

Cultural Adaptation and the Westminster Model: Some Examples from Fiji and Samoa

by

Richard Herr

Law Faculty, University of Tasmania
and
Adjunct Professor of Governance and Ethics,
Fiji National University.

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Author's Caution:

This paper very much reflects the author's interpretation of events in which the author has a continuing involvement. Its analysis meant to be objective as possible but objectivity itself can be controversial in uncertain times. This difficulty is cannot be resolved but it is acknowledged.

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R.A. Herr*

Paper Abstract:

The Westminster form of responsible government has been extensively adopted and adapted countries around the world including many of the 14 independent and self-governing states in the Pacific Island region. Yet, either formally or through the informal continuation of customary practices pre-Westminster political processes remain contemporary influences within the region. This paper touches on two sources of tension in the process of cultural adaptation of the Westminster system in the region. Samoa has long managed to draw a stable, majority-supported ministry from the parliament without significant difficulty but electorally its non-liberal traditional system has proved challenging. The accommodation has worked consistently over decades to preserve *fa'a Samoa* (Samoan custom) as a central element in its political processes. By contrast, following the December 2006 military coup, Fiji had also sought to remove its non-liberal traditional elements in order to address the sources of domestic tension that stemmed from the use of the Westminster system. These ethnic tensions existed from before independence. They originated in large part from the need to find a majority on the floor of the parliament to find the stable Government favoured by the Westminster model.

Introduction

The Westminster system has been a very successful model of responsible government having demonstrated its relevance in some 150 settings – national and provincial. Cultural adaptability is arguably a critical part of the explanation for the institutional success of the Westminster model. A capacity for localising is scarcely the only reason, of course. The enormous extent of the British Empire, its latter day policy of indirect rule and its less troubled disengagement with colonisation were important elements contributing to a widespread acceptance of the Westminster model as the winds of change blew through the Empire creating a need for democratic legislatures. Nevertheless, a political seed planted in foreign soil does not flourish if it cannot adjust to its new environment and is not nourished locally. And, in some circumstances, the process of adaptation itself has been part of the problem.

Of the 14 Island states members of the Pacific Islands Forum,¹ the Commonwealth Parliamentary Association counts 11 national parliaments (Cook

* Academic Coordinator for the Parliamentary Law, Procedure and Practice Programme, Law Faculty, University of Tasmania and Adjunct Professor of Governance and Ethics, Fiji National University.

Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu) and one provincial parliament (Bougainville) amongst its members as Westminster-related legislatures. All but Nauru and Kiribati, which have added a layer of presidentialism, are recognisably traditional Westminster in their parliamentary form. Yet, even those closest to the original model have made some accommodation to adapt to their new environment either formally or through the informal continuation of customary political practices that influence their style of representation. Individualistic, liberal electoral systems connecting the parliament to the people have also been a factor in securing appropriate representation.

Samoa celebrates its non-liberal traditional system and has worked consistently over decades to preserve *fa'a Samoa* (Samoa custom) as a central element in its political processes. The inclusion of non-liberal elements has not so much changed the form of the Samoan parliamentary system as its practice and representational style. Until the December 2006 military coup, Fiji had also sought to incorporate non-liberal traditional elements in its parliamentary system. Indeed, the intent and effect of the three coups from May 1987 prior to the December 2006 coup was to strengthen the role of traditional society in the political process including the parliament. The roadmap for the return to democracy Fiji's Prime Minister Voreqe Bainimarama has engineered is attempting to reverse this trend through the entrenchment of more liberal elements in the political process albeit with a strong corporatist (party political) accent.

This paper reviews how the process of institutional transfer of the Westminster model is being influenced by the tensions between the traditional processes and the liberal expectations for representative democracy are being played out in two of Australia's South Pacific neighbours. While there is a great deal of "apples and oranges" in comparing these countries, the preservation of traditional political forms has been a continuing influence in both and so has produced some commonalties and some very striking contrasts. This review is very limited in its scope dealing only with very recent developments. As far as possible, it is focused principally on institutional issues rather than the on the contentious politics and motives behind the institutional adaptation.

Some Historical Context - Samoa

The maintenance of *fa'a Samoa* was a critical consideration in drafting the 1960 Constitution and in the 1961 plebiscite supporting independence in 1962 under this constitution.² The Constitution incorporated the general Westminster principles in the relationship between the Parliament and the Government.³

¹ The Pacific Islands Forum (nee South Pacific Forum) is a political association of the 16 heads of government from 14 independent and self-governing Pacific Island regional states, Australia and New Zealand.

² For the background on Samoan independence see: James W. Davidson *Samoa mo Samoa* (Melbourne: Oxford University Press, 1967).

³ *Constitution of the Independent State of Western Samoa 1960*

Samoa followed the Westminster pattern of a dual executive with both a Head of State and a Head of Government both of which are included in the institution of parliament. Article 42 of the Constitution of Samoa defines the Parliament as composed of two institutions – the Head of State (*Le Ao o le Malo*) and the Legislative Assembly (*Fono Aoa o Faitulafono*).

The Constitution established the Legislative Assembly as a unicameral legislature with 49 members elected from two electoral rolls serving three distinct constituencies. The vast majority of voters were enrolled on a register for candidates with chiefly titles (*matai*). The *matai* register served two types of constituencies – 35 single member and six dual-member electorates. The two-member constituencies were those electorates that had a population base sufficient to justify two representatives but could not be divided for historical reasons. The second electoral roll, the Individual Voters' Roll (IVR), provided a register for those voters whose ethnicity or other circumstance put them outside the *matai* system. Indeed, to qualify for IVR, the voter had to disallow any claims to lands or titles under the *matai* system. Both the Individual Voters' Roll constituencies were single member districts.

There is some dispute as to whether Samoa is a constitutional monarchy or a republic. The Head of State is addressed as His Highness and every Head of State since independence has been a *Tama a aiga* (one of the four paramount chiefly titles that, conventionally, have been treated as “royal”). However, the republic argument holds that Constitution does not require that the Head of State be a “royal” (*Tama a aiga*) thus classing Samoa as a republic. The Government of Samoa itself has settled the issue in favour of being a republic by referring to His Highness as a “ceremonial President”. Appointment to the office is by the Legislative Assembly (Art 19) for a term of five years. Unquestionably the powers of the Head of State are limited even by the general standards of Westminster constitutional monarchies, as the office appears to have few discretionary powers save those of summoning, proroguing and dissolving the Legislative Assembly and assenting or refusing assent to parliamentary bills to make them law and even these are heavily circumscribed.

The location and physical style of the Parliament building are imbued with traditional political significance. The Legislative Assembly is located on the politically historic and sacred *Tiafau* area of the Mulinu'u peninsula on the western side of the capital city, Apia. The parliamentary precincts include an open field (*malae*) that serves as a sort of natural plaza for public events including ceremonies and demonstrations. This *Malae o Tiafau* has customary significance as the meeting ground of the nation and was on a corner of this *malae* that the small traditional building that served as the independence parliament stood. In 1970, the Legislative Assembly moved into a modern building architecturally designed to resemble a traditional meeting-house (*fale fonu*) on the other side of the *malae*.

Some Historical Context - Fiji

Western political adaptation of Fiji culturally began very early. The British Government applied significant aspects of indirect rule to Fiji after Ratu Seru Cakobau ceded the country to Queen Victoria in 1874. Traditional elites served in administrative posts using largely traditional mechanisms to maintain British authority in the colony. The process was a two street as the traditional political authorities used the indirect rule system to strengthen and entrench their political power and their control of land within indigenous society. Thus the colonial experience for Fiji found both foreign administrators and indigenous chiefs benefiting from the process of cultural adaptation.⁴

The colonial system fossilised perceived political status through both the recognition of titles and lands in a way that prevented further changes. The rising indigenous elites especially those close to the colonial administration were happier than those that lost out in historic challenges to the claims of the winners. Even less happy were late-comers from South Asia brought to Fiji to work as indentured labour in the colony's plantations. Unlike the European plantation owners or the indigenous Fijians, these had almost no access to land or to positions of influence with the system of indirect rule. Not only did this provide fuel for social disharmony as the ethnic balance within Fiji shifted, it imposed political constraints on just how to end colonial rule in Fiji.

The issue of traditional political authority in Samoa at independence was essentially between Samoans and the international community. However, for Fiji this was an internal issue since, from the late 1940s, the formerly indentured labourers, their children and grandchildren enjoyed a demographic majority over the indigenous Fijians. Communal tensions were raised by the prospect of independence with the result it came later to Fiji than would have been expected. The Indo-Fijian leadership favoured a liberal one vote-one value approach while the Fijian leadership wanted traditional political values and power structures recognised and retained in some measure. A compromise was reached in the late 1960s when there was a change in the Indo-Fijian leadership. Some compromises on the inclusion of some traditional Fijian political elements as well as on a voting system were reached. The partially communal and partially liberal accommodations went some way politically to redressing the demographic imbalance.

Fiji's 1970 independence Constitution gave constitutional status to customary political processes when it recognised the Great Council of Chiefs (*GCC* or *Bose Levu Vakaturaga*). This body had served an advisory role to the Governor shortly after Cession. In the decade or so before independence, the GCC had added indigenous institutional leaders to its number who did not hold chiefly titles. The GCC became virtually a third chamber to the formally bicameral parliament through its power to appoint more than a third of Senate and its influence on indigenous Fijian (now *iTaukei*) policy including the sensitive area

⁴ For a very useful introduction to these cultural interactions, see: Peter France, *The Charter of the Land: Custom and Colonization in Fiji* (Melbourne: Oxford University Press, 1969).

of communally owned land. The 1970 Constitution also entrenched an ethnically based electoral system that reinforced the communal compromise in the 52 member House of Representatives. Three communities divided reserved seats that were not entirely proportional in terms of ethnic numbers. The majority Indo-Fijian community shared an equal number of seats with the indigenous Fijians (22 seats each) with the remaining 8 preserved for “General Electors” (Europeans, Chinese, Pacific Islanders etc.). The Senate also showed the ethnic compromise. The Prime Minister nominated 7 Senators, the Leader of the Opposition nominated 6, the GCC 8 and the island of Rotuma one.

The military coups of 1987 brought about a number of changes to further enhance *iTaukei* influence in Government through the incorporation of traditional mechanisms and processes. An attempt was made to constitutionally preserve the prime ministership for an *iTaukei* leader and a permanent majority for *iTaukei* in the House of Representatives in a failed 1990 Constitution. This was replaced in 1997 by one that promoted the powers of the GCC while removing the *iTaukei* preserved majority in parliament and *iTaukei* ownership of the office of the Prime Minister. Nonetheless, under the 1997 Constitution the GCC retained the authority to appoint the President and 14 of the 32 Senators. The 1997 Constitution also further entrenched *iTaukei* ownership of the majority of land held through communal titles.

The Contemporary Adaptation – Samoa

Pressure built on the Samoan traditional system during the 1980s as the *aiga* split titles and revived old titles to secure some electoral advantage. It became clear that this process, if it continued, would undermine the chiefly system politically and *fa'a Samoa* generally. Retention and protection of the customary political roles of the *matai* were core elements for the establishment of the Human Rights Protection Party (HRPP) in 1982. The HRPP pushed the referendum in 1990 to provide for universal suffrage by amending the constitutionally entrenched limitation of the franchise to *matai* was motivated in large part to save the *matai* system from the pressures to fully liberalise parliamentary representation and the national electoral system. Thus while the franchise was extended to all adult Samoans, the referendum did not rescind the limitation on the eligibility to stand for the Legislative Assembly. This eligibility remained restricted to *matai*.

The HRPP offset the liberalisation of the national franchise with passage of the *Village Fono Act* 1990. This act legislated to protect the “custom and usage” of the village assembly (*fono*). In effect, it protected the *matai* system at the village level at the same time as universal suffrage was modifying this nationally. *Village Fono Act* confirmed or granted powers to each *fono* to exercise its traditional rule within the village under the authority of the state. The effects of this Act are such a concession of political authority to the village level of governance that one diplomat described Samoa as “a confederacy of 360 republics”.

The HRPP moved in 2010 to eliminate all non-*matai* representation at the national level through a constitutional amendment. Non-*matai* had been eligible for election to the Legislative Assembly from the Individual Voters' Roll. Under the 2010 amendment these two seats were restricted to *matai* candidates. There is wide spread speculation that the IVR will be abandoned in the near future and that the restriction to only *matai* candidates is a prelude to this change. Given universal suffrage and the restriction to *matai* candidates, there appears to be little need for the IVR distinction.

Nevertheless, even with these developments to strengthen customary influences in the Samoan political processes, there may be some liberalising trends within *fa'a Samoa*.⁵ Estimates vary as to the number of recognised *matai* from more than 18,000 to around 25,000 with women holding about one in every twenty titles. It is suggested that the number of titles being conferred on women is increasing as women become better educated, more self-confident of their own status in society and as the Samoan community as grown more accepting of gender equality.

A non-liberalising influence unrelated to *fa'a Samoa* has been the strengthening of the role of party over the parliament. For the past decade HRPP Governments have strengthen legislation to ban "party hopping". This culminated in two bills were introduced into the Legislative Assembly in late 2009 – one to amend the Constitution and the other to amend the 1963 *Electoral Act*. Critics of these mechanisms saw some irony in that the HRPP had been an enterprising beneficiary of defections from other parties in the past. Modern Westminster systems tend to favour strong parties but the corporatist approach weakens the liberal freedom of conscience of the MP and can undermine the privileges of parliament by giving outside bodies control over a the actions of an MP on the floor of the parliament. Further, the office of the Speaker has been compromised unnecessarily by giving the Speaker a significant statutory authority to initiate action to expel a Member thus embroiling the Speaker in enforcing party discipline.

Although scarcely a cultural adaptation, the Westminster model's preference for a majority on the floor of the parliament has been embraced rather enthusiastically by recent HRPP Governments. Despite having had landslide results in the last two national elections, every parliamentary member of the HRPP that is not a Minister or Presiding Officer has been made an Associate Minister with special resources that go with the position. Essentially the concept of a Government backbench has been negated by this tactic.

The Contemporary Adaptation – Fiji

⁵ Some of the tensions between the two systems are treated in: Asofou So'o, "Reconciling liberal democracy and custom and tradition in Samoa's electoral system", *South Pacific Futures*, ANU Development Studies Network, Bulletin No. 60, December 2002. Accessed at: https://digitalcollections.anu.edu.au/bitstream/1885/9459/5/DevelopmentBulletin-60_2002.pdf

By the time this paper is presented, the September 2014 election to return Fiji to parliamentary democracy should have run its course and some of the impacts of the last eight years of political change made clearer. This election has been portrayed by the post-2006 coup Government of Fiji as a watershed between “old” politics and “new”, non-racial, more liberally based politics. Certainly, a principal underlying tension throughout the campaign has been the Government’s belief that its main opponent was mobilising the “old” customary political strings of power to defeat it and to overturn the liberalised order it has pursued under a roadmap based in the 2008 *Peoples Charter for Peace Progress and Change* and expressed through a new Constitution.⁶

The 2013 Constitution along with some earlier decrees with significant constitutional effects have sought to remove both ethnic and customary influences from the Parliament and indeed from the politics of Fiji. A unicameral Parliament will be composed 50 elected Members and a non-elected Speaker who will serve four-year terms. There is no Senate and the GCC was formally abolished in 2012. The Constitution establishes a strongly liberal electoral system by opting for the open list system of proportional representation. These liberal values are expressed directly through Sec 53(1) stating “each voter has one vote, with each vote being of equal value...” Ethnic and racial discrimination is proscribed by its Bill of Rights and underscored by provisions in both party and electoral decrees. For example, the Political Party (Registration, Conduct, Funding and Disclosures) Decree of 2013 requires any association attempting to register as a political party to demonstrate its bona fides as non-discriminatory and not to “advocate hatred that constitutes ethnic or religious incitement or vilification of others or any other communal antagonism”.

The one area where the Constitution could not avoid recognising traditional custom and practice was in the area of land ownership. Although a source of political contention as to its value, Sec 29(1) of the Constitution provides: “The ownership of all *iTaukei* land shall remain with the customary owners of that land and *iTaukei* land shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State ...”. Indeed, when the Bainimarama Government cut through the Gordian knot of a common name for citizens through a 2011 decree to call all citizens “Fijian”, the word “*iTaukei*” (owner of the land) was used to describe both the indigenous people and the language of Fiji.

The Constitution preserves the Westminster model of responsible Government by providing that only a Member of Parliament can be appointed a Minister with the possible exception of the Attorney General. The Attorney General may be appointed from outside the Parliament if the Prime Minister deems there is no suitable person available from amongst the elected Members. A non-elected Attorney General would sit in the Parliament but not be eligible to vote. Once the Parliament elects the Prime Minister, the PM elects the ministry as a Cabinet that serves the dual purpose as an executive council as well as the Government in

⁶ The 2013 Constitution of the Republic of Fiji can be accessed at: <http://www.fiji.gov.fj/getattachment/8e981ca2-1757-4e27-88e0-f87e3b3b844e/Click-here-to-download-the-Fiji-Constitution.aspx>

Parliament. The Speaker is appointed from outside the membership of the Parliament an individual qualified to stand as a candidate for the Parliament. The Leader of the Opposition is made an office in the Parliament by the Constitution as well.

As is the case in Samoa, a strong party corporatist approach becomes evident in the operation of the Parliament post election that will serve to undermine some of the liberal aspects of the electoral system. Political party discipline overrides constituency influence in Parliament even to the point of breaching the privileges standard for most Westminster Parliaments by giving constitutional validity to external bodies controlling the actions of an MP on the floor of the parliament. A Member may be expelled from the Parliament if the MP:

votes or abstains from voting in Parliament contrary to any direction issued by the political party for . . . without obtaining the prior permission of the political party [Sec 63 (1)(h)]

Other provisions of this section take party control of a Member even further as the seat can be lost if the MP resigns from the party or is expelled from the party. Thus the membership of the Parliament can be determined outside the electoral process by unelected party officials if these officials impose party discipline over MPs. However, it is uncertain how to interpret the qualification that expulsion from the party should “not relate to any action taken by the member in his or her capacity as a member of a committee of Parliament.” Presumably the parliamentary leadership can expel a Member for an action within the Parliament but not the party machinery outside the Parliament.

Individual ministerial responsibility appears to be another area where the Constitution supports a party corporatist approach over individual obligation and accountability. The Constitution provides that “Cabinet members are accountable individually and collectively to Parliament, for the exercise of their powers and the performance of their functions” [Sec 91(1)]. However, while accountability might be individual, Sec 95(3) suggests that responsibility may not be. Ministers continue in office unless removed by the Prime Minister, ceasing to be a Member of Parliament, or by resigning. While in the event, perhaps, not much different in practice from other Westminster parliaments, the absence of a specific reference to the role of the parliament seems an unusual oversight. On the other hand, a successful motion of no confidence in the Prime Minister deems every other Minister to have resigned. As is the case in Papua New Guinea, any motion against a PM must be constructive; e.g. propose the name of an alternative.

Chapter 8 of the Constitution requires the enactment by statute of a “code of conduct” for all public officers established under the Constitution. Members of Parliament are so listed. The Constitution also established an independent authority, the Accountability and Transparency Commission, which is to oversee compliance with this code of conduct once enacted. The Commission will have the power to investigate breaches of the code. Even more, however, the Commission will have the power to enforce this code “through criminal and disciplinary proceedings, and provide for the removal from office of those officers who are found to be in breach of the code of conduct”. Again, it appears

that an outside body unelected agency will have control over MPs that, in this case, be more normally the responsibility of Members through a privileges committee.

Some Concluding Thoughts

This rather brief attempt at comparing parliamentary apples and oranges is not intended to make any deep argument about the strength of customary practices in the Pacific Islands or the flexibility of the Westminster model in accommodating cultural adaptation. The two countries involved in this evaluation are indeed apples and oranges in terms of their comparability. Samoa has a high degree of social homogeneity and internal support for the retention of customary political norms. Stability within Samoa is grounded in a well-established sense of national identity. This has been buttressed by the opportunity for significant flows of emigration, which has provided an outlet for several generations standing for those who find the village structure confining. Thus, the search for a majority in Parliament has not been especially contentious in principle or in practice.

On the other hand, the liberal electoral underpinnings of Westminster democracy have proved more problematic but, perhaps, more for outsiders than for Samoans or at least those Samoans living in Samoa. The retention of *fa'a Samoa* has been repeatedly supported within Samoa with only incremental changes over time. However, the Samoan diaspora's loss of a franchise in Samoan elections has been long regarded as a limiting factor on liberal change within Samoa. Thus, mutual adaptation between Westminster and *fa'a Samoa* has proved to be fairly benign and only moderately contentious. Clearly Fiji's circumstances have been substantially different.

Deep ethnic divisions have been a tragically central feature of Fiji's adaptation and adaptation of the Westminster model. The implicit philosophical preference of the Westminster model for stable Government based on majority control of the floor of the Parliament challenged the model's relevance from before independence. Indigenous customary political forms had been a central part of the administration of colonial Fiji but a majority that was treated as a minority influence in the post-independent Parliament has produced constant political tension and strife as well demographic change since 1970. It would be impossible to treat the past half-century of parliamentary development in Fiji without acknowledging that the struggle to control its institutional norms have played a critical role in this fractured and fractious political narrative. Whether a liberal electoral system to elect a parliament successfully with no inbuilt accommodations to *iTaukei* political processes cannot be known by the time this paper is presented but its failure might.

Even if the election produces a result that gets through the initial hurdles to acceptance, the new Fijian Parliament will have some inherent elements that appear to challenge the Westminster expectation of the supremacy of parliament. The unexpectedly high level of dependence on political parties as mechanisms for accountability may undermine aspects of the liberal voting system as well some of the traditional privileges of parliament. The

entrenchment of the Constitution requiring three quarters of the Parliament and three quarters vote in a subsequent referendum is such that few believe it can be amended. Yet, there is so much detailed in a Constitution that might have been left to legislation that it seems likely that adaptation and reform may itself a continuing source of political contention. While a role for customary political structures and norms will be an issue regardless of the 2014 election result, one can only hope that Fiji will find a way to accept that debate without the racial rancour of the past.