 Dec 2021). In the end, the House comprised fifty-four seats, with FAST controlling the majority of seats. Women representatives occupied seven seats. One news headline read, "New Era for Women's Representation in Samoa" (RNZ, 17 May 2022).

The review period ended with the celebration of Sāmoa's sixtieth anniversary of independence. On 1 June, as the first female prime minister of Sāmoa, Fiamē hoisted the national flag at Tiafau. Her father, the Honorable Fiamē Mata'afa Mulinu'ū II, was Sāmoa's first prime minister and first raised the flag of freedom sixty years ago. Despite the political circus the previous year, Sāmoa proved that its democracy was still strong, together with the Samoan culture and language. The 2022



celebration theme was “Sail with Faith,” or “Folau ma le Fa’atuatua.” Samoans’ faith in Christianity brought peaceful outcomes during the turbulent months since the April 2021 general elections. Referencing a biblical scripture, the head of state, His Highness Tuimaleali’ifano Va’aletoa Sualauvi II, called for Samoans to “walk by faith and not by sight” and to always pay tribute to the “sacrifice, foresight and vision of the forefathers to strive for Sāmoa’s freedom” (SO, 1 June 2022). The actual celebrations would take place from 4 to 10 September 2022. In a congratulatory message from UN Resident Coordinator Simona Marinescu, Sāmoa has overcome many challenges over the years. Having advanced from a “least-developed to a mid-income Country” in 2014 and achieving most of the Millennium Development Goals by 2015, Sāmoa has continued to show resilience and adaptation to global changes (SO, 1 June 2022). However, the world witnessed political turmoil within the months after the general elections of April 2021. Sāmoa continues to ensure its citizens and the Pacific region that it is a growing society that welcomes changes and advancement.

Sāmoa was also looking forward to 1 August 2022, when its borders would reopen to the world.

New Zealand Prime Minister Ardern planned to accompany a delegation to celebrate the reopening of Sāmoa’s borders and to commemorate the sixtieth anniversary of Samoan independence and the signing of the “Treaty of Friendship” in 1962.

The review period saw Sāmoa’s endurance during a global pandemic and its ability to be resilient through its political issues. Sixty years of independence is a short time, but within that period, the world has witnessed a new Sāmoa that has become a leader in the region. Sāmoa supports advancement while simultaneously capturing the essence of fa’a Sāmoa and the Samoan language in dealing with the changes.

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