

## THE NATURE AND LIMITS OF TRADITIONAL DISPUTE RESOLUTION PROCESSES IN CONTEMPORARY SAMOA

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Samoa has enjoyed enviable social and political stability since it attained constitutional independence as Western Samoa in 1962. This is attributed by many Samoans to the incorporation of elements of "tradition" in the nation's constitution, and of elements of social organization in its local governance structures. Among these is the retention of "traditional" values and procedures for the management of village order and the resolution of local disputes, as outlined in this article. Rapid social change, including the emerging tensions between individuals and collectivities, between local entities and the nation state over their respective rights, and over the appropriate mechanisms for adjudication of disputes, is putting pressure on these "traditional" processes. This, in turn, raises the question of whether Samoans will continue to use these processes, either in their present form or in some modified one, and the article concludes by exploring their future role in dispute resolution.

MANY SAMOANS are justifiably proud of the resilience of *fa'a samoa* or Samoan custom and practice. They argue that incorporation of a number of its key elements into the political structure and organization of the independent state of Samoa, formerly Western Samoa, lies behind the political and social stability that have characterized the country in the period since its constitutional independence in 1962. Central to this stability, it is argued, was the availability of a coherent culture that values unity; defines social roles and the relationships between them clearly; embodies participatory decision-making processes; and provides comprehensive dispute resolution procedures and bodies that administer these (Le Tagaloa 1992). These elements of traditional social organization, it is argued, have been responsible for the manage-

ment of tension and resolution of grievances and, indirectly, for the relative social and political stability that has existed since independence (Va'ai 1999). Broad-ranging and rapid social change is, however, producing new sources and forms of tension, and the traditional dispute resolution procedures may be increasingly unable to satisfy contemporary Samoans, whose interests and expectations are being redefined by the rapidly evolving political economy of the state (Va'ai 1999; So'o 2000; Huffer and So'o 2003). This, in turn, raises the question of the future of these "traditional" dispute resolution processes in the modern Samoan state.<sup>1</sup> These issues frame this article.

This paper sets out to establish the value that Samoan society has attached to social cohesion, to explain why this is so, to explain the means by which social tensions have traditionally been "managed" and the means by which interpersonal and intergroup conflicts have been resolved when these have failed. It then explores some sources of tension that have emerged in Samoan society since large-scale migration commenced in the 1950s, and outlines some recent events in which these have tested "traditional" processes' capacity to resolve disputes. It concludes by asking whether traditional mechanisms will remain effective in a rapidly changing social and economic environment in which there is greater, and more open, debate about the values and processes at the center of Samoan society and the appropriate means of resolving disputes over them.

### Unity as an Ideal State

Social unity is an ideal state and Samoans will, where at all possible, avoid overt social conflict and division. Conflicts and disputes are likened in proverbs to head lice, which are to be sought out and crushed before they become established. Where head lice are not controlled, they become a source of continuing irritation that distracts the sufferer and eventually infect the scalp and cause more general illness.<sup>2</sup> Social entities are, ideally at least, united, *maopoopo*, and act as one, *'autasi*, and both proverbs and passages of scripture are routinely invoked to explain the benefits of social solidarity.<sup>3</sup> This, in turn, rests on the ideal of *soalaupule*, which embodies respect for authority, (Huffer and So'o 2003) and participatory decision-making (Le Tagaloa 1992:122–123), in which individuals are recognized but in which consensus is sought (Huffer and So'o 2003).

The foundation of Samoan social organization is an ideal of *va fealoa'i* or mutual respect, which rests in turn on the social values of *fa'aaloalo*, or appropriate respect and deference,<sup>4</sup> and of *usiuisita'i* or obedience, in interpersonal conduct, which are central themes in socialization. Samoan culture is considered, by many Samoans at least,<sup>5</sup> to be synonymous with respect,

an idea that is reflected in the claim, *o le aganu'u o Samoa o le fa'aaloalo*: Samoan custom rests on decorum and politeness.

These values are embodied and reflected in a clearly defined set of relations, known as *va tapuia*, that define the rights and obligations of people within these relationships. These have been defined by Le Tagaloa (cited in Va'ai 1999:54) as relationships between

The brother and sister ...; the *va-tapuia* between the parent (especially father/mother) and offspring; there is the *va-tapuia* between male and female; between male and male-female and female; there is the *va-tapuia* between host and guest, there is the *va-tapuia* between *matai*; there is the *va-tapuia* between the dead and the living; there is the *va-tapuia* between man and his environment — sea and sky, flora and fauna; then there is the *va-tapuia* between the created and the Creator.

Elaborate speech (Milner 1976; Duranti 1990) and behavioral codes (Shore 1982) structure and regulate relations between individuals and social entities<sup>6</sup> in ways that make cooperation, *fai'famea fa'atasi*, possible and that minimize the probability of conflict arising. Conversely, the disruptive consequences of disobedience and a lack of respect are spelt out in proverbs, or *alaga'upu* (Penisimani and Brown 1914; Schultz 1985), and in fables or *fagogo* (Moyle 1981:45–47).

### **The Social and Economic Foundations of a Social Value**

In pre-Christian Samoa and indeed until the 1870s, the more-or-less absolute power of the chieftaincy ensured that villages lived in an order that rested on fear of extreme, and often arbitrary, punishment by the all powerful *ali'i* or high chiefs, who, as Meleisea (1992:16–17) notes, controlled the spiritual, material, and physical resources of families and villages. Their control of natural and supernatural resources established their power over human resources. One hundred eighty years of steadily intensifying contact with the West has brought about significant changes in Samoan social organization. Since contact with the West commenced, the absolute power of the chieftaincy has been progressively constrained in various ways. The imposition of various measures by Christian churches since 1830, by colonial powers between 1900 and 1962 and, since 1962, by a national constitution, the formal offices of the nation state, of courts, and an evolving jurisprudence, have all constrained the formerly considerable power of chiefs in various ways and in different spheres of social organization. The decline of absolute power has

seen the parallel emergence of a model of authority known as *soalauipule* (Le Tagaloa 1992:122–123), and founded on complementary authority and on social consensus that is, at least ideally, achieved through participatory decision-making (Huffer and So'o 2003).

Samoa's incorporation into the global political economy has produced very significant changes in a number of spheres, including some central ones such as the *matai* system (Meleisea and Schoeffel 1983:85114); the land tenure system (Meleisea and Schoeffel 1983; O'Meara 1987, 1995); the kinship system (Macpherson 1999); the justice system (Anesi and Enari 1988; Epati 1988; Sapolu 1988; Va'ai, 1988); economic organization (Asia Development Bank 1999; Shankman 2001; Sialaoa 2001, 2003); and demography. Despite these very significant changes, the value placed on social order and unity remains central. Even in the modern, mixed economy, the maintenance of social cohesion and the management of tension remain significant.<sup>7</sup> The stability evident in Samoan society no longer rests solely on the power or authority of chiefs as it did in precontact Samoa, and its roots must be sought elsewhere in the Samoan political economy.

The desirability of unity, stressed in many secular and religious contexts, is not stressed for its own sake. United social entities are able to cooperate to mobilize human and physical resources and to compete effectively with other like units for social and political influence. Effective mobilization and management of groups' resources by competent leaders permit them to increase both their material and social-political capital bases. This, in turn, allows a group to increase its influence and sociopolitical prestige among other like units (Pitt 1970). In Samoa a united group becomes the subject of positive public discussion and admiration, not simply because it is united, but because such groups typically become more politically and economically influential than those that are divided.

Unity and cooperation reflect well on the leadership of the group, and its members benefit indirectly by association with an effective group. Samoans may choose to live with one of at least four kin groups with which they have links and in which they have rights. They are more likely to reside with and contribute to the activities of stronger, more effective groups because they stand to gain more, materially and socio-politically, from such associations. Thus, larger, united families are able to contribute more in both cash and kind to church and village activities and, in so doing, to earn and enjoy the respect of other similar entities and the prestige that follows from association. This respect and prestige can be converted by effective leaders into social and political influence in a range of contexts. As a consequence, in the past and even now, strong, united groups generally became progressively larger and stronger.<sup>8</sup>

Conversely, unresolved conflict can disrupt social, economic, and religious activity within the social entity within which it arises. Divided households, *fua'ifale*; family groupings, *aiga*; villages, *nu'u*; and districts, *itumalo* have difficulty maintaining routine social, economic, and religious activity. A group that is internally divided is unable to mobilize its resources effectively and is described as *le pulea*, or unmanaged, and likened to a broken stone fish trap that can no longer catch fish.<sup>9</sup>

Furthermore, this condition tends to deteriorate and to lead, over time, to increasing sociopolitical impotence. Members desert such groups for more effective ones and, as a consequence, the pool of human and material resources available to the leaders of such groups declines. Without resources, even effective leaders are unable to increase the group's material and sociopolitical capital bases and to arrest the declines of support and influence. Protracted internal conflict reflects badly on the leadership of the social entity in which it occurs, and its members may suffer indirectly by association with it. With weakened internal authority come leadership challenges from other would-be *matai*, whose claims to be able to arrest the decline may be more readily embraced in such circumstances than would be the case in times of growth and prosperity. Such challenges often further divide an already-weakened group as these challenges are mounted in semipublic settings such as the family or in public ones such as the Lands and Titles Court. A divided entity risks losing ground to others and its ability to influence the affairs of the larger groups of which it is part.

Its affairs also become the subject of critical public discussion by others, which brings with it the possibility of open conflicts emerging as divided groups are forced to respond to public criticism. As a consequence of all of these factors, in precapitalist Samoa and now, weak and divided entities generally became weaker and more divided.

### **The Promotion of Unity**

For these political and economic reasons then, the maintenance of collective unity or, more accurately, the management of tension within collectivities assumes considerable importance in Samoan society. Again, both Samoan proverbs and passages from scripture are invoked to explain the benefits of peace and the social value of those who make or maintain it.<sup>10</sup> Leaders are judged, in part, by their ability to promote and maintain unity and to manage intragroup conflict as it arises. Samoans are reminded of the Samoan and Biblical heroes who used their wisdom to promote unity and to manage tension.<sup>11</sup> Indeed, many gatherings in which the potential for new or renewed conflict exists are opened with prayer in which God's guidance is invoked to

ensure a peaceful and productive outcome that will strengthen the group. Those who would endanger the unity of a group are likened to a poisonous fish, *le unavau*, that is said to poison the schools of fish with which it swims, making them inedible (Schultz 1985:22). These values are given form and meaning in social processes.

Throughout childhood, and even in later life, Samoans are taught the central importance of respect for those entitled to it. In a gerontocracy, the entitlement to respect is relatively easily established: virtually everyone who is older is entitled to respect, deference, and obedience.<sup>12</sup> Parents, guardians, members of households, and in some cases extended kin groups become the primary agencies in the process of establishing the importance of both *fa'aaloalo* and *usiusita'i*. The importance of these attributes is learned, largely informally, in day-to-day interaction and from the observation of the speech and conduct of other, more experienced members of the family. The recounting of *fagogo*, or fables, and extended public discussion of the failings of others and of their causes and consequences help the young to define and operationalize these values, and to comprehend the relative importance and consequences of various types of breaches. The ready approval of conformity, and the equally swift punishment of violation of norms, ensures that these values and the associated conduct become relatively rapidly established.

The importance of the value of respect and its corollary, obedience, is also promoted by Samoan Christian churches, and particularly the more established and usually more conservative denominations. Pastors, especially in the long-established major denominations, which enjoy the support of the majority of the population, regularly remind their adherents of the benefits of obedience and the costs of disobedience to those who are entitled to it.<sup>13</sup> Congregations are regularly reminded of the need to honor and obey God, parents, leaders, and agencies of state.<sup>14</sup>

Entities have an incentive to instill these values in their members. The positive consequences of successful socialization of members are obvious. Groups whose members show respect and the capacity for "appropriate" judgment and conduct are well regarded by others. They are less likely to suffer internal conflicts or to become embroiled in disputes with other groups and are free to exploit available material and human resources without interruption and to prosper economically and socio-politically.

Conversely, failure to instill these values has potential costs. Those who fail to show appropriate respect are described variously as being *le mafau-fau* or unthinking, *valea* or stupid, *fia sili* or wanting to be better than others, and *fia maualuga* or wanting to take a social status to which one is not entitled. The term chosen to describe the failure, and reaction to it, varies with the significance of the act in which it is revealed.<sup>15</sup> Failure to show

due respect reflects not solely on the “offender” but also on those other members who have failed to instill this central value.<sup>16</sup> Individuals who are ignorant of social conventions cannot alone, as Shore (1982:174–175) notes, be held responsible for their acts. Parents and guardians are also held responsible for their failure to instill the capacity for moral judgment in their offspring. This connection is apparent in both the wording of judgments and the fines handed down in village *fono*, or *matai* councils, which are responsible for the management of the village and the maintenance of village order. These councils pass judgment on and punish those whose activities breach accepted principles of respect and obedience and are considered to threaten village order. The *fono* establishes the “facts” of the matter, identifies the wronged party, determines the seriousness of the breach and determines how its perpetrator is to be punished. The semipublic hearing, at which all village families are represented by their *matai*, is characterized by extended, and often repetitive, confirmation of the “facts,” and of their significance for social relations both within and beyond the village.<sup>17</sup> The councils then punish not only offenders, but also their families, whom they hold indirectly responsible for the misconduct of members. In certain circumstances, the *fono* will state explicitly its belief that the family must share the responsibility for failing to teach its members. Even where this sentiment is not made explicit, the *fono* frequently levies fines in cash, taro, and pigs that are so heavy that the offender alone could not possibly pay them. Families faced with finding resources with which to pay a fine incurred by a member are reminded of their collective responsibility for their members’ conduct.

Where both the individual and his or her family are held responsible, all must bear some responsibility for the act, any resultant conflict, and the costs of its resolution. Thus, when a man insulted and then assaulted the village pastor, the village council acted not simply on behalf of the pastor but the rest of the village whose *mana* and capacity and willingness to protect its “servant of God” from insult had been offended. The *fono* levied a fine that could not possibly have been paid by the offender himself as a public indication to all in the village that families must take responsibility for the conduct of members and must bear the costs of their failure to do so. But the direct costs of the act are only part of the “punishment.” The accessibility of the proceedings, the high level of representation, the exposure of one’s family to public scrutiny and criticism, the public expressions of contrition by or on behalf of the offender, may also explain why families place considerable emphasis on “appropriate respect” and on the maintenance of “orderly” conduct.

The failure to show appropriate respect may also have consequences for the internal unity of a family that becomes drawn into a dispute in this

way. The discussions of the man's conduct that followed the assault outlined above focused on its impact on the family's hitherto high regard in the village and its future political aspirations. This "analysis" led, in turn, to recriminations that reawakened resentment and division within the family as more distant relatives were required to assist in paying the fine; led to criticism of the existing leadership; resulted in renewed claims by factions for the *matai* title of the group; and led to the revisiting of contested events in the family's history. The formerly united group quickly became divided, and considerable amounts of energy were expended first in internal conflict and then in conflict resolution.

Given the social, political, and economic consequences outlined above, it is probably not surprising that such careful attention is paid to "managing" the conduct of people in Samoan society. This extends in some cases to expelling those who cannot be controlled to places where their conduct will not rebound on the groups to which they belong. Adolescents whose conduct has breached norms and caused continuing embarrassment to their *aiga* are routinely sent to other villages or abroad to cities in which others would bear the responsibility for managing their conduct. These extreme measures made possible the retention of the illusion of order without addressing the structural features producing the tensions and the breaches. They also reflect the importance that villages and families placed on the appearance of order and balance.

### The Failure of Order

Despite all of these processes and the general commitment to the values of respect, obedience, and social unity and solidarity, tension is always present in Samoan society. Tension, like the head lice to which it is compared, comes and goes. It may develop in the relations between individuals who stand in particular relationships to one another. This usually occurs when one party exceeds what the other considers to be the limits on rights that are prescribed for those in that role. Thus, an untitled man who accepts that he must accept reasonable directions from his *matai* may nonetheless resist when these directions are no longer considered reasonable.

Similarly, tension may develop between subsections of social entities that stand in particular relationships to one another. This may develop into overt conflict when subsections become convinced that others have exceeded their rights within a relationship. Thus, the *tamatāne* or men's line may accept that the *tamafafine* or women's line has important rights in the selection of a new *matai* for the entire *aiga* of which they are both part but will resist strenuously when these are exercised in ways that are considered unreasonable.



Tensions, in both interpersonal and intergroup relations, may escalate until a point at which the relationship itself is threatened.

Interpersonal and intergroup tensions are often connected. An individual's reaction to his neighbor's personal conduct, such as the use of bad language in a plantation, can escalate into a conflict between their families and assumes much greater significance for both short- and longer-term village order. The essentially personal incident that provoked a particular episode becomes relatively insignificant as the history of relations between the families is reviewed, past disputes between the groups are revisited, and the initial act is linked with a whole series of "related" events that together justify the growing anger on each group's part.<sup>18</sup>

Such disputes can and do occasionally escalate to a point at which the entire village is forced to take one side or another. In such circumstances, the village *fono* may no longer be able to maintain the unity necessary to preserve order in the village itself, and may face public challenges to its highly valued autonomy. This has occurred on at least two occasions in the recent past. In the first case the state, in the most public way, challenged the village's valued autonomy over its internal affairs<sup>19</sup> and in the second, a village's two pastors publicly challenged its leadership's authority.<sup>20</sup> For all of these reasons, Samoans prefer to manage tension as soon as it becomes apparent and minimize the risk of escalating disruption and the associated weakness. Small wonder then that Samoans stress the management of the relationships between individuals in proverbs like *teu le va* or maintain the relationship and celebrate good, stable relationships in proverbs such *va lelei* (Schultz 1985:14).

But despite the elaborate attempts, outlined above, to regulate relations between individuals and groups in these ways and to manage the tension that arises out of the competitive ethic that is at the heart of *fa'a samoa*, overt conflict periodically breaks out between individuals and groups, and wrongs have to be righted. Although, as noted above, interpersonal and intergroup tensions and resultant conflicts are usually closely related, they are treated here as separate problems. For the purposes of this discussion, interpersonal conflicts are those that involve relations between individuals as individuals and not individuals acting as representatives of designated groups. By contrast, intergroup conflicts involve disputes between collectivities over their respective rights and obligations.

### **Resolving Interpersonal Conflict**

Tension is ever present in interpersonal relations. The sources and nature of tensions are structured by the character of relationships. Symmetrical relationships involve parties of equal social status, such as siblings, and the ten-

sions that characterize these relationships are open and negotiable (Shore 1982:98–202). Asymmetrical relationships, which Shore refers to as complementary, involve parties of unequal social status, and the tensions inherent in these are connected with the unequal rights and obligations of the parties. Although rights and obligations are interpreted in different ways by individuals, the fundamental asymmetry is sanctioned by society and is not negotiable.

Many who have grievances with the conduct of those who stand in dominant relationships, that is those to whom they must accord respect, or at least obedience, are prevented from openly expressing their grievances and from seeking mediation of their concerns. The persistence of asymmetrical relationships depends on both a culture that legitimates them and on their not being publicly challenged. The child who feels that he or she is being unreasonably treated by parents or guardians cannot publicly challenge them. The same sorts of limits on expression exist with respect to younger siblings and older siblings, wives and husbands, women living with their husbands' kin group or *nofotāne*, men living in their wives' kin group or *fai ava*, untitled persons and titled ones, and indeed in all relationships in which the asymmetrical distribution of power is accepted. People in these situations must seek other means of righting the wrongs and thus relieving the tension.

The prospect of having a complaint of this type acted on and resolved in a person's favor by others will depend on their acceptance that the conduct complained of does indeed exceed that which could reasonably be expected in a given relationship. Where an individual's complaints are considered frivolous, he or she is likely to be accused of being unreasonable and will be shown little sympathy. In many cases, vexatious complaints will simply annoy others who have, or have had in the past, to accept similar treatment and may lead to more general impatience with the complainant on the part of others. Their reactions to frivolous complaints may in the long run make the complainant's life more difficult and unpleasant. This knowledge undoubtedly discourages many from raising matters that may be considered "borderline" and means that only incidents that clearly exceed acceptable canons are brought into the public sphere. But there is recognition that excesses in the conduct of dominant parties do generate frictions within relationships and do produce legitimate complaints about conduct and that these deserve attention.

In some cases, these are "resolved" where the aggrieved party leaves the situation and stays temporarily with relatives either in the same or in another village. The willingness of others to accommodate a person leaving such a situation reflects a degree of acceptance of the strength of that person's claim to have been unreasonably treated. The move signals publicly, but silently, the existence of a dispute. Where this option is available, depar-

ture may relieve the immediate tension and the prospect of failure of the relationship, either in a violent confrontation or, more frequently recently, self-destructive conduct such as suicide and parasuicide (Macpherson and Macpherson 1987).

Such departures in themselves, however, do nothing to resolve the more fundamental problem of the asymmetrical distribution of power in the relationship and the way in which this was exercised. Unresolved conflict and lingering resentment may resurface at another time with serious consequences. Occasionally, however, either the “facts” of a case or the broader social and political consequences of its nonresolution may lead to interest in and intervention by those with whom the person has sought shelter. They may in time seek some form of formal reconciliation on behalf of the aggrieved party. Not all people, however, are free to leave a situation in which they feel they are being unfairly treated, and they must seek a resolution of their concerns. Although there may be little public sympathy for general overt challenges to authority and little support for the complainants, most Samoans know, often from personal experience, that from time to time the duties required of those in subordinate positions in a raft of relationships are unpleasant and irksome.<sup>21</sup> It is not difficult then to find a third party who will listen to the grievance and confirm the complainant’s view that a particular pattern of treatment seems harsh and unfair.<sup>22</sup>

The most likely outcome of such complaints is an acknowledgment that the treatment complained of is indeed harsh but that in time it will cease. The mentor may argue that the experiences are all part of *tautua* or service to a collectivity, and that ultimately such service is the path to power.<sup>23</sup> Mentors may argue that the experiences will be judged by one greater than the person complained of, and that judgment will be absolute.<sup>24</sup> A mentor may even, in certain circumstances, intervene on the complainant’s behalf to mediate the conduct of the dominant party but is unlikely to attempt to modify the basic asymmetry in any significant way.<sup>25</sup> However, as with the departure strategy, the sources of the tension remain intact even after the immediate “symptoms” of tension have been “managed.” Whether or not a mentor will choose to seek some formal reconciliation will depend on the social costs of allowing matters to go unresolved.<sup>26</sup>

In some cases, conflict between individuals is resolved in these ways but in others, an individual is so aggrieved that some change in the conduct of the other party is required to resolve the conflict. As Freeman (1983:219) notes,

On occasion the demands of this stringent system generate such internal resentment and stress that an individual can take no more and becomes intractable.

The subordinate party may then enter a state known as *musu*, which Pratt (1911) translates as unwillingness, indolence, but also admits has no equivalent in English. Mead (1981:102–103) and Freeman (1983:218–219), while disagreeing on the significance of this state within the structure of the Samoan character and personality, agree that it is widespread and that it is most widely seen in children and adolescents. In the first version of this strategy, the victim effectively suspends a relationship with the perpetrator or perpetrators while maintaining more normal relationships with everyone else. In this version of *musu*, victims do all that is required of them by the source of their anger, but mechanically and with as little acknowledgment or emotion as is possible. One person said,

It's as if you try to put that person out of your mind. You try and make them invisible so that they can't affect you or make you angry. You have to do what they want or else you will be disciplined, but you do only that and nothing else.

In the second form, described by both Freeman and Mead, there is an element of disobedience so that the aggrieved party is both intractable and unwilling and actively resists the directions of those entitled to give them. Freeman describes this as “psychopathological stubbornness” (Freeman 1983:222). This strategy draws the attention of both the perpetrator and others to a particular relationship and to the problems in it. Considerable attention is paid to the problems by both the target of the resistance and those around them. Where there is general sympathy for the complainant, pressure is exerted in different ways, and with various degrees of subtlety, on the dominant person to attend to the relationship or to *teu le va*.

Where there is general recognition that the complainant's case is a reasonable and just one, someone with higher status may direct the other person to resolve the matter and to do so quickly.<sup>27</sup> In other cases, those around may show open sympathy to the complainant and in so doing, make their position in the matter known indirectly. A certain amount of pressure may be exerted by people asking why the complainant is *musu*. There is also general pressure for resolution because people are aware that unresolved cases have led eventually to suicide which, in turn, reflects negatively on the family. There is, then, considerable social pressure on individuals to resolve the problems in an interpersonal relationship.

The final resolution in these cases may take a variety of forms. It may, in some cases, involve a formal apology in which one who would not normally be required to admit to errant conduct will do so. The person is likely to admit recognizing the error, *iloa le sese*, and to apologize, *fa'atoese*, to the victim. The process concludes when the aggrieved party forgives, *fa'amagalo*, the

other, which may be done in more-or-less public contexts. The expression of contrition may be less formal and simply involve a change in the conduct at the center of the complaint. This is particularly likely where there are significant differences in the status of those involved.

In still other cases, the aggrieved party may become “unwell.” Illnesses raise larger issues of agency and draw general attention to establishing the causes of the illness, which frequently has weakness, headaches, and lethargy as some of its symptoms. In some cases, the person exhibits the symptoms of possession, and the voice of some deceased relative outlines the circumstances that have produced the illness and may reveal, either directly or indirectly, the name of a person who is implicated. The disclosure of the “cause” of the illness may point to the appropriate resolution of the matter. The possibility that supernatural agency is involved leads often to the involvement of a person skilled in diagnosis of this type of illness (Macpherson and Macpherson 1990). This person, known in this role variously as a *taulaāitu* or *taulasea*, may be from outside the family and may be free to speak more frankly about the possible causes of the friction in relationships and to canvass various resolutions, in ways that are not available to those close to the “victim.” Thus, when an adolescent became ill, her deceased mother spoke through the daughter’s mouth and accused the stepmother of ill-treating the girl and of favoring her own children. In the case of the stepmother-stepchild relationship, the “therapist” drew on past experiences with similar cases to suggest removing the child from the household and sending her to live with her deceased mother’s family. This threat put pressure on the relationship between the stepmother and her husband and led to the stepmother apologizing to the stepdaughter for the past treatment, and the husband to watch the demands that the new wife made of his child from that point on.

Samoan social organization has a set of procedures for identifying and resolving the interpersonal disputes that arise between people in particular, usually asymmetrical, social relationships which, by their nature, tend to generate tension. These allow for the “resolution” of particular disputes in ways that do not fundamentally alter the asymmetrical distribution of power and authority or challenge the cultural logic that supports it. This has, until recently, allowed many individuals to accept that the system contains procedures for making and resolving individuals’ grievances and has blunted the inclination to challenge its foundations.

### **Resolving Intergroup Conflict**

Intergroup conflict has, as noted above, the potential to disrupt social and economic life for protracted periods.<sup>28</sup> Serious attempts are made early to

control it.<sup>29</sup> Conflicts within families are in themselves serious because these threaten the public standing of the *aiga*, and all members suffer by association. The responsibility for resolution of these matters rests with the *matai* or head of the family, who must deliver a solution that preserves the basic unity of the family on which his or her power rests. While provision exists for the removal of ineffective *matai* by members of the *aiga*,<sup>30</sup> it may be less this sanction than the possibility that failure to manage effectively will expose a *matai* to criticism, both within and outside the *aiga* and the village, which leads a chief to act quickly.

Although in many cases the process may seem somewhat autocratic, certain factors limit the chief's ability to impose a settlement without concern for the parties to it. The most obvious of these is the necessity of unity for cooperation across a range of social, religious, and economic activity. The second factor is the status of the chiefly title involved. Some titles carry significantly more prestige and command more respect and obedience than do others.<sup>31</sup> While some titles command respect that allows their holders to impose a decision unilaterally, many titles are of less significance, and those who hold them will be required to negotiate their plans. The third factor is the fact that many titles that were once held by one person are now held jointly by multiple holders. Thus, although each title holder represents the *aiga* to which the title belongs, most also represent a particular subgrouping to which he or she is most closely connected and that has selected and actively promoted his or her candidacy at some time. The creation of multiple holders of some titles has effectively diffused power and reduced the probability that any one holder will be in a position to exercise autocratic leadership. The final factor is the personal qualities and social talents of individual chiefs. Those who are popular and show concern for all interests are likely to be more effective in dispute resolution than those who show partiality for particular groups and their interests.

The disputes are typically resolved in discussions between representatives of various sides of the *aiga* that are convened by the *matai*. These usually occur only after *matai* have canvassed opinions and possible solutions informally with the subgroupings at the center of the matter. A variety of linguistic and social strategies are employed to reduce tension and to reconstruct a unity. The speeches made in these contexts use the term *tatou*, that is the inclusive form of the pronoun "we," which reminds those involved of the fundamental unity that they seek to protect and restore. The availability of a foundation for unity provides both the opportunity to protect the group's reputation from those who would capitalize on their misfortune and the motive to resolve the conflict.

When a member of a family commits an offense against another family in the same village, the order of the village is threatened and a higher level of authority is necessary to manage and resolve these matters. The body, the

*fono a matai*,<sup>32</sup> will move to resolve this type of dispute as quickly as it can. Allowing a matter to go unresolved for any length of time will reflect their political impotence; disrupt village social, political, and economic activity; and lead to spontaneous acts that will make permanent resolution more difficult. Where the village council exercises jurisdiction in such a matter, the hearing of the case and the delivery of a judgment is a semipublic<sup>33</sup> event in which all parties are heard, and in which all families, through their *matai*, contribute to the final determination. The formal purpose of this type of hearing is to provide public resolution of disputes. The process itself confirms the authority of the *fono* to make and enforce laws of the village, and affirms the value of these in the restoration of public order.

When a member of a family commits an offense against a village ordinance, the order of the village is threatened and the authority of its duly constituted government is challenged.<sup>34</sup> In such cases, the family of the offender may find itself ranged against the rest of the village, which comes to the support of the *fono a matai*, whose authority has been challenged. In these circumstances, the offending family may decide to seek early resolution of the matter before the rest of the village's anger mounts and results in a punishment that reflects not only its displeasure with the offense but also the family's lack of appropriate contrition. Early admission of guilt and public expression of willingness to accept punishment may be offered in order to demonstrate a family's recognition of its collective responsibility for the offense and its desire to accept punishment and to restore unity.

In the case of very serious crimes, including deliberate and accidental acts that result in death or serious bodily harm, the possibility of escalating violence between the offending and offended parties increases very rapidly. These typically develop suddenly<sup>35</sup> and, while involving individuals initially, have the potential to develop into disputes between the *aiga* or the villages from which the individuals come. In these circumstances, quick, decisive, and public reactions are required to prevent a protracted feud.

### The Ifoga

In such circumstances, representatives of the family, or in some cases, the village, of the offender may offer an *ifoga*, or public apology, to the offended family or village. (Macpherson and Macpherson 2005) This is the most visible and most dramatic form of dispute resolution.<sup>36</sup> It involves significant social and material costs to those who offer it and is undertaken only when the cost of failing to offer such a gesture is the possibility of continuing instability and escalating violence.<sup>37</sup> It is, as a consequence, relatively rare.<sup>38</sup> The *ifoga* involves a public act of self-humiliation as a form of apology and

a gift of *ie toga*. *Ifoga* were once offered as a token gesture of submission by groups defeated in wars (Pratt 1911). The term now means, according to Milner, a “ceremonial request for forgiveness made by an offender and his kinsman to those injured”; it comes from the word *ifo*, which means literally to bow down or to make a formal apology (Milner 1976:82–83). It may be offered in various circumstances from serious acts of violence against the person such as murder, manslaughter, or accidental wounding to acts against an individual’s honor such as adultery and slander.

There are two possible outcomes: the acceptance of the apology, *ole taliga ole ifoga*, or its rejection. Apparently, few *ifoga* are rejected even where the acts that gave rise to them are serious ones. Rather, the seriousness of the act will be reflected in the amount of time taken to accept the *ifoga*. The amount of time that supplicants spend in the rising sun and exposed to the public gaze is an indication of the seriousness of the offense offered. Eventually, in most cases, the supplicants are invited into the house, where speeches of reconciliation are made and food shared. The focus of both of these activities is the creation of a public agreement on the terms of settlement, and on the fact the matter is formally closed. This is essential to ensure that later retaliation is not considered and that “normal” social relations can resume.<sup>39</sup>

Thus, even when all of the other practices fail to maintain the highly valued social order, and social and economic relationships are disrupted, Samoa has a procedure that can circumvent the total breakdown of relations and the social and economic costs of this possibility.

### The Future of “Traditional” Dispute Resolution

Thus far, we have set out cultural foundations of social processes that may, collectively, explain the relative political and social stability that Samoa has enjoyed since independence. The righting of many interpersonal and intergroup wrongs within these arrangements continues to satisfy the needs of many living in rural villages in Samoa. As a former Chief Justice, Falefatu Sapolu, notes (1988:60), the system has delivered stability for Samoans,

Through the exercise of their customary authority, the FONONO ... have been most effective in maintaining peace and civilised life at the village level. A measure of their effectiveness is the small size of Western Samoa’s Police Force of about 300 constables in a population of approximately 165,000.

Guy Powles, a leading legal scholar of Samoa, highlights some specific features of the “traditional” process that may explain its acceptance.



These include the familiarity of elements of the process itself and includes such things as communication styles, standards of evidence, “ownership” of the process and the fact that unlike formal courts, which are “dealing once-and-for-all with the particular act or offense in isolation,.... traditional processes.... address the wider context of disputes, often without attempting to achieve finality” (Powles, 1989:8). For these reasons, and for the present at least, it seems that many people in villages acknowledge certain central social values and accept that the procedures outlined above are appropriate ways of maintaining these and of managing conflict associated with them.

Villages have demonstrated their desire to maintain these means of resolving conflicts in cases where individuals have challenged their right to do so (Meleisea 2000; Tuimaleai’ifano 2000). When a chief in the village of Lona in Fagaloa challenged the right of the village council to make decisions that constrained certain individual freedoms, the council forbade people to buy from his shop or to ride in his bus. His wife was told to remove their personal effects and vehicles from the village because the village had decided to burn their property and vehicles. When the chief chose to ignore the warning and openly challenged the authority of the *fono*, the village acted in concert against him. He was shot and his property destroyed.

The police report filed after the Lona incident gives some indication of the depth of feeling in villages about the nature and extent of their autonomy in local affairs. The report states, *inter alia* (Police Report 12/10/93), that

The high chief of Lona Fagaloa known as Tupuola Sami spoke in behalf of the village. He presented his view of the matter. He stated that the murder was the final decision of him and all the chiefs of Lona Fagaloa. He further stated that it is God’s commandment not to kill and so as the Criminal Law, but for Lona’s [part] it is not an illegal killing. The deceased has been disobeying the village decisions for many times. Again he stated that if the Police wish to bring the people responsible for the murder, then bring all the chiefs of the village and all the village residents be charged. Tupuola stated that the law of the village is if someone disobeys the village council’s decision the penalty is death and that was the case from their forefathers.... Tupuola was the only chief who spoke strongly to object to the Police.... In fact he was the only chief who spoke for the village and to defend it the whole time we were at the village.

In this statement, the high chief seems to be suggesting that the law of the village takes precedence over the laws of the land and those of God and, even allowing for the circumstances in which the comments were made, the

absence of dissent suggests that his view of the village's rights to formulate and implement local law was widely shared in the village.

The case, however, also raises some very significant issues that are likely to become more widely contested. The first and most obvious issue is why, when, as Powles (1988:6-9) notes, varying degrees of legal pluralism have existed in Samoa for some considerable time, have these types of issues become so significant only now? Part of the answer lies in the fact that only since the adoption of the Constitution, which embodied the concept of "fundamental rights," was there a basis for explicit conflict between two sets of rights. As Sapolu (1988:61) puts it,

Fundamental rights are founded on the philosophy of individual liberty while communal rights and obligations are based on the philosophy of collectivism.... The two underlying philosophies and the systems of rules derived therefrom are seen to be in competition with each other and, as the Constitution has expressly incorporated the philosophy of individual liberty in its fundamental rights provisions, the philosophy of collectivism as manifested through the customs and usages administered by the *fono* has to give way where conflict occurs.

The second part of the answer is that in the past forty-five years, the rate and extent of social change have increased dramatically. The political economy has undergone profound changes as a consequence of its increasing integration into the world capitalist economy. Over the period, increased levels of migration, formal education, and an extended range of media have increasingly exposed Samoans to "non-Samoan" world-views and lifestyles. Awareness of these alternatives is leading to challenges to the right of one group to define and enforce a single set of values and practices to the exclusion of others. Over the same period new sources of wealth have transformed earlier rank-wealth correlations and have redefined the contours of both influence and interest. This is not to argue that a rapid, dramatic transformation of traditional Samoan dispute resolution procedures is about to occur, but rather that changes in Samoan society are raising a series of issues about their formerly largely unchallenged status. Some of the issues raised by each of these changes are canvassed below.

### **Individual vs. Collective Rights**

Samoan society always recognized rights of individuals, but these rights were structured by age, genealogy, socio-political status, and gender and ensured that while all had rights, not all had equal rights. Where these rights were con-

tested, before Christian teaching took hold in the latter part of the 19<sup>th</sup> century, the outcomes were determined by force or the threat of force, rather than by reference to principle. The Constitution of the Samoa formally established a set of individual rights, which are guaranteed to all Samoan citizens, and created another category of “wrongs” that were not envisaged in arrangements derived from precontact social organization. The Constitution established that all citizens irrespective of age, status, and gender had equal rights before the law of the land. The two sets of rights are, as Sapolu (1988) has noted, potentially conflicting and may generate increasing numbers of disputes.

If, for instance, many citizens choose to exercise their constitutional rights, which include, *inter alia*, the freedoms of speech and religion, they would rapidly create a situation of civil disorder. If, for example, a group of people in a village were to use their freedom of religion to form an atheist community and their freedom of speech to promote that community’s beliefs publicly, they would soon generate huge tension and the possibility of extreme violence within the village.

In fact, the challenge need not be so direct. In March 1997, in Samalaeulu, Savai’i, Lupe Lio sought to assert his rights to freedom of worship (Constitution of Western Samoa, section 11) (Samoa, 1988) to establish a Mormon congregation and to offer membership and instruction (Constitution of Western Samoa, section 12) to others in a village in which two denominations had already established churches. The Samalaeulu village *fono* rejected the individual’s right to worship in that way in the village, and petitioned the Lands and Titles Court to prevent him from doing so. When he persisted in his course of action, representatives of the village, exercising rights they assumed to exist under the Village Fono Act (1990), took Lio to the middle of the village, where they tied him to a stake and threatened to burn him publicly. In exercising what they believed to be their rights under one act, the leaders of the village appear to have deprived the individual of the right to liberty (Constitution of Western Samoa, section 6) and the freedom from inhuman treatment (Constitution of Western Samoa, section 7).

The village *fono* attempted to use its powers, which are presumed to exist under the Village Fono Act of 1990, to remove the “offender” from the village in hope of banishing the problem to some other jurisdiction. But in exercising those rights they would, in turn, have denied the individual rights guaranteed under the Constitution of assembly, association, movement, and residence (Constitution of Western Samoa, section 13). When Mr Lio opted to assert his rights and to persist with a plan that he seemingly had every right to do, he set the scene for a clash between two sets of rights.

The existing village mechanisms for resolving these types of disputes could not easily cope with this situation because they are designed to

regulate activity to meet standards of conduct on which there is substantial agreement. In an age in which contact with alternative world-views and lifestyles is increasingly available to Samoans as a consequence of travel, greater formal education, and the availability of an expanding range of media,<sup>40</sup> it is likely that more individuals will wish to adopt world-views and to pursue lifestyles that are not acceptable to the majority of those with whom they live.

This has been avoided in the recent past because many who wish to articulate world-views or pursue lifestyles that are at variance with dominant ones tend to migrate, and in some cases are “persuaded” to move, to places where these are more readily tolerated.<sup>41</sup> This tendency, rather than the success of existing dispute resolution processes, has insulated Samoa from the potential difficulties of resolving new categories of dispute with traditional devices. As long as individuals who wish to adopt world-views and/or lifestyles that are not “accepted” in villages leave for either urban centers or for overseas centers, their decisions do not constitute “threats” and will not generate the sorts of conflict that cases such as the above have. As long as this occurs, the villages are less likely to come into open conflict with the state over the limits of each’s authority because those who might precipitate such action choose to remove themselves rather than pursue their rights. But should an individual or group choose to remain and pursue its goals, as a matter of principle, several potentially serious destabilizing problems may arise.

This may be occurring already. A young woman was raped by a man from the same village. His family presented an *ifoga* to the young woman’s family and it was duly accepted. The offender’s family accepted responsibility for the act, exhibited public contrition, and offered substantial gifts. The offender was required to leave the village as part of the settlement. This might formerly have closed the matter, but in this case, the victim refused to accept this “resolution” and sought, against some members of her family’s advice, to lay a criminal complaint with the police against the rapist. She argued that while the *ifoga* might have resolved issues of family honor involved and had restored order, it did not resolve her personal violation and humiliation or the threat that the offender posed to other women. Her pursuit of a formal legal remedy set the stage for competition between the traditional and introduced systems of dispute resolution over the rights and obligations of each in this sphere.

### Consequences for Village-State Relations

The village that finds itself in conflict with the state must eventually “lose” to the state, for as Sapolu notes, “the Constitution is the paramount law and any law inconsistent with the Constitution is void to the extend of the inconsistency” (Sapolu 1988:61). The application of this principle “will gradually but

eventually destroy the authority of customary adjudicators” (1989:61). In the Lona case, some chiefs and some untitled men were tried and convicted and sentenced in the state’s courts despite their beliefs about their rights. In such cases, the courts are forced to clarify the limits of villages’ power and autonomy publicly. The court’s action may have two unforeseen consequences: it may undermine the authority of the village councils at local levels and limit their effectiveness in local government and the administration of justice and ultimately their role in the maintenance of public order. Given that, as both Powles and Sapolu note, these bodies and procedures are indispensable to the maintenance of public order in the villages, such a course of action may lead to difficulties in replacing them in this role. But such a conflict of wills would not only highlight the limits of the village’s authority.

If the individual petitioned the state to enforce his or her right to freedom of worship and the state chose to “right” that “wrong” by using its available mechanisms, that is the application of force to guarantee the person’s right to reside in the village, it would in turn create a situation in which the limits of the state’s power were exposed. In the Samalae’ulu case, the “solution” organized by the police was to persuade the council to cancel the burning and counsel the victim to accept the banishment order and move away from the village. In the Lona case, the lawyer for all 28 defendants who pleaded guilty to various charges argued that all had committed the offenses because they had been ordered to do so by the village council, and had been threatened with banishment if they disobeyed. The court convicted all and handed down sentences which, despite the court’s intention, may well have been interpreted as a sign of at least partial acceptance of the argument. Twelve men were sentenced to twenty months of jail of which eighteen were suspended on the condition that each pay the deceased’s family \$US250 and serve one hundred hours of community service. Five were sentenced to ten months of which nine were suspended on condition they pay the family \$US50, and eleven of the youngest received two years probation and 350 hours of community service.

The Samalae’ulu case demonstrated that the state does not have the force at its disposal to enforce individuals’ rights for any length of time in the face of determined opposition by a united village. Nor is it clear that the state would enjoy the support of the electorate for such a course of action. In each of the cases outlined above, public opinion tended to support the village leadership. One commonly expressed view was that if people weren’t prepared to accept the authority of the village, they could and should live elsewhere. There is always a risk that in enforcing an individual’s rights against those of a village, the state might turn public opinion against itself. In such cases in the recent past, the state has found a means of affirming the individuals’ rights while avoiding denying those of the village. In the case of

Lotoso'a, where ten people were exiled from the village for joining an evangelical church rather than one of the two established denominations in the village, a court declared that "the exiles had the right of religious freedom but should hold their Bible meetings outside the village" (Islands Business 2004:12). But these are not the only disputes that highlight the limitations of traditional resolution processes.

### Commercial Disputes

The monetization of the Samoan village economy, the commodification of an increasing range of activities, and the increasing value of cash-based exchanges within families and villages has created a category of "wrongs" that were not envisaged in arrangements that derived from precapitalist social organization. Can these commercial wrongs be righted within traditional arrangements? Many small, village-based businesses must take into account the social context of their operations and the social and economic consequences of pursuing available commercial remedies.<sup>42</sup> Most, therefore, try to avoid situations in which disputes are likely to arise. Thus, suppliers seek advance payment for certain goods and services to avoid the problem of later collection, and set credit limits at levels at which goodwill is maintained, while potential losses are contained and the need to pursue large debts is avoided. Where debts are incurred by relations, business people may turn to traditional processes to recover debts or convert them into socio-political capital in the form of indebtedness on the part of the debtor.

Such remedies are, however, unlikely to work in all cases. Unrelated people are less likely to be able to bring "informal" pressures to bear through relationships to ensure recovery of a debt and have less reason to worry about the consequences of their action for family or village cohesion. This is already the case around Apia, where some 37 percent of the total population of Samoa now resides and where the parties to a dispute are less likely to be related to one another. A young man explained how he ran his auto repair business in a peri-urban area,

When I have to deal with people to whom I am not related, I have to take another approach. I leave one small thing to do and say that I am waiting for a part and assure them that I should have it by the time they come over to pay for the work. It's called in Samoan a "fisherman's lie" and most people understand the message but no one's pride is hurt in the process. If they want the car but can't pay, I have to resort to another strategy and get tough. But I'm always polite. I always treat my customers with proper respect. I always

discuss the matter of payment in private. I would never suggest that they are unable to pay the bill because an insult like that won't get me anywhere. But I have a business to run and I have to worry about cash flow, and they have to know I will take them to court for the money and I do but only after I have tried all the other ways.

Thus, while small businesspeople attempt to deal with commercial matters within a Samoan cultural framework, they are prepared to take defaulters to court when this fails to deliver commercial remedies.

However, the increasing complexity of the Samoan economy means that more transactions involve larger commercial entities that are managed for profit and have no obvious interest or stake in the maintenance of interpersonal or intergroup cohesion. For these commercial entities interpersonal and intergroup cohesion in groups with which they deal are only valuable in as far as it serves, or impedes, their freedom to conduct uninterrupted commerce profitably. Where a business is one of a number of suppliers of a service or commodity, such as generic auto parts, it may have to temper its pursuit of profit to preserve market share. Where a company enjoys a monopoly of a service or commodity, as in the case of branded auto spare parts, it has no need to consider the social consequences of enforcement of contracts. Even in such situations, Samoan-owned and/or Samoan-managed companies will attempt to avoid creating disputes by credit control and prepayment, and go to courts for remedies to commercial wrongs only when these processes fail.

As the Samoan economy becomes increasingly complex, and as the number and value of commercial transactions increase, so too will the necessity of seeking formal legal redress for disputes around these. Where larger businesses succeed in the courts, their actions may point the way to other, smaller businesses, who find the remedies available within Samoan institutions either inadequate or inappropriate. The garage owner noted with some envy that large businesses invoked commercial law and went straight to court and avoided cash flow problems, but then as he also noted, they didn't have to live in a village. As the number of commercial entities taking legal actions in civil courts increases, such solutions may become the norm. If this were to occur, traditional dispute resolution procedures would become increasingly insignificant in a rapidly growing area of social transactions.

### **Conclusion**

Rapid social change in Samoa is producing new and potentially destabilizing tensions. The state will have increasingly to consider the means of resolving

the conflicts that will emerge as individual rights come into conflict with the rights of collectivities. The events in Lona, in which the village *fono a matai* took action against a *matai* businessman who challenged its right to restrict the conduct of his business, resulted not only in his death but a very public demonstration of the difficulties that confront the state as it seeks to clarify the “traditional” rights of collectivities and the “new” rights of individuals (Macpherson 1997). The state will be challenged to find appropriate devices for resolving conflicts between the two spheres if people choose to insist on the enforcement of their constitutional rights. The events in Samalae’ulu brought these matters to the surface yet again. The dilemma that the Samoan state faces is neither new nor unique to Samoa. It is a generic consequence of “modernization” and “postmodernization.” The resolution of such matters will, however, be difficult if, as the former Police Commissioner Tanielu Galuvao told the *Samoa Observer* in 1993, most villagers continue to believe that the law of the land is the *matai* law, while the agencies of the state enact national laws that necessarily conflict with it. The roots of the problem are, however, much easier to find than are the solutions. However, in the Lotoso’a case, in an act of formal reconciliation, the ten exiles were permitted to return to the village (Islands Business 2004:12), reflecting, perhaps, the overarching Samoan desire to contain and manage disputes that may yet provide the motive for the resolving these larger issues.

### NOTES

1. These “traditions” probably date to postcontact Samoa. Before then, many disputes between social entities were resolved by force and ceremonies, such as the *ifoga*, which are presumed to be a reflection of a desire for peace and were originally a means of ending or avoiding wars or of circumventing all-out retribution.
2. It is possible to argue that the proverb also acknowledges the inevitability of periodic conflict since head lice are endemic in Samoa.
3. The Biblical passages quoted in explaining the desirability of cooperation are drawn from the Psalms and the Beatitudes. The Biblical injunctions are frequently reinforced with secular proverbs that also stress the importance of cooperation.
4. In fact *fa’aaloalo* means, more correctly, to pay deference or to show appropriate respect to others. The consequence of showing either deference or “appropriate” respect to others is the maintenance of the existing sets of power relations.
5. This is ironic because, as a consequence of both academic writing (for instance Shore 1983; Gerber 1975; Freeman 1983) and popular fiction by Samoan authors (for instance Wendt 1973, 1974, 1977, 1980, 1986), Samoan society is often seen as one in which violence is endemic.



6. In this discussion, group, entity, and unit are used to refer to generic collectivities. For the purposes of this discussion, group could equally refer to a household, *fuafale*; extended kin group, *aiga*; sub-village, *pitonu'u*; village, *nu'u*; or district, *itumalo*.
7. This is probably more true of those who remain in the villages and derive significant parts of their income from agriculture and fishing. The urban population, which derives significant parts of their income from salary or wage employment, is typically less involved in and less directly dependent on the unity of the village or kin group.
8. It is possible that at some point the resources controlled by a unit become large enough to generate internal competition for control, which may lead in turn to the fragmentation of the unit. The Lands and Titles Court, for example, hears large numbers of cases in which factions from within families compete for the right to exercise *pule*, or control, over the family estate. It is likely that these sorts of challenges have become more frequent as national law has restricted the range of means available to modern chiefs to head off challenges to their control.
9. It is significant that one of the proverbs used in urging reconciliation likens a disunited social entity to a collapsed fish trap, which is totally useless until it is rebuilt. The proverb, *e ta'ape a fatuati*, which means literally that the stone trap has collapsed, alludes to the fact that although all the stones that make up the fish trap may be present, they cannot catch anything until they are once again rebuilt into a trap and highlights the impotence of a divided group (Schultz 1980:15).
10. Psalm 133, which begins, "Behold, how good and pleasant it is for brethren to dwell together in harmony," is a popularly cited passage, as are others in Matthew 5:5 and 9 that assert that the peacemakers shall become the children of God.
11. It is also true that, in other contexts, Samoans are periodically reminded of Samoan and Biblical heroes who went to war to protect or restore the honor of the faith or group.
12. There are of course exceptions to this. Where, for instance, men of similar age meet, untitled people will defer to those who hold titles.
13. The theology of these denominations has been significantly influenced by Samoan social values since Samoans assumed leadership roles in the Methodist and Congregational theological colleges in Samoa (Gilson 1970:115–137). As Meleisea notes, "Christianity became part of *fa'a Samoa* and was used, like the old religion, to legitimate its institutions" (1992:23).
14. This is hardly surprising since the congregations, rather than the church authorities, engage and dismiss pastors and therefore exert, in various ways, a significant degree of control over the selection and interpretation of scripture that is delivered in the village and the conduct that it is employed to validate.
15. In a society that values individualism, promotes individuality, and accepts a principle of meritocracy these terms may seem insignificant. In a society that values the opposite personal attributes, the weight of these terms assumes very negative connotations.
16. Thus proverbs such as *ua fa'aluma tupu i fale*, which means the disgrace had its origins at home (Schultz 1985:133) are used to refer to people whose conduct has exposed their relatives to others' criticism.

17. Thus, a *matai* will say to a person, "You have brought your entire family down, but that's a matter for you and your family to resolve. But this has brought the village's name down. You and your family will always be called animals (*mea ola*) for this act, but did you even consider that all of us might also be called animals by people in other villages because of your conduct?"

18. This is made easier by the belief that behavior, and especially "deviant" behavior, is genetically patterned. The axiom "the chicken resembles the hen" is frequently invoked to link one person's conduct with that of other members of the kin group.

19. In the village of Lona, in Fagaloa District, a series of events lead to the fatal shooting of a *matai* by untitled men who claimed to be acting on behalf of the other *matai*, whose collective authority he had challenged. In this case, the state required the village to hand over the offenders who were subsequently tried and sentenced in criminal court. In so doing, it publicly suspended the village leadership's autonomy over its own affairs.

20. In a village in Savai'i the leadership, representing two established denominations, prepared to burn at the stake a villager who tried repeatedly to establish a third denomination in the village and in so doing challenged both their authority and autonomy in local affairs. Only the intervention of the pastors of the existing denominations, and heavy rain, prevented the village from executing its sentence and in the process, ironically, also challenged their authority over village affairs.

21. Thus, an informant said that serving a *matai* was natural and reasonable but that the *matai*'s unremitting political ambitions meant that he was unable to take care of personal and family needs. As he said, "it's just one *fa'alavelave* after another and he wants to show his face everywhere. He doesn't care about his village, or his family ... only himself."

22. In fact, in a number of cases of suicide, the deceased had complained of his or her treatment, usually by parents or other family members, with others shortly before taking his or her life. See for instance Macpherson and Macpherson (1987).

23. The most frequently quoted proverb in these circumstances is *ole ala ile pule ole tau-tua*, which reminds the listener that the path to power is service.

24. The scriptures are invoked to remind the complainant that while things may escape the attention of the people around them, nothing escapes the judgment of the Lord and that the promise of a just punishment is there in scripture.

25. Thus, an older brother offered to do more work for his father to lighten the workload of a younger brother who felt that the father was distributing work unfairly among his sons. A younger sister helped her older sister in her garden too so that her in-laws would stop complaining about her inability to feed them. A grandfather who discovered that his granddaughter was being required to work in the plantation took the girl away so that she could attend school more frequently.

26. Thus no attempt to address a father's treatment of his sons was attempted until one of the sons committed suicide and drew unfavorable attention to and speculation about the affairs of the family and threatened to undermine the family's reputation.

27. The minds of those who refuse to take an active part in reconciliation are likened in proverbs to the water that stagnates in discarded coconut shells and becomes brackish and eventually becomes a breeding place for mosquitoes. (See for instance, Schultz 1980:89.)

28. In the Lona village incident, where a conflict was not resolved early, another chief was shot and his home, vehicles, and property were burned by *taulele'a* acting for the village chiefs. This has led to continuing conflict within the village, exposed the village to public ridicule, and led to the authority of the village *fono* being overridden by the court, which further humiliated its members by convicting them and imprisoning their agents.

29. Unresolved disputes may escalate quickly, and the absence of a mobile police force that is able to intervene physically in sufficient numbers to guarantee a continued peace places a premium on orderly resolution of intergroup conflicts.

30. *Matai* may be removed from their positions and in some cases banished from the village or district, in what is known as *fa'asavaliga o le matai*, where they fail to manage *'aiga* affairs effectively. This is rarely done in modern Samoa.

31. The relative status and importance of chiefly titles within the village, the district, and indeed the nation, are embodied in *fa'alupega*, which clarify relationships among families when they meet. (See Kramer 1994, volume 1:660 for a definition of the term, and pp. 8–453 for the *fa'alupega* themselves.)

32. The same body is also known as the *Fono a Ali'i ma Faipule* and exists because, as Powlles notes, it is one of a set of “village organisations which are indispensable to social order [and which are] unwilling to be brought under central government control” (1989:14).

33. This style of hearing is more likely to occur in rural villages than in peri-urban and urban ones, in which many are engaged in wage work and in which local governance has taken new forms that reflect new bases for aggregation.

34. Thus, for instance, when a young man abused and assaulted his village's pastor, he was seen to have offered a serious affront to a person, and an office, that the village as a whole was bound to protect. The offense was in this case treated as an offense against the village as well as the pastor.

35. For instance the crew of an interisland vessel was playing cards and drinking beer when a dispute developed between two friends. In the struggle that developed, one man was pushed into a rail and sustained a skull fracture from which he died. In another case a truck driver collided with an unrelated motorcyclist who subsequently died from injuries.

36. For a comprehensive discussion of the form of the *ifoga*, see Macpherson and Macpherson 2005.

37. A bus operator fatally injured a child in another village. No *ifoga* was offered initially, and for eight months afterwards members of the bus driver's family were attacked when they passed through the village in which the child was killed. The bus driver's family retaliated and violence escalated progressively. When an *ifoga* was finally offered, those involved complained that the violence could have been avoided if the apology had been made early.

38. Accounts of some twenty-one that had occurred over the past ten years were collected in the course of research for this paper but an accurate estimate of their frequency would be impossible. Published accounts of contemporary *ifoga* are even rarer. Filoiali'i and Knowles (1983) detail only three cases; Shore (1983:19–20) details one and O'Meara (1990:121–125) another.

39. This is generally a statement of intent and is not always entirely successful. Some people who are closely related to the victim may, in periods of acute psychological stress and/or under the influence of alcohol, engage in retaliation, but these acts occur without the sanction of the village and are individual acts.

40. The Internet is freely available in many parts of Samoa, as are videos and DVDs and movies. While the last of these can be readily censored, there is no effective means of filtering the former.

41. Thus, while *fa'afafine*, or transsexuals, are found in living in villages, larger communities of *fa'afafine* are now found in Apia, New Zealand, and Australia where they enjoy more freedom to associate with others and pursue a chosen lifestyle.

42. Small businesses cannot afford the prospect of a protracted, village-sponsored boycott of their activities. A businessman who successfully pursued a debt against a village through the courts found that his store and mobile cinema operation were boycotted and his situation became worse rather than better.

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