

Chapter 7

Case Study: Samoa

7.1 Context

Samoa comprises two major islands and seven small islands, five of which are uninhabited, with a total area of some 2,830 km². The country's population is approximately 180,000, and most people (around 70 per cent) still live in predominantly rural areas. The main island of Upolu houses the capital city, Apia, and about three-quarters of the total population. Nearly all the remainder live on the second major island, Savaii. Apia is home to about 40,000 people, but the urban boundary is difficult to define and Apia's influence spreads across much of adjoining north-west Upolu. Together, these two areas account for half the population, reflecting sharp increases over the past two decades due to internal migration.

Samoa's population is relatively young, with the majority less than 30 years of age. While urban drift is not yet as pronounced as in other parts of the Pacific, parts of Apia and adjoining areas are showing signs of pressure on the natural environment, and on infrastructure and services such as education and health. In addition, migration overseas or to Apia and adjoining semi-urban areas of Upolu by those seeking better access to schools, employment and services, has a major impact on families left behind in the rural villages. There have been significant reductions in subsistence agriculture and other rural production, and although the emerging tourism industry plays a valuable role in providing employment opportunities in some rural areas, there is high dependency on remittances from relatives living in Apia and overseas, especially New Zealand.

Over the last decade or two Samoa has undertaken a sustained programme of public sector reform and capacity building as part of a strategy to improve the country's economic performance and global competitiveness. This has contributed significantly to improved economic and social well-being, with the economy growing on average by around 3 per cent per annum. However, Samoa's village sector, which continues to represent a large part of its economy and natural resources, has performed poorly and its contribution to the national economy has steadily declined in both relative and absolute terms. Governance principles and practices at village level have remained largely unchanged in spite of national moves towards modern public administration, and have generally failed to respond to the challenges and opportunities involved in Samoa's increasing links to the global economy.

7.2 System of local government

Local government is not mentioned in the Samoan constitution, and Samoa does not have a system of elected local governments, in contrast to the Westminster-style national parliament. At the time of independence in 1962 a conscious decision was

made not to 'modernise' local government. A District and Village Government Board had been established in 1954 as a first step to bring custom-based village authorities more into line with a modern state system, but this failed through lack of support from both the then New Zealand administration and Samoan leadership and was abandoned in 1958 (Afamasaga Toleafoa 2012: 16). As a result, the new state was based on democratic principles and law, while local government was anchored in the *fa'a samoa* (custom, inherited values and traditional way of life).

Local government is thus a function of the traditional village structures of the *fono* (council meeting) of *matai* ('chiefs' or heads of extended families, who may be men or women). There are approximately 280 villages across Samoa, including some 30–40 'non-traditional' urban villages in the capital, Apia. Village councils have relatively few service delivery responsibilities, and much service provision and regulation is carried out directly by central government departments. Local governance is also partly in the hands of the Planning and Urban Management Authority (PUMA), which is responsible for land-use controls and for promoting strategic planning and co-ordinated action in relation to the sustainable use of land and natural resources, including in particular development of the urban area of Apia.

The two principal pieces of local government legislation are the Village Fono Act 1990 and the Internal Affairs Act 1995. The Ministry of Women, Community and Social Development (MWCSD) is responsible for the administration of these laws through its Division of Internal Affairs and Rural Development.

The purpose of the Village Fono Act is to empower *fono* in accordance with local custom. Section 3(3) specifically validates: 'the past and future exercise of power and authority by every Village Fono with respect to the affairs of its village in accordance with the custom and usage of that village...' This reliance on custom is underlined by the fact that no written records are required, and *fono* are specifically empowered to impose punishments for 'village misconduct', defined by tradition. However, any person adversely affected by a decision of a *fono* (including a decision as to punishment) has the right of appeal to the Land and Titles Court, which is the busiest court in the country with a massive backlog of cases. In recent years there have been a number of court rulings in favour of individual rights over traditional village authority, which has created tensions and further challenges for the system.

The only specific powers conferred on *fono* by the act, apart from that of punishment, are in the areas of village hygiene and economic development. Section 5(2) gives *fono*:

- a. the power to make rules for the maintenance of hygiene in the village;
- b. the power to make rules governing the development and use of village land for the betterment of the village; and
- c. the power to direct any person or persons to do any work required to be done pursuant to rules made in accordance with the powers granted or preserved by paragraphs (a) and (b) of this subsection.

The Internal Affairs Act was passed in 1995. At the time there was a separate Ministry of Internal Affairs, but in 2003 this became a division within MWCSD. The act envisaged a wide-ranging role for the original ministry, including:

- to consider proposals and formulate policies for the recognition and organisation of village authority in each village based on Samoan custom and tradition;
- to provide such guidance and advice as the *fono* may request in the preparation, development and implementation of local government, and undertake or facilitate awareness and education programmes explaining the need for local government and village authority;
- to review from time to time the needs, functions and efficiency of local government institutions and recommend appropriate courses of action;
- to prepare for recommendation to the minister by-laws proposed by *fono*;
- to advise the minister on matters pertaining to the conduct, finance, business and control of any local government activity, and recommend such regulations as may be necessary or expedient for giving effect to the provisions of the act;
- to provide such technical services as may be required for the administration and purposes of the act in accordance with local government and village authority standards; and
- to formulate policies and guidelines for social and economic development in the villages, to process requests and manage funds for development projects, and to provide such technical and advisory services for social and economic projects, and to organise and promote competitions among the villages to stimulate increases in productivity.

The act also provided for the ministry to advise the minister on the appointment of *pulenu'u*²¹ and *tofi-ole-malo*. These are the individuals nominated by each village to act as its representative and provide a point of liaison with the national government. The term *pulenu'u* is used for traditional villages, and *tofi-ole-malo* for non-traditional villages in urban areas (see below). Appointments are for three years, but individuals may be re-nominated. The positions are paid and may be occupied by any *matai*, male or female (but the overwhelming majority are male). They are sometimes called 'village mayors', but although some of the duties of *pulenu'u* resemble those of mayors, use of the term is misleading as power within each village remains with the collective *fono* and high chiefs. However, *pulenu'u* are expected to be an important and respected adviser to the *fono*, and to present the case for – and bring about – effective working relationships with government agencies. The Division of Internal Affairs and Rural Development remains their central contact and organises regular briefings and discussions for *pulenu'u*²² from all parts of Samoa.

The act specifies a wide range of duties for *pulenu'u*, including to:

- promote harmony and encourage the maintenance of law and order in the village;
- ensure the free flow of communication between the *fono* and the government;

- prepare births, deaths, and *matai* title certificates, and maintain records of village activities;
- encourage health and sanitation activities, report any new pests and diseases evident in or about the village, and encourage village cleanliness and beautifications;
- promote development projects that are economically viable as well as culturally and environmentally sensitive;
- ensure that access roads in and about the village are properly maintained;
- organise a traditional network in the village to prevent vandalism in respect of street lights, traffic lights, road signs, pipe lines, and village and public facilities;
- report to the police the use by any person of dynamite or chemicals for fishing;
- assist government officials in conducting surveys, research and debt collection in the village; and
- render at all times such assistance as the government may need in the successful implementation and, completion of its projects, either locally or nationally.

In 2004, the Samoan government decided there should also be a *sui-ole-malo*²³ or 'government women's representative' in every village. They are intended to play a parallel role to that of the *pulenu'u* in terms of liaising with government agencies through the MWCSO on issues relating to women and children. However, as yet not all villages have a women's representative, there is continuing lack of clarity on their role vis-à-vis *pulenu'u* (as well as a degree of conflict and/or competition in many cases), and concern that they are paid substantially less.

The act also makes provision for the establishment of two executive committees, one for the islands of Upolu, Manono and Apolima, and one for Savaii. Each was to comprise a member of parliament as chairperson, and a number of members to be determined and appointed by the government. The intended role of the committees in broad terms was to consult with *pulenu'u* concerning the needs of villages and co-ordinate their activities; monitor the performance of *pulenu'u*; solicit the assistance and co-operation of the *fono* in implementing government policies and programmes; consult with non-governmental organisations that are actively participating in projects of interest to the ministry; ensure that law and order is maintained; and encourage culturally sensitive support networks in the development of villages. In practice, however, the role of these committees (or whether they operate effectively at all) is unclear (Afamasaga Toleafoa 2012: 20).

7.3 Traditional village governance

Village governance is evolving and practices may vary considerably from place to place and over time. Generalisations are therefore problematic, but in broad terms typical arrangements are outlined below (see Amosa 2010).

As noted earlier, the *fono* is the supreme authority in the village. It consists of men (mostly) and women who hold *matai* (chiefly) titles. Every family in the village is

represented in the *fono* through its *matai*. Some families may have more *matai* than others, depending on their size: this is at the discretion of the paramount chief of the family and his/her family members.

There is also an *auauma* or women's committee, which advises the *fono*. Again, every family is represented and women with a *matai* title may sit on this committee as well as the *fono*. However, traditionally wives of *matai* have been excluded, as they can advise members of the *fono* – their husbands – directly. The *auauma* has a number of specific roles in addition to providing advice. These include maintaining peace and harmony, producing wealth (principally in the form of fine mats and artefacts), health and education. In recent times there have been moves to place the women's committee on a more independent footing, with an expanded role in service delivery and more direct links to central government, including via the *sui-ole-malo*.

The *aumaga* – or young men without a chiefly title – serve the village council and to some extent the women's committee if there is a need. Their role is to provide labour, particularly for construction work and the provision of food through farming or fishing.

7.3.1 Forces for change

The idea, if not always the practice, of the *fa'a samoa* remains strong, especially in rural villages. However, traditional village governance is experiencing a number of intense forces of change (Afamasaga Toleafoa undated). These include:

- population growth and economic change from a subsistence to a commercial economy, with many people now living away from their home villages, either in Apia or overseas, but still maintaining an involvement in village affairs and bringing new perspectives to bear;
- the proliferation of *matai* titles due to population growth and increasing demand for the status they confer, leading to creation of new titles and splitting of existing titles as a means of resolving succession disputes;
- a resulting decline in the quality of title holders and tradition of performing service to the village (*tautua*) as a means of obtaining a title;
- the increasing influence of 'western' ideas of democracy and the rule of law, exemplified by rulings of the Land and Titles Court against the traditional exercise of village power and in favour of gender equity and religious freedom;
- the sheer impracticality of some traditional practices, such as imposing evening village curfews in busy urban areas or in villages along major traffic routes;
- the emergence of partisan parliamentary politics at national level, which has weakened some of the 'commanding heights' of *fa'a samoa* and the *matai* system; and
- implementation of a public service reform agenda focused on, among other things, a merit-based system and 'western' concepts of efficiency and effectiveness.

Afamasaga Toleafoa (undated) notes that despite these evident pressures, relatively little has been done until now to address the issues involved or bring village governance in line with the other institutions of state. Rules and practices vary considerably from one village to another, even when fundamental rights are at stake. Disruptive disputes within villages and between villages and the government are common. Gender issues are increasingly contentious: some villages have a ban on female *matai* being members of the *fono* and, as noted above, there are often tensions around the role of the government women's representative.

Afamasaga Toleafoa (undated) concludes as follows:

... *matai* closely guard their customary authority and power, despite widespread incursions everywhere by the trappings and practices of modernity. But ... there is every reason to expect that governance at village government level will, sooner or later, also come under government's good governance agenda. The need for economic growth and respect for human rights and the rule of law are compelling enough reasons for addressing governance at village level.

That means that *matai* village councils, in spite of their customary underpinnings, will be expected to conform as well to standards of governance expected of other institutions of state...

But for such a development to succeed, however, a clear distinction will need to be drawn between *fa'amatai's* governance role at the village level on one hand, and its position as a repository of Samoa's culture and distinctive way of life on the other. Improving the level and quality of governance is a necessity to meet the changing needs of communities today, and of Samoa as a modern state...

There is no call on the other hand to change Samoa's *matai*-based culture and way of life as a result of making an improvement in *fa'amatai's* governance performance. The challenge, therefore, is how to improve *fa'amatai's* governance role at the village level where it applies today, without changing or destroying its cultural significance.

Afamasaga Toleafoa's conclusions point to a subtle but far-reaching agenda for modified forms of governance, and perhaps for complementary legislative change. Various avenues for change are considered below.

7.4 Urban governance

Urban growth in and around Apia is bringing further pressures to bear on local governance. Apia is a blend of traditional villages that have become part of the urban area, non-traditional villages and some newly developed areas with little or nothing by way of effective local governance. The non-traditional villages are settlements where arrangements similar to those of traditional villages have evolved over a lengthy period, usually under the influence of local churches and *matai* who have moved into the area. They thus enjoy fairly stable local governance, and have been recognised by the national government with the appointment of *tofi-ole-malo* and *sui-ole-malo*.

However, some more recently developed areas suffer the consequences of an absence of effective arrangements. Vaitele, for example, is one of the largest and fastest growing suburbs of Apia, with a population increase of more than 300 per cent during the last decade to more than 5,000 people. This growth reflects the availability of government land to accommodate the new residential development needed to house people moving in from rural areas. As a consequence, the Vaitele ‘village’ area is 75 per cent non-traditional and has suffered from a lack of services and social cohesion, with disturbing levels of crime, unemployment and social dislocation. The population is dominated by young people and there is little opportunity to pursue subsistence or cash-crop farming. Vaitele is also physically separate from other urban villages and distant from many of the services an urban centre like Apia usually provides (UNDP 2006).

This situation presents significant challenges for the national government. First, it cannot rely on systems centred around the *fa’a samoa* to build consensus on the area’s needs, maintain social harmony and respect for social values, and provide or facilitate basic services. Second, it is already experiencing difficulty in providing adequate infrastructure and services within a rapidly expanding urban area. Lack of adequate planning has resulted in unco-ordinated utility service and infrastructure provision, often seeing poor sequencing of development and poorly designed systems. Moreover, in a situation of tight budgets, initiatives to correct problems or gaps in service delivery are mostly reactive and based on poor information, rather than being well planned.

The establishment of PUMA and the land-use planning framework under the 2004 Planning and Urban Management Act offered an opportunity to address these issues. The agency is headed by a board chaired by the minister, and includes five government and five community representatives. The board’s functions include:

- to promote strategic planning and co-ordinated action in relation to the sustainable use of land and natural resources;
- to ensure that the operation of this act and the performance of the functions of the agency are co-ordinated with the exercise by any other agencies of related functions and powers;
- to liaise with and assist other ministries and agencies to meet the objectives of this act; and
- to assist with the co-ordination of the provision of infrastructure and services by ministries and public authorities for the benefit of the community.

Additionally, two of the objectives of the act, which the board is required to pursue, are:

- to enable land use and development planning and policy to be integrated with environmental, social, economic, conservation and resource management policies at national, district, village and site-specific levels; and
- to create an appropriate urban structure and form for the development of Apia and other centres, so as to provide equitable and orderly access to transportation, recreational, employment and other opportunities.

A vehicle and framework for effective urban management has thus been created, but limited resources (especially trained professional staff) within the agency and deficiencies in co-ordination with other government departments are hampering progress. Nevertheless, the 2004 Planning and Urban Management Act and establishment of PUMA may be seen to represent a significant advance in the Pacific context, one which might well be replicated by other countries for their major urban centres. The act provides an integrated planning system that can work with and assist village-level governance, potentially empowering communities with a rights-based and participatory decision-making system that can help manage complex matters of urban governance and resource use. However, some of those steeped in traditional village governance may well see this as a threat of pervasive central government intervention. Equally, it is taking time for government agencies to appreciate the value of a more co-ordinated approach – for example, one between PUMA and MWCSO to support and enhance urban village governance.

7.5 Emerging agendas

Three major initiatives have been under way to address local governance issues in Samoa.

7.5.1 Ministry capacity building

A major institutional strengthening programme has been undertaken for MWCSO. This included a particular focus on local governance and the functioning of the Internal Affairs and Rural Development Division. The overall vision for the ministry, drawn from the government's Community Sector Plan for the Development of Samoa was: *Improved village governance, economic and social development*. The adopted mission was: *To strengthen effective and efficient delivery of community development services and local governance*, and a key goal was that local governance should enhance the social and economic well-being of all communities (Government of Samoa undated).

Some of the plan's objectives and strategies of direct relevance to the current system of local governance and forces for change discussed earlier were as follows:

- Helping communities to build greater cohesion:
 - improve community planning to address infrastructure and environmental protection needs;
 - promote and integrate customary and community-based justice; and
 - support dialogue between traditional leaders, the church and community-based organisations in the development of cultural and church-based programmes in support of community well-being.
- Advancing gender equality and supporting a greater role for women in society:
 - promote the participation of women in politics, customary and community organisations and the private sector.

- Valuing vulnerable members of our society and giving them equal opportunities to fully participate:
 - promote the place of youth in local governance structures.

7.5.2 Samoa Village Governance Strengthening Project

The Samoa Village Governance Strengthening Project was initiated in 2009 by the CLGF Pacific Project in close consultation with MWCSD. Its purpose is to provide technical advice and support to the ministry to develop a ‘Village Governance Policy’ and implementation plan that will form the basis for sustained governance capacity strengthening at the village level into the future. This reflects a growing view that in order to meet the challenge of an ‘improved quality of life for all’ set out in the Strategy for the Development of Samoa, village government must inevitably be drawn into the government’s agenda for improved public administration at all levels.

Reflecting his analysis of forces for change discussed earlier, Afamasaga Toleafoa (2006) suggested the kind of strategy that might be adopted:

... to retain the existing village *fono* as the governing body but to progressively introduce a more business-like approach and management skills to village government, initially through the offices of *pulenu’u* and other institutions that serve the village *fono*. This is achieved by bringing these offices more closely under the direction and supervision of the Internal Affairs Division...

By this process, the management capacity of village government can be raised via improved selection of key personnel such as *pulenu’u* and *sui ole malo*, supervision and management support, and introduction of resources and working procedures more in line with the needs of modern government and the rest of the public sector.

The village *fono* itself will retain its traditional form and underpinnings. But this does not exclude the incorporation and use of improved working procedures and processes, especially when administering matters of economic and social development and law and justice, which must be in line anyway with principles and standards set down by relevant statute.

Such an approach could capitalise on several of the as yet little used provisions of the Internal Affairs Act 1995.

A *Draft Strategy to Strengthen Governance at Village Government Level in Samoa* (Afamasaga Toleafoa 2012) was finally completed in early 2012, and has been incorporated into MWCSD’s Community Development Sector Plan (Afamasaga Toleafoa personal communication). It notes that the need to strengthen village authority capabilities has been identified in successive national development strategies and in the Public Administration Sector Plan 2007–11. The objective is thus to enhance the decision-making and management capabilities of village *fono*, so that they can operate effectively alongside other government agencies and institutions and contribute to the achievement of national objectives. It is proposed that this be

achieved by a long-term programme of awareness raising and capacity building in good governance and improved administration, including:

- a series of seminars in each of the 42 parliamentary constituencies, bringing together leaders from all the villages in the district to discuss the need for reform and plans for strengthening village government;
- enhancing the role, capacity and performance of *pulenu'u* and *sui-ole-malo*;
- strengthening the Division of Internal Affairs and making fuller use of the relevant provisions of the Internal Affairs Act;
- a review of the role and operation of the two executive committees;
- workshops with village *fono* leaders and stakeholders on Samoa's system of government, on Samoa's constitution and legislation, on government's national plans, and on democratic principles of governance and management;
- restructuring village *fono* decision-making processes to reflect democratic good governance principles and best practice; and
- training for village *fono* leaders and stakeholders in using the new governance and management structures (Afamasaga Toleafoa 2012: 18–22).

7.5.3 Vaitele pilot study

The third strand of activity was a pilot study of Vaitele, exploring aspects of non-traditional governance in urban areas and in particular the contribution that could be made by the preparation of a Sustainable Management Plan under the provisions of the Planning and Urban Management Act. This project was carried out by PUMA in conjunction with the United Nations Development Programme (UNDP 2006). Its goal was:

To provide a model approach to urban governance that assists Pacific communities safeguard their social well-being, cultural identity, physical and environmental resources and stimulates opportunities for economic development.

Specific objectives were to:

- develop an approach to urban and environmental planning that assists with the pursuit of economic development, the protection of cultural systems and enhancement of the local ecology;
- develop an approach to urban and environmental planning that accords with the benefits of traditional village governance, but assists with particular challenges from massive population increase and vulnerabilities beyond the usual resources of communities;
- produce a model strategic land use/environmental planning policy that targets urban development and environmental management, and respects rights-based principles of community empowerment, equity, participation and ownership.
- provide a road-map for the development of institutional capacity to balance the protection of the environment with the pursuit of economic development to reduce poverty and improve the quality of life of communities; and
- develop and commence implementation of a Sustainable Management Plan (SMP).

However, the extent to which the project would seek linkages with, and build upon, established village governance practices was unclear. Also, as noted earlier, an evident key issue was whether there would be effective co-ordination between PUMA and MWCSO.

7.6 Lessons for effective legislation

In various ways the Samoan case highlights the limits to legislation, and the scope to provide appropriate local governance quite effectively through largely traditional systems in societies where those systems remain strong, productive and essentially benign, and provide an adequate level of accountability, transparency and inclusiveness. Samoa offers an interesting contrast with Kiribati and Tuvalu, where more concerted efforts have been made to introduce modified 'western-style' systems of local government alongside, or in the case of Tuvalu integrated with, traditional structures. In both of those countries it has proved difficult to achieve the desired blend of 'old' and 'new'.

It is also noteworthy that Samoa's Internal Affairs Division has had considerable success in providing guidance and oversight of village governance, notwithstanding limited formal implementation of its act. The division's successes have come from working with and through the traditional system, and not going against the grain or overtly promoting worrying change. However, the act's provisions for appointment of *pulenu'u* and *sui-ole-malo*, and their role in maintaining contact with central government and promoting government initiatives, have undoubtedly contributed to the division's achievements.

Nevertheless, recent moves to strengthen MWCSO, formulate a policy and strategy to enhance and 'update' village governance, and use Vaitele as a pilot study for new directions in urban governance and planning, all suggest a renewed awareness of the need to extend administrative reform to the local level as part of the drive to improve the nation's economic and social well-being (Afamasaga Toleafoa 2006). At the time of writing there were no official proposals for legislative change, although reviews of the Village Fono Act 1990 and the Lands and Titles Act 1981 have been foreshadowed (Afamasaga Toleafoa 2012: 12). Perhaps a carefully constructed 're-interpretation' of the traditional frameworks and processes will prove sufficient. As outlined earlier, the traditional system is evolving in any event, and given continuing strong belief in the *fa'a samoa*, 'guided evolution' without heavy-handed legislative intervention might well be the best course.

On the other hand, it is difficult to see how some additions or amendments to the Village Fono Act can be avoided if the objectives of the government's Community Development Sector Plan are to be achieved and, as Afamasaga Toleafoa (2006 and 2012) suggests, improved working procedures and a more business-like approach to village governance are to be promoted. In this regard, the recently completed draft strategy to strengthen village governance also envisages making more extensive use of existing provisions of the Internal Affairs Act. At the same time, the growing pressures of urbanisation may well demand a different or substantially modified system of local government – perhaps based on an extended role for PUMA – to deal with the complex challenges facing Apia and its surrounding region.

Prior to Samoan independence, Prof JW Davidson argued for a 'legally recognized system of local government, in subordination to the central government' (quoted in Afamasaga Toleafoa 2006). He put forward two related arguments. First: 'by creating a link between the two levels of political activity, it would encourage the growth of a more sophisticated attitude towards central government'; and second: 'by facilitating a more effective harnessing of local loyalties, it would make possible a substantial improvement in social and development services'. Those comments resonate with recent developments and challenges. Measured legislative change may prove to be an essential component of a successful response.