

# Authority of the Matai Sa’o in Contemporary Sāmoa: At Home and Abroad

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## Abstract

*This paper reviews the enquiries of the government of Sāmoa through its Law Reform Commission into the status of matai sa’o. Traditionally a matai sa’o was the sole head of an extended family owing common property, possessing authority over its members including holders of other matai titles belonging to that family. It suggests that the government’s interest is very likely to be related to legislation passed subsequent to the Land Titles Registration Act 2008, such as the Customary Land Advisory Commission Act (CLACA) 2013, which make it easier for customary lands to be leased. A matai sa’o may authorise a lease on a portion of customary land appurtenant to his title on behalf of his extended family. The paper discusses the complicated current situation whereby multiple holders of senior titles that have the status of matai sa’o are living in the village to which the title is associated, or in other places in Sāmoa, or overseas, and the issues in defining Sāmoan custom.*

In July 2012 the Sāmoa Law Reform Commission (SLRC) circulated a discussion paper “Pule a le Matai Sa’o” (authority of the principal chief) for public consultations. The paper was based on research on Sāmoan custom and usage, summarising which had been written by scholars on the subject, as well as records of the Land and Titles court. The issue of authority has become increasingly significant since legislation was passed which allows the leasing of customary land for commercial purposes.

The discussion paper presented nine questions about the authority of the *matai sa’o*, regarding his or her duties and authority, the criteria for appointment of a *matai sa’o*, the issue of authority when there are multiple holders of the matai title, the authority of the village council of matai in relation to the authority of a *matai sa’o*, the kind of disputes that arise between a *matai sa’o* and the *suli* (heirs) to the title he or she holds, and the service due to a *matai sa’o* by his ‘āiga. The paper also sets out the legislative and practice background of the Sāmoa Land and Titles Court (Land and Titles Act 1981).

After public consultation in October and November 2016, the SLRC produced a final report in February 2017. It made ten recommendations on the minimum qualifications of a person to be recognised as matai sa’o, suggesting that these might be set out in law, or at least to influence the policy and practices of government agencies in dealings with Sāmoan customary matters. Of particular relevance to the focus of this conference, is the proposal for a legal residential requirement in appointing a *matai sa’o*; that he or she should have resided in Sāmoa for a least a year prior to appointment, and thereafter reside in Sāmoa for at least one-third of the year. The majority of the 700 people who participated in the consultations agreed that residence in Sāmoa was an important responsibility of a *matai sa’o*.

It was generally agreed that a *matai sa’o* must base decisions on consultation with the extended family. Consultation is more difficult today than in the past because of the multi-national characteristics of Sāmoan ‘āiga (extended family or clan). However most considered that on any matter involving family property and titles, the duty of the *matai sa’o* to consult and to take account of family opinions should be set out in law. It was acknowledged, however, that the process of getting a large extended family to agree on leasing land or bestowing titles could be very time consuming. If the consultation requirements were made law, one dissenting voice could prevent a decision being made. Accordingly there may be a need to allow the *matai sa’o* to make a decision if

the majority of the family supported it. Another issue discussed was the disposition of rents received from leases of customary land. Some thought it should be honestly and fairly shared, while other proposed it should be held in a family trust account. The *matai sa'o* should be regarded as a trustee of family property, not its owner.

Two issues are common. The first concerns relations between related higher ranking and lower ranking titles. In the past there was no need to declare which *matai* was the *sa'o*, because highest ranking titles were undivided until fairly recent times (See Meleisea 1987, 1995). The highest titles were justified in the *fa'alupega* of villages and had the right to allocate land and bestow titles on lower ranking genealogically connected or *tautua* titles. But nowadays, with most high ranking titles divided among two or more, sometimes many holders, the question of which of them has the traditional authority can be very complicated. In this situation, lesser ranked titles associated with a high *sa'o* title may assert their independence of it, and reject the traditional obligation to seek approval or consult with the higher ranking *sa'o*, claim their own rights to land and titles—often backed by decisions made in the Land and Titles Court.

For example, consider an actual case: a high ranking *ali'i* title, the senior title above four other ancestrally related titles, was divided among two holders in the 1980s, but the two sets of people claiming to be *suli* (heirs) did not consider themselves to be related, regardless of the Land and Titles Court's ruling that they were one family. Accordingly there was no agreement as to which of them would have authority over land appurtenant to the title or the lower ranked titles that traditionally were their *tautua* (those serving the title). The older of the two *matai sa'o* made decisions without consulting the younger, and with such division, the holders of these lesser *tautua* titles, which have also now been divided among many holders, are now acting independently; they are bestowing titles without consultation with either of the two *sa'o*, and claiming the land that they are using belongs exclusively to their own titles, over which (they claim) neither of the *matai sa'o* has authority. They are even claiming the right to appoint their own *matai sa'o* title holder. In situations like these the traditional rights and duties among families in villages become confused and contentious. It is made worse by the fact that the breaking of old rules against marriage within the same village undermines the *vā fealoaloa'i* (respectful social distance) between the various ranks of *matai* and their families.

The second effect is when high titles are not only divided among many holders, but are held by people living in different countries. As the transnational *matai* research team has shown, the responsibility of the holder of a *matai sa'o* living overseas has less to do with the village it belongs to, and more to do with leadership in overseas church communities and with organising and binding together members of the *'āiga*. However when a major issue concerning the land, titles or traditional status of the family arises, all the *sa'o* are expected to look after the interests of their various branches of the *'āiga*. As the consultations on the authority of the *matai sa'o* have demonstrated, this often results in no agreement being reached, land becoming in effect 'no man's land' as the right to use it cannot be agreed upon, and also the conferral of titles without approval of all concerned. Further, decisions by the Land and Titles Court are often arbitrary when the evidence before them is contradictory. This results in at least one branch of a family being aggrieved, with further negative consequences.

The recommendations of the SLRC (2017) on the consultations on the authority of the *matai sa'o* are likely to lead to customary principles being made law. The next step will likely be a Bill before parliament on the recommendations. These 30 recommendations include specification of the

criteria for the eligibility for appointment as a *matai* and *matai sa'o*, the duties of a *sa'o*, the removal of a *matai* or *matai sa'o*, and the issue of multiple *sa'o*—whether to legally limit the number of appointments that may be made, or not to, along with the specifications for each option. In addition the Commission recommended that government ministries “provide awareness and education on the roles and responsibilities of *matai sa'o*, for guidelines on the duties of consultation between *matai sa'o* and their *suli*.”

One of the recommendations has particular relevance for *matai sa'o* and *suli* living overseas. It is proposed that it will become law that, in future, a proposed *matai sa'o* must have resided in Sāmoa for a stated period of time, and that in future, a *matai sa'o* must live in Sāmoa for at least one third of each year while he or she holds that office. This is because among the seven duties of a *matai sa'o* proposed to be defined in law, is the duty to oversee family properties as a trustee. There are some very important implications from the consultations on the authority of *matai sa'o* if the Commission's recommendations become law. The minimum qualifications of a person to be recognised as *matai sa'o* may reduce the extent of title-splitting and mass conferrals and strengthen the integrity of *fa'amatai*

As Sāmoans, we often speak of the pride we have in our culture; yet it is quite difficult, as the consultations I have referred to demonstrate, for people to agree what the principles of our culture are. The *fa'amatai* of today has evolved for more than a century into something our ancestors would not recognise. This is its strength, culture must evolve to survive. But there are threats. Today in many villages church congregations are far stronger, more united and more organised than village councils. The *fono* (village councils of *matai*) are often made weak by the issues I have described here.

Where are these trends leading us? It is not impossible that in fifty years' time our villages and their *fa'amatai* governance systems will have faded away, to become like suburbs and small towns with locally elected councillors under central government control (which is the way in which local government operates in most modern democracies). If, in the distant future *matai* titles become de-linked from the *nu'u* (traditional villages) and *itumalo* (traditional districts) as is the current trend (evidenced by the bestowal of titles upon people who do not live in the *nu'u* or have any presence there), *matai* titles may come to be regarded of equal rank, held by all their adult members. Although this may seem improbable today, we have only to look at the evolution of Scottish and Irish clans (which were once like *'āiga*) as examples. In ancient times names prefaced by Mac or Mc (as in Macdonald/McDonald) identified men as *suli* and *tautua* of the Donald clan. The 'Donald' was their chief. Now they are family surnames, (or hamburgers, or even, and I'm joking here, Presidents of the USA).

Today some Sāmoans, especially those overseas, have adopted the practice of reciting their *fa'asinamaga* (traditional identity) like a Maori *fakapapa*, for example: “I am from Poutasi, Leulumoega, Salani and ...” In the Sāmoa I grew up in, we identified ourselves by one village only, the one where we lived and served, although of course we acknowledged our family connections in other villages. However, in those days nobody could properly serve two masters. But today, think of this, only a small minority of our people live in traditional villages, about 60 percent of the population of Sāmoa, with many thousands more in town, in new settlement areas or overseas. Perhaps, when bestowing titles, there is not enough thought for how these choices will affect the villages to which these titles belong. We also need to give thought to how this affects customary

land. Families and their *matai* titles will grow in number, but not the land. Technically about 80 percent of land is under customary tenure, but that includes mountain tops, steep slopes and lava fields. Only about 40 percent of customary land is good for agriculture.

In the Sāmoa I grew up in it was also very unusual for a person to hold more than one *matai sa'o* title. This is because there were many responsibilities for holding a title of any rank, and only superman could do what was expected for his titles in two, or four or eight different villages. Our first Prime Minister held the three very high titles Mata'afa, Faumuina and Fiamē and after he died when the succession matters were taken to the Land and Titles court, the then Chief Justice ruled that they should not in future all be held by one person. While I don't agree with the Judge's opinion in this case, we should reflect on the reasons for bestowing *matai* titles. Many titles are bestowed as honorifics or to demonstrate a genealogical right—but in such cases the holder is not expected to exercise political authority and service in a village. Typically their role is to serve his or her extended family in the event of *fa'alavelave* (ceremonial obligations). Mass bestowals of titles might even be seen as “cheapening” the status of a title, although I am told the *saofa'i* (ceremonies to bestow *matai* titles) can be very expensive for the new *matai*.

I myself hold two titles. The first was bestowed on me during the time I lived overseas. I was working with Sāmoan communities in New Zealand and having a *matai* title smoothed the path for me on formal occasions. For that title, I contributed to village and family matters when they arose, but there was no expectation that I would have a role in the government of the village. But now I hold a second title, and this is one that has been passed to me from father to son, and brother to brother, for seven or eight generations, over the past two hundred years or longer; it belongs to the village where I grew up and which I never left until I went to university overseas. In my circumstances it carries far heavier responsibilities in village government and family duties than my first title did.

For the reasons I have discussed here, I believe that the time has come to legislate on the selection, appointment and authority of *Matai Sa'o*. I recognise that the reason why the government is pushing this is because they have legislation allowing the leasing of customary land. But the danger to Sāmoans, whether at home or abroad, is whether those who have rights to customary land are being consulted, which happens when there are many *matai sa'o*, or *matai sa'o* who fail to consult their families.

## References

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