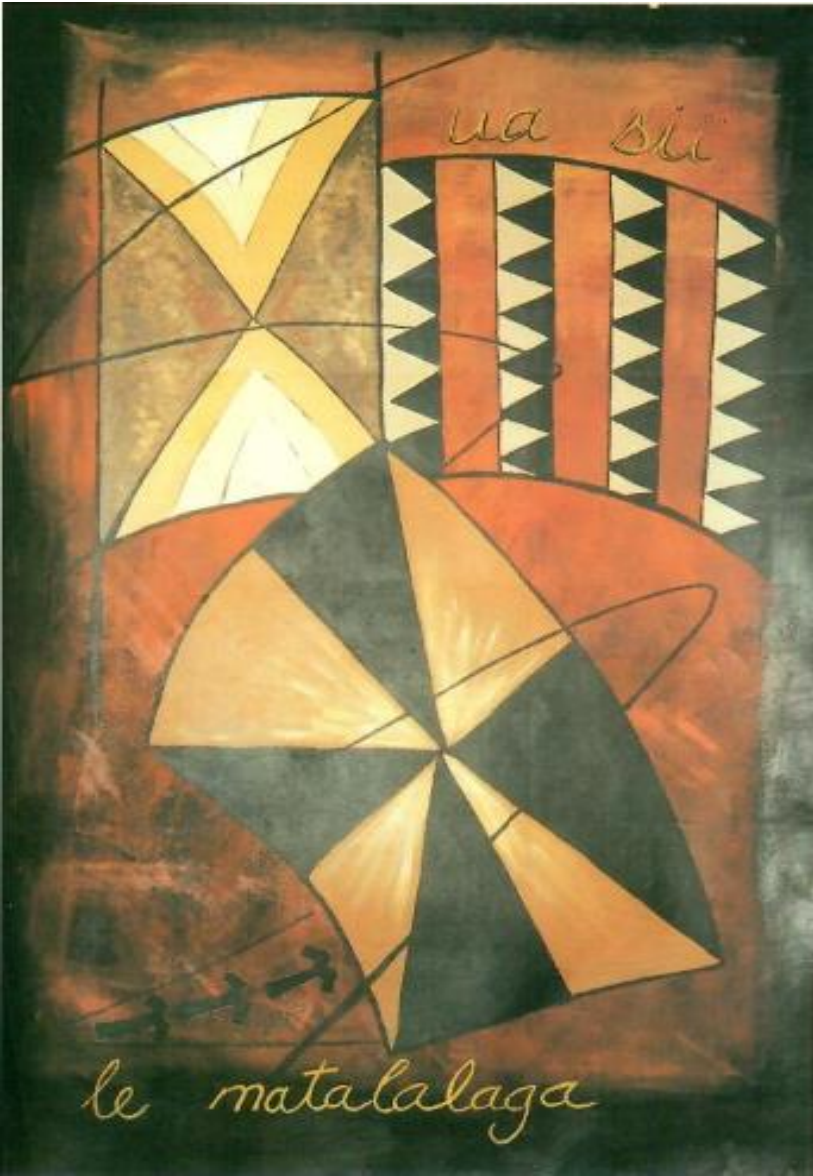


REPORT
Commission of Inquiry into the
General Elections 2021
Book 1



February 2023

COMMISSION OF INQUIRY



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Acknowledgement

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- f. Local Artist, Saumaeafe Dr. Vanya Taule'alo for permission to use her artwork – '**Ua Sii le Matālalaga'** (1997), acrylic on canvas, 110x160cm. - on the Report Cover Page.
- g. And, last but not least, our families for their unwavering support and patience.

Faafetai, Faafetai, Faafetai tele lava.

List of Acronyms & Abbreviations

CoD	Council of Deputies
CEO	Chief Executive Officer
CoI	Commission of Inquiry for the General Elections 2021
ESC	Electoral Services Commission
GoS	Government of Samoa
HoS	Head of State
LAS	Legislative Assembly of Samoa
MP	Member of Parliament
OEC	Office of the Electoral Commission
OAG	Office of the Attorney General
SBS	Samoa Bureau of Statistics
ToR	Terms of Reference

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1. Statement from the Chair of the Commission of Inquiry (CoI)

With respect, I provide herewith the Report of the Commission of Inquiry into the General Election 2021 pursuant to its appointment on 6 April 2022 by Cabinet (*see "Pepa Faaopoopo A" of Tusi 2*). Duly acknowledged herewith is Afioga Faualo Harry Schuster, Hon. Minister for the Office of the Electoral Commission (OEC) in the selection of Commission members who have not been actively engaged in politics and placing his trust in them to undertake this important work for the Government of Samoa (GoS).

The work of the CoI was based on its Terms of Reference (ToR) as submitted to Cabinet on 7 May 2022 (*see "Pepa Faaopoopo E" of Tusi 2*). An awareness document was duly prepared to inform the general public of the ToR and also used as a guide for the consultations (*see "Pepa Faaopoopo I" of Tusi 2*).

The composition and compilation of this report depended on and drew deeply from the invaluable views and opinions of the general public who were able to meet and consult with the CoI. These included Members of Parliament (MPs), Government officials, individuals, teachers and students, and other groups. Written submissions by individuals and organisations were also received. Other references and information were sought and gleaned from online sources, library collections and official records.

CoI members all believe that for the continued progress of our electoral process to take place; lessons learnt from the history of our democracy ought to serve as a guiding light for the future.

Although it has been sixty (60) years since we gained Independence, yet we are still faced with challenges within our electoral system. An adage taken from the women's craft of weaving fine mats: '*Ua Sii le Matalalaga*' refers to further elevation of expected standards of excellence in undertaking tasks at hand. This then becomes the theme of this work in that positive changes bring about good outcomes - *O suiga mo taunu'uga lelei*.

Many of the challenges highlight the inadequacy of due preparations and lack of knowledge and understanding on the part of the voters in relation to changes in the Constitution, the Legislative laws and subsequent amendments which govern the electoral processes.

It is critical that continued registration is enforced and compulsory voting be repealed. Electoral rolls must be accurate with respect to the eligibility of the voters and candidates themselves. The 10% minimal quota of 6 women in Parliament is supported; however, the methodology with which to calculate that percentage must provide equity to the selection of additional women members. It is also recommended that the political parties themselves enforce a set percentage of women candidates for general election. Furthermore, that the total number of seats in Parliament be reduced to reflect the total population and economic capacity.

The transition and changes from traditional constituencies to electoral constituencies cannot be denied; however, there must be a balance in the population distribution within different constituencies. It is important to consider additional seats for urban and suburban dwellers in the constituencies of Vaimauga and Faleata and allow aspiring politicians from these locations to use their matai titles from their natal villages to qualify them as candidates. It is advisable that terms and conditions for qualifying as a political candidate be enabling and a review of the *Electoral Act 2019* in this light is also recommended. All potential and hopeful candidates from the constituencies in which they reside must have equal access to candidacy.

This report notes the critical importance of encouraging the political parties to abide by the Laws which govern the registration of voters within the OEC. Furthermore, to have legal limits as to the amounts of permissible funds to be expended for election purposes; identify where and from whom these funds are sourced and moreover, the ways in which such funds are used for election purposes. It is recommended that political parties encourage equal access and representation of women and men for candidacy.

The intentions of criminal laws must hold fast and enable offending candidates and voters alike to be charged if they break the law particularly in instances of bribery and corruption. Any candidate or voter must be able to lay charges against anyone who breaks the law during elections.

The events which unfolded and questioned the independence of the Commissioner of the OEC warrants the establishment of an Electoral Services Commission (ESC) of 3 members. This Commission has the responsibility of making collective decisions during pre- and post-election periods, and oversee other key functions of the OEC.

Looking ahead, the Commission notes another general but critical issue whereby political changes have impacted radically on the foundations of Samoan customs especially in relation to the long-established divisions of villages, the lay of the land and associated traditional alliances. The Col promotes the strengthening the role of Samoan customs and traditions in governance.

With respect, Sir, I present this Report for your information and action, and timely consideration of the Hon. Prime Minister and Cabinet.

Ma le agaga faaaloalo tele,

Luafatasaga Tu'u'u Dr Ietitaia Taule'alo
TAITAI FONO

Rev. Tavita Roma (FT)

Erolini Koria Vaiao Eteuati

Leuluaialii Tasi Malifa

Vaaelua Rimoni Vaaelua

Tupuola Oloialii Koki Tuala

Letuimanu'asina Dr Emma Kruse Vaai

Faamausili Dr Matagialofi Luaiufi

Pesetātamaalelagi Afoa Arasi Tiotio

2. Foreword

After every general election it is normal practice for Government to set up a Col to address challenges and issues which emerge and provide possible solutions and better practices as a way forward for subsequent elections. The selection of the Col is mandated by *section 4(b) and (c)* of the *Commission of Inquiry Act 1964*.

At the conclusion of the General Elections 2021 the Head of State (HoS) upon the advice of the Prime Minister and Cabinet appointed the Col to specifically address 2 main issues as follows:

- a. Appraise and examine the Electoral Laws and Legislation from the time of Independence 1962 to the present and propose appropriate changes and revisions for improvement of processes for future General Elections; and
- b. Examine in detail the difficulties and challenges which emerged in the General Elections 2021.

Expansion of the undertakings by the Col as prefaced in the Foreword are as follows:

- a. Review and examine in detail the laws which guide the general elections including the Electoral Act 2019 (the Act), Electoral Constituencies Act 2019, the Electoral Commission Act 2019 and the Constitution of the Independent State of Samoa (Constitution of Samoa). The amendments to these aforementioned legislations which relate to the elections of previous years since independence must also be scrutinized;
- b. Consult, seek out and clarify challenges and difficulties which emerged in the General Elections 2021; and
- c. Provide recommendations, advice and appropriate revisions for the Acts to ensure ease of process in future years.

3. The Commission of Inquiry into the General Elections 2021 (Col)

3.1. Selection of the Col

The Col into the General Elections 2021 was appointed by the Head of State through the advice of Cabinet as per *FK(22)11* on *6th April 2022* and in accordance with *section 4* of the *Commissions of Inquiry Act 1964*. The appointed members of the Col are as follows:

1. Luafatasaga Tu'u'u Dr Ietitaia Taule'alo Chairman
2. Feesago George Fepulea'i Special Advisor
3. Erolini Eteuati
4. Tavita Roma (FT)
5. Vaaelua Rimoni Vaaelua
6. Leuluaialii Tasi Malifa
7. Letuimanu'asina Dr Emma Kruse Va'ai
8. Tupuola Olialii Koki Tuala
9. Faamausili Dr Matagalofi Lua'iufi
10. Pesetātamaalelagi Afoa Arasi Tiotio

The work of the Col was supported by staff from the Office of the Attorney General (OAG) and OEC.

3.2. Terms of Reference (ToR)

To expedite the work of the Col the following issues were selected for scrutiny. These same issues were presented to the general public for their views and suggestions:

- i. Electoral Roll
- ii. Women Representation in Parliament

- iii. Traditional Constituencies
- iv. Eligibility of Candidates
- v. Registration of Political Parties
- vi. Court Petitions
- vii. Overseas Voters
- viii. Political Party Membership
- ix. Institutional Structure of OEC
- x. General Matters

3.3. Methodology for the ToR

The Col strongly believed that it was essential to consult and dialogue with members of the public including the senior secondary schools and tertiary levels; and non-government organisations. Logistics for these intentions were underway whilst awaiting the Cabinet ToR for the work of the Commission as directed by special *FK (22) 26 on 29th May 2022* and also *8th June 2022* (see **“Pepea Faaopoopo U” of Tusi 2**).

It was decided at the initial meeting the Col to widely publicise the ToR, so the public at large; professional bodies (e.g. Samoan Law Society); non-Government organisations; individuals and interested persons would be well informed and prepared for the consultation with the Commission. To reach others as much as possible there was also the possibility of using Information Technology to facilitate other discussions.

At the conclusion of the nation-wide consultation; a total of 2,175 members of the public were able to participate and contribute at the selected village venues and also at the OEC (see **“Ripoti Komisi Suesue Faiga Palota 2021” of Tusi 3**). Those who gathered at the venues were 1,457 whilst 31 came to the OEC for discussions and were received and recorded at the OEC. Some 687 students from the universities, TVET institutions and various Government and Mission secondary schools from both Savaii and Upolu were also consulted (see **“Ripoti Komisi Suesue Faiga Palota 2021” of Tusi 3**). It was noted that there is an urgent need for the senior students in secondary schools to have greater understanding and appreciation of the democratic process in Samoa and that this should be included as a major component in the College Syllabus.

3.4. Principles

- i. Review in detail the critical issues which emerged from the General Elections 2021 and take into account the acute and perceptive views expressed in the consultations which can contribute to enabling processes and peaceful conduct of future general elections;
- ii. Retain a balanced and non-partisan position in reporting on any issue and subject discussed and analysed;
- iii. Ensure report is clearly worded, complete and comprehensive;
- iv. Ensure report is accurate and appropriately recorded;
- v. Acknowledge and accord value to all views and opinions expressed via face to face discussions or written submissions.

3.5. Duration of Assignment

As per Cabinet decision *FK (22) 9 April 2022*; seven (7) months was allocated for this undertaking. After an initial meeting on 22 April 2022 with the Hon. Minister for the OEC; the Col began its work

with the intention of completing by 22 November 2022. However, a further Cabinet decision FK (22)48 on 15 December 2022 extended the due date to February 2023.

4. The Context of the General Elections 2021

4.1. Critical Challenges which Emerged in the General Elections 2021

The context for this Inquiry to undertake its work is unparalleled compared to previous Inquiry into General Elections initially established as per its *Electoral Act 1963* with subsequent amendments. It cannot be denied that the General Elections 2021 was an unprecedented historical event reflected by the extraordinary challenges which emerged; the delay in acknowledging the newly elected Government and the subsequent legal actions and counter reactions which ensued. The General Elections of 2021 brought about discord within the nation as well as families, villages, religious denominations, the Samoan diaspora, as well as creating grave concerns within the diplomatic and international community with links to Samoa.

Resulting challenges and prevailing circumstances from the Elections of 2021 have compelled the Commission to ensure that its report would be thoroughly informed through widespread consultation and in-depth research. Valuable lessons and principled advice could then be conveyed for Government to solidify Samoa's democratic process and good governance based on Samoan traditions and Christian principles. It is therefore incumbent upon the context of this Report, to firstly portray the social backdrop - before and after the general elections.

In the light of what transpired, it is advisable that there be an opportunity for a national reconsideration to create a House of Tumua & Pule - which would serve as an anchor, a support and balancing mechanism for Parliament at times of national turbulence. The appalling post-election mayhem which emerged in 2021 compels the need to look inward; in search of our own solutions; born of our own traditional structures and pillars acknowledged by our Constitution. After lengthy discussion and deep reflection, the CoI therefore advocates that it is timely to revisit the House of Tumua & Pule to be a part of our democratic processes. As in previous years, several amendments of the Electoral Act to facilitate good governance and serve future generations have been actioned.

4.1.1 HoS and Council of Deputies (CoD)

The HoS as titular head of the three (3) arms of Government and maintaining a non-partisan position as such was compromised by the Caretaker Government's advice. The independence of the sole member of the CoD was also compromised by his absence at the swearing in of the newly elected government after the mandatory forty five (45) days following the general election. It is the view of the CoI that the existing vacancies for the other two (2) members of the CoD must be filled as provided in the Constitution because their continued absence did not lend to ameliorating the circumstances.

In the opinion of the CoI, the Constitution provides and protects the processes and procedures to be followed and actioned by the Head of State within the forty five (45) mandatory days after the dissolution of Parliament for the purposes of the General Election. Therefore, for future progress, it is essential for the HoS and the CoD to clearly understand and comply with the statutory obligations required of their roles as articulated by the Constitution. It is also necessary for Government to ensure that such posit are filled as decreed by the Constitution.

4.1.2 Swearing-in of the New Government: the FAST Party

It was not possible to conduct the swearing-in of the newly elected GoS inside the Parliament House because its doors were locked. The Clerk of the House and staff members were present at the time and had prepared the premises for this event on the previous day. When asked to open the doors of Parliament, the Clerk of the House replied that the former Speaker had taken the key. The question is posed: With the dissolution of Parliament, for the purposes of the general elections, is it the norm for the Speaker to continue working, and hold on to the keys to the doors of Parliament? What exactly is the Speaker's role when Parliament is dissolved?

The CoI maintains that the rules, regulations, and processes sanctioned by the Constitution must be complied with to allow for a smooth transition power after a general election. The end result of the last election of 2021 was the elected Government being sworn-in under a tent in front of Parliament House to comply with the legislated forty five (45) days for Parliament to meet after a general election. Approximately, two (2) months lapsed before the elected Government could commence its official duties.

4.1.3 The Caretaker Government

The lengthy duration of the Caretaker Government and its ongoing decision making on major issues clearly breached good governance practices. The refusal to accept that a new government had been elected and therefore to concede defeat and depart from office with dignity had further adverse effects upon members of the Public Service who overlooked their duty to serve the Government of the day. For example; the actions and the decision making undertaken by the former Electoral Commissioner, Attorney General, Clerk of the House, Police and others were clearly misguided and did not contribute to a unified stance of solidarity and certainty in purpose for senior Government officials to serve the Government of the day with diligence.

It was noted with great disappointment that several of the Chief Executive Officers (CEOs) and Assistant Executive Officers (ACEOs) were resolute in their support for the Caretaker Government despite its demise. This was further exacerbated by the Leader of the Opposition declaring he would return because the swearing in of the newly elected government under a tent was not legitimate. A peaceful march to oppose violence against women saw the participation of a number of senior public servants and executive officers to show their support for the previous government clearly demonstrated the difficulties which the newly elected government faced in its early days. Such opposition and refusal to accept the newly elected government could also have been addressed by resignation. It has taken some time to regain stability and instill confidence in the public service. Nevertheless, it remains to be noted that public servants should not be influenced or affected in their duties by political influence nor by political affiliations.

One of the major decisions made by the Caretaker Government led to the irreparable damage of the Police patrol boat, Nafanua. During an HRPP campaign in Savaii, a request for police protection was prompted by a degree of civil unrest and opposition which emerged from some constituencies. The Nafanua Patrol Boat was despatched but was grounded on the reef during this cause of action. The loss of this \$30 million GoS asset gifted from the government of Australia in good faith and as part of diplomatic relations begs the question as to whether those responsible for the decision to allow the Nafanua to travel to Savaii for the reasons given, are liable.

The CoI notes that in practice if a GoS asset is damaged by a public servant, the cost of repair or replacement is borne by that person. It is also possible that they can be charged if there is a law infringement. Best practice in governance is not reflected if a person of high standing and authority who is responsible for the damage of a GoS asset is not required to bear the cost nor charged by law

whilst a person of lower status and position could be required to bear the cost, lose their job or be charged.

The decision to prepare for a snap election whilst awaiting the final outcomes of the 2021 General Elections, as confirmed by the OEC, was yet another example of unwarranted decisions during the transition period. Although such a decision to hold a Snap Election was not sanctioned by law; the OEC nevertheless expedited preparations as directed by the Caretaker Government through the CEO. In this regard, this decision was unlawful because Parliament had not yet been sworn-in nor convened to make such decisions. (see **“Pepa Faaopoopo G” of Tusi 2**)

4.1.4 Court Cases and Appeals

This general election resulted in 32 Court cases and Appeals between MPs and the Speaker; Candidates and the Electoral Commissioner; political parties and the Courts; Political Parties and Voters; as well as further Court cases and appeals between the candidates themselves. Many of these Court cases questioned the eligibility of the candidates, argued different interpretations of the Law, the roles of different arms of the Government, and election-related bribery, treating and illegal practice. The resignation of one candidate who had won the election was also unexpected due to concerns relating to her professional status. This general election also witnessed candidates successfully challenging some of the Electoral Commissioner’s decisions shortly before the elections.

The 3 main causes for this situation were:

- i. Limited public awareness and poor understanding of the four (4) laws that governed the 2021 General Elections, namely, the Electoral Act 2019, Electoral Commission Act 2019, *Electoral Electoral Constituencies 2019*, and the *Constitution of Samoa*.
- ii. Inadequate time to prepare for the implementation of the three (3) Acts mentioned. These were all enacted by Parliament in 2019 for the general election in early 2021.
- iii. The haste in these three (3) new Acts were processed with additional 20 amendments without adequate national consultation just made a chaotic situation worse.

Because of the delay in recognizing the elected Government and the convening of Parliament; it was prevalent upon the Courts to hold the fort for Samoa and interpret the law for candidates and political parties. In essence the invaluable role of the Courts was highly evident as a mainstay in protecting the democratic process in Samoa.

4.1.5 Financing and Administration of the General Elections

The General Elections 2021 proved to be extraordinarily costly compared to other years for both government and voters (see **“Box 1” below**). The absence of special booths prevented many voters from Savaii and other rural areas from voting as they were required in this 2021 election to travel back to their natal villages to cast their vote. Public transport was also poorly managed on polling days, and in effect the general public were frustrated with new changes that were not enabling. The four (4) pre-polling days tallied 8,553 voters (7%) and the one (1) Election Day tallied 115, 019 voters (93%).

4.1.5.1 Box 1: Combined Expenses of General Elections 2006 -2021

Items	2006	2011	2016	2021		Total
				Pre-polling	General Election	
Personnel	955,423	312,300	555,148	394,000	1,136,476	742,477

Operating	680,273	1,282,523	1,154,296	71,496 1,626,095	1,554,597
Transaction on Behalf of State	221,045				
Total Expenditure	1,856,741	1,594,823	1,709,444	465,496 2,762,571.21	2,297,074.22

For the 2021 General Elections, \$2,762,571.21 was spent compared to approximately \$1,000,000+ in other years. Furthermore, during the four (4) pre-polling days, \$465,496.00 was spent. If one day was allocated for pre-polling; \$349,122.00 could have been saved and used for other worthwhile purposes.

4.1.6 Independence of the OEC

It was noted that the Commissioner of the OEC was inconsistent in his decisions regarding the 10% minimum quota for women representation in Parliament although clearly stated in the Constitution *Article 44(1A)(a)* which stated “...for the avoidance of doubt is presently 5”. The 10% minimum quota for women MPs thus became a long and drawn-out issue involving much angst, several court cases and appeals. Many expressed strong views on the matter, how it had undermined women, created a political crisis, and therefore advocated that the percentage be deleted and a full number of six (6) be used instead. Court cases which did ensue resulted in seven (7) women representatives. However, with subsequent legal action, the Court of Appeal ruled that six (6) women members made up the current 10% minimum quota.

It was unclear why the former Commissioner of OEC did not seek the Supreme Court’s guidance on the number and timing of selecting additional women MPs under the affirmative action for women. It was also unclear why the former Commissioner of OEC did not seek professional advice on an equitable formula to calculate the scores for competing candidates vying for the additional women candidates to make up the affirmative quota for women in MPs (*see “Attachment 1”*).

In the Report of the OEC for the General Elections 2021, only five (5) recommendations are proposed for the consideration of Parliament. The Col asserts that these are inadequate and do not reflect the gravity of the situation and challenges faced in the General Election 2021.

To avoid a repetition of the 2021 situation with regards to the independence and ambivalence of the Electoral Commissioner, the Col advocates for a Electoral Services Commission (ESC) made up of three (3) members separate from the Management team that deals with everyday running of the OEC. An earlier proposal by the 2006 Commission of Inquiry proposed a 6-member Commission. A Special three-man Committee reporting to Cabinet on the 2006 Election Report recommended only a one-member Commission and was intent on augmenting the importance of the independence in this role. Both the 2006 Commission of Inquiry and the Special Committee Reports on an independent Electoral Commission were rejected. However, the political crisis of the 2021 General Elections would warrant the revisiting of the establishment of a three-member Commission to oversee the general election processes. (*see “section 5.9.2.1” below*)

4.1.7 The use of Technology and Social Media

The use of technology and social media played a major part in the General Elections 2021. It cannot be denied that Facebook and various other forms of social media platforms relayed information and engaged communication for the elections in a most effective way by voters, candidates, and the general public. Whilst this is acknowledged in a positive way; there is also a downside to this in that social media and technology were also used in a most toxic, divisive, and destructive manner

through profanities, threats and derogatory language which affected voters, candidates, families and political parties alike. Even after the elections there are people who continue to wrongfully use the media in such a way.

The CoI confirms that social media and information technology is a fact of modern life. However, it is recommended that the Ministry of Information Technology must have policies, practices and penalties to curb the wrongful use of internet and social media.

4.2. Recommendations for General Issues

4.2.1 Recognised Roles and Good Governance

It is recommended that:

- a. The House of Tumua & Pule be revisited to create a sure and steady anchor and support for the work of Parliament especially when there is national unrest and Government instability caused by:
 - i. Undue influence by a caretaker government and its advisers upon the HoS and CoD.
 - ii. Breakdown of traditional constituencies due to established residential locations.
 - iii. Complexity of modern government and party politics and to avoid national instability through the delay in the swearing in of a new government after general elections. Through the House of Tumua & Pule, Samoan customs and traditions can be appropriately considered to provide solutions and maintain social harmony and stability.
 - iv. Undue haste and lack of conformity to established processes for legislative amendments to the Laws especially when there is a lack of consultation and national support.
- b. The duration and parameters of a caretaker government's authority before and after general elections to be legislated and accountable. This includes the compliance with the legislated forty five (45) days wherein power and authority must be ceded from the caretaker government to the elected government. It must also clarify that a caretaker government cannot continue to operate a budget or make other critical decisions.
- c. The contracts of senior public servants clearly set out their roles as public servants and government employees especially with regards to steering clear of party politics and focusing on their civil responsibilities and independence. Failure to maintain objectivity and continued unwarranted opposition to the government of the day can only result in compromising job security.
- d. A formal inquiry be conducted into the decision to utilize the Nafanua patrol boat whilst the caretaker government was carrying out a party campaign in Savaii. The value of such an asset, even if covered by insurance; warrants consideration of re-payment of damages or an appropriate penalty meted to those responsible for what happened to the patrol boat.
- e. An Electoral Services Commission (ESC) be established with a membership of three (3) to guide and contribute to decision making during elections; and between elections to oversee other key functions of OEC e.g. election preparation, human resources, budgets, research and awareness promotion.

4.2.2 Corruption, Court Cases and Appeals

It is recommended that:

- a. The drafting of legislation be of the highest standard so that all voters and candidates alike are able to understand it clearly. Amendments to the laws and legislation must not occur within the same year as the General Election
- b. When there are amendments to the Electoral Laws, the OEC staff must conduct awareness programmes for the public and in particular the voters and candidates.

- c. The Act be amended to prevent a winning candidate from simply resigning his or her seat when another candidate lodges an appeal against illegal actions committed by the winning candidate.

4.2.3 Financing and Conduct of Elections

It is recommended that:

- a. The exact timing for the general election be stipulated and legislated as being end of February to the beginning of March so that the elected government is enabled to plan accordingly and prepare the Budget.
- b. GoS reconsiders the allocation of voting days as well as the set-up of Polling Booths during the general election. A single day be assigned for pre-polling for the elderly and special needs and that the special polling booths be reinstated in the urban areas for the rural and village voters who live and work closer to town.
- c. For General Election 2026 adequate and stipulated hours are allocated for polling booths to remain open. The hours from 7.00am until 5.00pm are appropriate as the OEC staff can stay overnight close to the Polling Booths to enable an early start. At the consultations, many voiced their discontent with being prevented from voting because the polling booths had closed.

4.2.4 The Use of Technology and Social Media

It is recommended that:

- a. The Ministry of Communication and Information Technology thoroughly prepare Legislation and Policies that ensure the control of online technology and social media for political campaigning. Furthermore, that there be proper and effective penalties for those who misuse online technology and social media to slur or discredit political candidates and figures. This is also an area whereby Political Parties should also be liable if they are found to be actively involved in slander and other means of defaming political opponents
- b. OEC to conduct awareness programmes for the public to be fully informed of the serious penalties faced as a result of unlawful use of information technology and social media.

5. Special Topics under the ToR

5.1 Electoral Roll

5.1.1 Existing Situation

It is compulsory to register in the Electoral Rolls all people that are qualified to vote. It is also compulsory for registered voters to cast their vote. Eligible voters who do not register are fined twenty (20) penalty units or \$2,000; while registered voters who do not vote are fined one (1) penalty point or \$100. It appears that the penalty for non-registration is excessive and should be similar to the fine for non-voting of \$100.

The criteria for any person to qualify to register as a voter are:

- (i) 21 years old or older;
- (ii) a Samoan citizen;
- (iii) to register in 1 electoral constituency; and
- (iv) to register at the electoral constituency where the voter has permanent residence.

The qualification of permanent residence is determined by the place recorded in the Population and Housing Census before the next general election, or any other constituency where the voter is

confirmed to have resided for not less than 6 months before registration in the electoral roll of that constituency.

However, there are exemptions by law for a voter to register in the electoral roll of a constituency where that voter is not a permanent resident, including:

- (i) a matai who wishes to register at a Constituency where the title of that matai is registered;
- (ii) a child of an election candidate who wishes to register at a constituency where either of the child's parents is a candidate;
- (iii) the wife of a candidate who wishes to register at a constituency where her husband is a candidate (*section 16 of the Act*).

There are also provisions that permit, by law, the transfer of any voter from one constituency to another by law for a period of 10 years before a voter can transfer (*section 18 of the Act*).

The OEC is responsible for prosecuting non-registered voters. There were no valid reasons given by the OEC for not following up the prosecution of non-registered or non-voting voters. According to the former Commissioner of OEC there was similar voter behavior in 2019, even with compulsory voting, compared to previous elections. He supported non-compulsory as it was very difficult to track down non-voters after the general election. (**see recommendation 2 in General Election Report 2021**)

5.1.2 Challenges

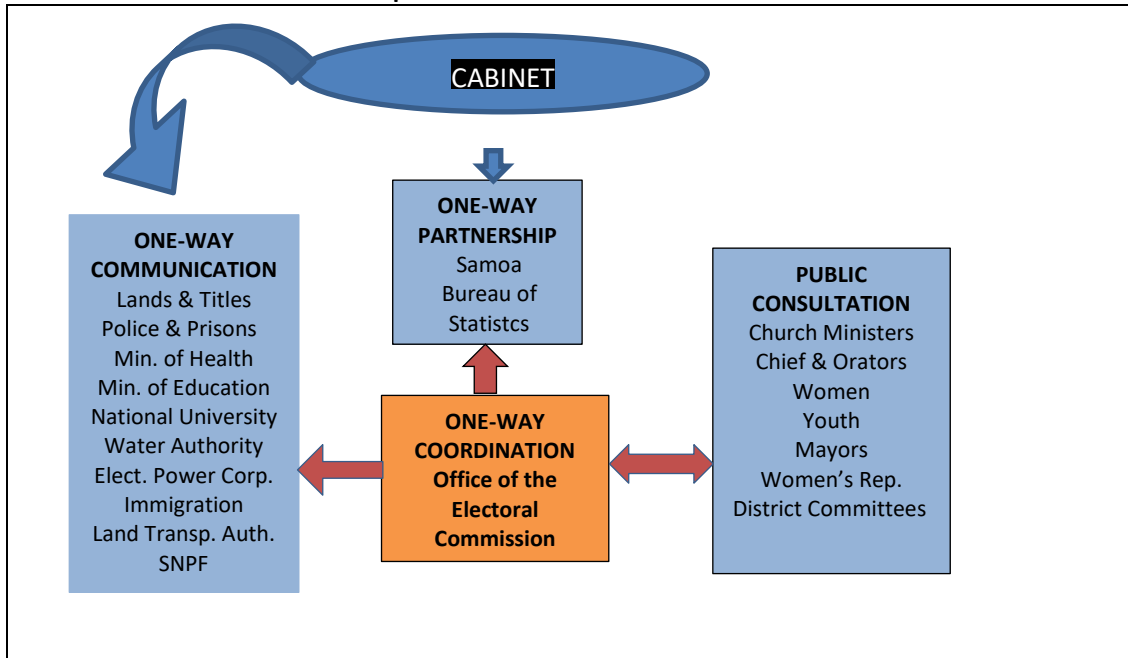
- a. A total of 123,571 voters were registered for the 2021 General Election; 98,860 or 78% voted while 26,711 or 22% did not vote. However, none of the non-voters were prosecuted or fined for non-compliance. There were no valid reasons given by the OEC for not following up the prosecution of non-registered or non-voting voters. According to the former Commissioner of OEC there was similar voter behavior in 2019, even with compulsory voting, compared to previous elections. He supported non-compulsory voting as it was very difficult to track down non-voters after the general election. (**see recommendation 2 in General Election Report 2021**)
- b. Many of the oral submissions to the COI supported the existing law that voters should vote at the place where they reside permanently. The challenge seem to be conflicting provisions where voters should register to vote: in their place of permanent residence; or to transfer from one constituency to another where they did not live permanently.
- c. It was strongly suggested to the COI at the public consultations to:
 - (i) clean up the electoral rolls completely;
 - (ii) check to remove deceased people from the rolls
 - (iii) examine immigration records to see who is away permanently or temporarily.It was also observed that in some villages, there were more registered voters than the total population. This would indicate that many of the registered voters did not live permanently at the said villages.
- d. It was supported by OEC and confirmed by the Col findings that major challenges existed in effective communication between OEC and the GoS agencies that collected and stored data critical to the preparation of the Electoral Roll. While some of the problems involved were related to conflicting legislation or confidentiality issues, it appeared that a main constraint was the unwillingness of senior staff at these GoS entities to share relevant information with OEC. Some of the problems involved were related to conflicting information on constituencies

where voters resided permanently. It appeared contradictory to require a voter to vote at the constituency where he or she resided permanently and allow another voter to transfer to another constituency, where he or she obviously did not reside permanently.

5.1.3 Recommendations

- a. Amend *section 13 of the Act* to remove the fine for non-registration of twenty (20) penalty units or \$2000 and replace with One (1) penalty unit or \$100.
- b. Remove *section 63 of the Act* on compulsory voting.
- c. Remove *section 16 of the Act* on exemptions for voters to register in the electoral rolls of constituencies where they do not reside permanently, including:
 - i. Matai registering in the electoral roll of a constituency where he or she holds a registered title;
 - ii. Child registering in the electoral roll of a constituency where either of his parents is a candidate for election;
 - iii. Wife of a candidate registering in the electoral roll of the constituency where her husband is a candidate.
- d. Remove *section 18 of the Act* for the transfer of a voter from one constituency to another where he or she is not a permanent resident.
- e. Develop a framework to guide the compilation of the electoral roll, where the GoS agencies and the general public would work together with the OEC to support the preparation, including the checking, of the electoral roll.
- f. Enforce by Law with Cabinet oversight the Framework for Preparation of Electoral Roll, highlighting the relationship between the GoS Agencies and OEC. The important role of the various voter subsectors is recognized in checking and confirming the information contained in the respective electoral roll for each electoral constituency (see **“Chart 1”** below).

5.1.3.1 Chart 1: Framework for the Preparation of the Electoral Roll



- g. There are 5 Parts of the Framework for Preparation of the Electoral Roll:

Part 1 OEC to effect all tasks in a **one-way coordination** role, to request and receive information and data from relevant agencies.

- Part 2 SBS to respond to requests from the OEC in a **one-way partnership** so to meet the specific needs of OEC, and to supply required data on, but not restricted to, population & housing census, births, deaths & marriages.
- Part 3 Other relevant GoS agencies to respond to OEC in **one-way communication** to supply required client biodata on but not restricted to names, gender, ages, villages for cross-checking SBS information on the same.
- Part 4 In **Public Consultation** with voter community sub-sectors to check and confirm contents of the Electoral Roll provided by OEC. All sectors to check and confirm contents of the Electoral Roll provided by OEC.
- Part 5 **Cabinet as Regulator** to intervene as necessary to ensure the smooth flow of relevant information to the OEC from SBS and other GoS agencies.

5.2 Women MPs

5.2.1 Current Situation

From 1962 to 2011 there was equal opportunity for both men and women to stand as candidates for election into Parliament. However as shown clearly in the Box 2 below, the actual number of women elected to Parliament since 1962 has been minimal.

5.2.1.1 Box 2: Women MPs 1962-2011

Election Cycle	Electoral Constituency	Total	Name(s)	Details
1-3 1960-1969	-	-		NO woman parliamentarian in the first three Parliaments of Samoa
4 1970-1973	Palauli Sisifo	1	Taulapapa Faimaala Vaovasamanaia	
5 1973-1976	Aana Alofi No. 1 Lotofaga	1	(i) Leaupepe Faimaala Vaovasamanaia (ii) Laulu Fetauimalemau Mataafa	
6 1976-1979	Faasaleleaga No.4 Individual Voters	2	(i) Iiga Suafole (ii) Annandale Sina Hope Nelson	
7 1979-1982	Lotofaga	1	(i) Laulu Fetauimalemau Mataafa	
8 1982- 1985	Aana Alofi No.1	1	(i) Matatumua Maimoaga	
9 1985-1988	Lotofaga Aana Alofi No. 1	3	(i) Hon. Fiame Naomi Mataafa (ii) Aiono Fanaafi	
10 1988-1991	Lotofaga	1	(i) Hon. Fiame Naomi Mataafa	The year of the Plebiscite for 5 year Parliamentary Term and the 21 year old vote (universal suffrage)
11 1991-1996	Lotofaga	2	(i) Hon. Fiame Naomi	First year of the 5 year Parliamentary

	Aana Alofi No. 1		(ii) Mataafa Matatumua Maimoaga	term.
12 1996-2001	Lotofaga Aana Alofi No. 1 Gagaemauga No. 1	3	(i) Hon. Fiame Naomi Mataafa (ii) Maiava Visekota (iii) Tuala Falenaoti Tiresa	
13 2001-2006	Lotofaga Gagaifomauga No.2 Aana Alofi No.2	3	(i) Hon. Fiame Naomi Mataafa (ii) Hon. Safuneituuga Neri Paaga (iii) Fagafagamanualii Theresa McCarthy	
14 2006-2011	Lotofaga Gagaifomauga No. 2 Falealili Faasaleleaga No.1	4	(i) Hon. Fiame Naomi Mataafa (ii) Hon. Safuneituuga Neri Paaga (iii) Fuimaono Na'omia Te'i (iv) Hon. Gatoloaifaana Amataga Gidlow	
15 2011-2016	Lotofaga Gagaifomauga No.1	2	(i) Hon. Fiame Naomi Mataafa (ii) Hon. Faimalotoa Kika Stowers Ah Kau	
16 2016-2021	Lotofaga Faasaleleaga No. 1 Gagaifomauga No. 1 Gagaifomauga No3 Alataua i Sisifo	5	(i) Hon. Fiame Naomi Mataafa (ii) Hon. Gatoloaifaana Amataga Gidlow (iii) Hon. Faimalotoa Kika Stowers Ah Kau (iv) Faaulusau Rosa Duffy-Stowers (v) Aliimalemanu M Alofa Salima Tuuau	This Parliamentary Sitting saw the initial utilization of the 10% minimal for women representative. The member for Gagaifomauga No.3 came into Parliament via the 10% consideration.
17 2021-2026	Lotofaga Gagaifomauga No.1 Palauli No. 1 Fasaleleaga No. 1 Alataua I Sisifo Aleipata Itu i Lalo Anoamaa 2	7	(i) Hon. Fiame Naomi Mataafa (ii) Hon. Faimalotoa Kika Stowers Ah Kau (iii) Hon. Mulipola Anarosa Ale Molioo (iv) Hon. Matamua Seumanu Vasati Sili Pulufana (v) Aliimalemanu M Alofa Salima Tuuau	<ul style="list-style-type: none"> • Winning candidate for Alataua-i-Sisifo and a Aleipata Itupa-i-Lalo, entered Parliament through the 10% consideration for women after court cases. • Woman candidate of Anoamaa 2 was chosen through a Court decision to replace winning woman candidate from Falealupo who resigned. The Appeals Court overturned this decision and Anoamaa 2 woman representative is no longer a Parliamentarian.

			(vi) Faagasealii Sapoa Feagiai	
			(vii) Toomata Norah Leota	

Source: LAS

To address the under-representation of women in Parliament; government utilized a United Nations initiative called ‘affirmative action’ whereby a 10% minimum quota of women in Parliament was deemed compulsory and further strengthened through inclusion in the Constitution. This Constitutional Amendment Article 44 articulates that the 10% minimum quota of women’s seats in Parliament would be five (5).

At the conclusion of the 2021 Elections five (5) women candidates were successful. One candidate was uncontested and the other four (4) contested equally with other men and women. However the Electoral Commissioner decided to extend this number – five (5) to six (6) women to make up the 10% minimum quota of women in Parliament. This was the decision that cascaded into multiple debates and related court cases in the post-election 2021. The interpretation of the 10% minimum quota was taken to the Supreme Court. The resignation of one of the successful women candidates from Falealupo further decreased the number of women members of parliament to four (4).

At the conclusion of Court cases in both the Supreme Court and the Appeals Court the decision was that there should be six (6) women members of Parliament. This enabled the woman candidate of Aleipata-Itupa-i-Lalo and Alataua-i-Sisifo to come in as Members. Furthermore, the Supreme Court also ruled that the woman MP who had resigned must be replaced by another woman MP in the spirit of affirmative action for women representation in Parliament. Hence the woman MP from Anoamaa 1 was added bringing the number of women MPs to seven (7). However this was quashed by the Court of Appeal and the number of women in Parliament returned to six (6).

Consultations with the wider community regarding the issue of women representation in Parliament the following views were noted:

- i. Widespread and strong support for increase of women in Parliament but not via the 10% methodology. The public in general strongly disapproved of derogatory references made to women as a result of the 10% minimum quota methodology.
- ii. Strong opposition to the 10% minimum quota methodology in that an electoral constituency with a woman MP who comes in via the 10% minimum quota methodology is not the elected MP. She becomes an additional MP for that constituency making a total of 2 MPs from one electorate.
- iii. Remove the 10% minimum quota methodology and revive the status quo for all candidates, men and women competing equally.
- iv. Remove the 10% minimum quota methodology and replace with a definite absolute number to prevent the subsequent changes in the total number of members of Parliament.
- v. Use the 10% minimum quota methodology and comply with the Appeals Court ruling which specifies 6 – as a minimal number for women MPs.

As a controversial issue, which was widely discussed and debated, the Col sought expert advice from local mathematicians to provide clear explanations and appropriate ways forward with the use of the 10% minimum quota methodology. The Col was satisfied with the analysis as presented below and submits the advice as recommendation to be considered for future elections (**see “Attachment 1”**).

The weaknesses of the methodology as utilized in the first instance is that there is less chance for the woman candidate competing with many others in an electoral constituency; or between

candidates competing in constituencies with bigger versus smaller electoral rolls. The revised approach to the 10% minimum quota methodology takes into account a popularity factor, which associates the votes by the woman candidate and the winning candidate. The total number of votes secured by the winning candidate and the number of votes secured by the woman candidate in the same electorate is the basis for comparison with the women candidates of other electorates. This way, all women candidates have equal access to successful selection via the 10% minimum quota for Parliament.

There is no compelling evidence that political parties are strongly encouraging women representation in Parliament. There are also numerous other reasons for the low numbers of women candidates and actual parliamentarians however, a feasible starting point is for political parties to welcome and actively support women to run for parliament as their party candidates. Furthermore, it would be more effective if this party support for women candidacy could be legislated.

There is also no sure-proof remedy to the changing numbers of Parliamentary members as a result of applying the 10% minimum quota for women MPs. A woman who becomes a MP via the 10% minimum quota is also not regarded as highly as a woman who wins the election by winning outright; in other words, to be selected by popular vote. The question is posed whether it is timely that there be a set number of six (6) seats dedicated for women in Parliament. This option could replace the 10% minimum quota affirmative action with another which also addresses the fluctuating number of MPs.

5.2.2 Challenges

- a. The application of the 10% minimum quota for women in Parliament has seen fluctuating changes in the number of seats in parliament since enactment in 2016.
- b. The application of the 10% minimum quota is questionable whether it is the appropriate method to provide equal access into Parliament for women candidates.
- c. Poor legislative drafting and relevant research preparation, inadequate choice of words and style of writing gives rise to numerous interpretations and uncertain decision making especially during times of crisis.
- d. There are many reasons that make it difficult for women to succeed in the current political environment:
 - i. Some villages and families prohibit women from taking on matai titles.
 - ii. Other villages and electorates do not accept women as political candidates.
 - iii. Many women, out of respect and acceptance of the status quo defer to men especially those with high-ranking titles to become their MPs.
 - iv. Samoan traditional social framework is already mapped with each person having a designated role which is largely gender-based.
 - v. Many women out of personal choice will not invest time and money in politics.
 - vi. Many women will prioritise their family welfare over and above involvement in politics.
 - vii. Lack of understanding of the Act especially the amendments that were hurriedly put through.
 - viii. Not all political parties are fully and visibly supportive of increasing women representation in Parliament.

Discussion:

If affirmative action could take place within the political parties whereby one in every five (1:5) candidates could be a woman this can speak volumes about the authenticity of a political party's commitment to the cause. Such an approach to this challenge was supported by the general public who were consulted as it enabled equal competition between men and women in the electoral

process without the need for the 10% minimum quota and furthermore would not change parliamentary numbers.

Furthermore, it was suggested to dedicate six (6) parliamentary seats for women only and these seats would be contested in newly created constituencies or electorates which are separate from the current. The other forty five (45) seats remain as they are and are contested by both men and women. (see “*section 5.3*” below)

5.2.3 Recommendations:

a. Option 1:

- i. To put into effect the 10% minimum quota for women in Parliament, use six (6) as a definite absolute number as declared by the Court of Appeal. To select the six (6) women MPs under the 10% minimum quota, use the new methodology so that there is equal consideration of all women and there is no undue advantage for women who belong to electorates with small numbers of voters.
- ii. Amend *Article 44* of the *Constitution of Samoa* to ratify the new methodology and change the number five (5) to six (6) to correlate with the ruling of the Court of Appeal. Make other amendments as appropriate.
- iii. Provide proper and suitable training for legal drafters to write clearly in a language that is clearly understood and interpreted.

b. Option 2:

Legislate the inclusion of women in political party election candidacy, at a ratio of 1:5, i.e. for every five (5) candidates there should be one (1) woman candidate.

c. Option 3:

Secure six (6) Special seats for Women MPs at any one time. These are women representatives for the six (6) proposed Electoral Regions of Samoa not the electoral constituencies (see “*Boxes 8 & 9*” below)

5.3 Traditional and Electoral Constituencies

5.3.1 Current Situation

Part V of the *Constitution of Samoa*, stipulates the establishment of Parliament as per *Article 42*. Between 1963 and 2019, four (4) amendments were made to the Constitution of Samoa to change the number of MPs as follows:

1963 – increased from 45 to 47 members;

1991 – increased from 47 to 49 members;

2013 – subjective increase based on requirement to meet minimum of 10% MP seats for Women;

2019 – increased from 49 to 51.

The *Electoral Constituencies Act 2019* changed the constituency arrangement from Traditional Constituencies to Electoral Constituencies for conducting the 2021 General Elections. The two urban seats for Vaimauga and Faleata were also disestablished. Out of fifty one (51) seats, twenty (20) were allocated for Savaii, and thirty one (31) for Upolu, with the possibility of additional seats to make up the 10% minimum quota for Women MPs, if this requirement was not met during General Elections. Hence Parliament seats can exceed fifty one (51) as in the fifty three (53) we have now as a result of two (2) additional women MPs as per the 10% minimum quota.

The Population and Housing Census Report 2021 recorded the total population at 205,557, with 45,175 (22%) residing on Savaii, and 160,382 (78%) residing on Upolu. Current allocation of seats stands at twenty (20) (39%) seats for Savaii, and thirty one (31) (61%) for Upolu.

During public consultations, the people strongly criticized the dominant way in which the traditional constituencies were reorganized without public input. It was a one-sided decision by Government that even removed the seat of one of the Pule of Salafai from Parliament. Many expressed their preference to revert back to traditional constituencies.

Section 3 of the *Electoral Constituencies Act 2019* provides for an Electoral Boundaries Committee to be appointed by the HoS upon recommendation of Cabinet, to review the boundaries of electoral constituencies when required. The Col carried out an investigation into the number of seats in Parliament as required under the ToR.

5.3.2 Challenges

- a. Boundaries of traditional districts have been affected, and some villages like Leauvaa and Salamumu have been totally removed from their traditional districts and added to districts in Upolu.
- b. The rearrangement of electoral constituencies did not follow the intention of equal representation as reflected by having too many people in one constituency (e.g. Faleata 1 = 12,750 people) compared with some districts with only a thousand plus people. Similarly, some constituencies have many more villages than others (e.g. Vaimauga 4 = 26 villages). If the total population numbers are used to determine the number of seats in Parliament, then the number of seats for Savaii shall be eleven (11) and Upolu shall be forty (40). Bearing in mind that the set number of seats in Parliament can fluctuate if and when the 10% minimum quota requirement for women MPs needs to be activated.
- c. The two urban seats which were removed and added to new electoral constituencies allows those former urban voters to vote but not to stand as candidates unless they hold a matai title from traditional villages within those electoral constituencies.
- d. The \$1 million programme has started for the 51 electoral constituencies, but in terms of population numbers, however, the bigger constituencies will receive less share per person than the smaller constituencies.
- e. There is no doubt that traditional districts have been affected in trying to meet good democracy requirements, and it is important to consider ways to retain the role of traditional leadership in national governance of the country.

5.3.3 Research

The Col investigated further some of the challenges above, and present in Table 3 below, a comparative scenario with some Pacific countries:

5.3.3.1 Table 3: Comparison of Population, Number of People per Constituency, and GDP

Country	Population	GDP (USD)	Number of Seats in Parliament	Number of People represented per Seat (Electoral Constituency)
Papua New Guinea	9,337,272	26,974m	118	79,129

New Zealand	5,124,100	246,974m	120	42,701
Fiji	902,899	4,296m	55	16,416
Solomon Island	725,767	1,645m	50	14,515
Vanuatu	323,712	984m	52	6,225
Samoa	205,557	844m	51, 53 now	4,031, 3,878 now

It is clear from the above data that there are too many Samoan MPs in relation to its population and economy. It is important to maintain the number of seats at a level that would be affordable by our economy.

Table 4 below shows the number of people per constituency, using different total number of seats in Parliament, and total population of 205,557 as per Population and Housing Census 2021. This Table clearly indicates that even if the number of seats in Parliament is reverted back to forty five (45) where it was sixty (60) years ago, the average number of people per electoral constituency is still below 5,000. When compared with countries with stronger economies than Samoa as in Table 3 above, it reflects that Samoa has been over-represented in Parliament since Independence.

5.3.3.2 Table 4: Number of Possible Seats in Parliament, and Number of People per Electoral Constituency

Number of Seats in Parliament	51	49	47	45
Number of People in Electoral Constituency	4,031	4,195	4,374	4,568

Source: LAS

5.3.4 Recommendations

The three (3) Options discussed are proposed for Cabinet’s consideration as outlined below:

Option One:

- i. Retain status quo of twenty (20) seats for Savaii and thirty one (31) for Upolu
- ii. Establish three (3) new urban seats two (2) for Faleata and one (1) for Vaimauga
- iii. Use the new formula, as recommended in “Section 5.2” above and “Attachment 1”, for calculating Women Parliamentarians under the 10% minimum quota


Option Two:


- a. Retain electoral constituencies for electing MPs as the current practice, but there is a need to reorganize villages and sub-villages so that it would be close to equal the number of people in each constituency.
- b. The seats for Savaii be reduced by two (2) and rural Upolu be reduced by one (1) in accordance with their population.
- c. Establish two (2) new urban seats for Faleata, and one (1) for Vaimauga to accommodate the residents of the non-traditional urban villages around Apia.
- d. The current total of fifty one (51) seats is maintained despite the addition three (3) new urban seats.
- e. The 10% minimum quota affirmative action for Women be maintained, a new formula as recommended in “Section 5.2” above and “Attachment 1”, for calculating additional Women MPs under the 10 % minimum quota be adopted.
- f. Should this Option be accepted, there would be a need for mass re-registration of voters in all constituencies.

5.3.4.1 Table 5: Summary of the 51 Electoral Constituencies under Option 2, Upolu:

Current					Proposed				
	Electoral Constituency	Village	Popn	Voters		Electoral Constituency	Village	Faitau Aofai	Tagata Palota
1	Vaimauga 1	5	8,653	4,349	1	Vaimauga 1	3	5,946	3,206
2	Vaimauga 2	10	5,699	2,993	2	Vaimauga 2	8	6,464	4,698
3	Vaimauga 3	24	10,510	4,568	3	Vaimauga 3	12	6,371	1,869
4	Vaimauga 4	26	6,014	3,143	4	Vaimauga 4	23	6,542	2,628
5	Vaimauga 5	-			5	Vaimauga 5	16	6,202	2,592
6	Faleata 1	13	12,740	5,029	6	Faleata 1	4	6,671	2,761
7	Faleata 2	13	11,043	4,567	7	Faleata 2	9	6,495	2,313
8	Faleata 3	3	8,132	3,121	8	Faleata 3	6	6,346	6,131
9	Faleata 4	4	4,190	2,169	9	Faleata 4	6	6,383	2,757
10	Faleata 5	-			10	Faleata 5	2	6,338	824
11	Faleata 6	-			11	Faleata 6	6	6,337	540
12	Sagaga 1	4	7,975	2,357	12	Sagaga 1	3	6,582	2,294
13	Sagaga 2	3	6,496	3,579	13	Sagaga 2	3	6,528	3,579
14	Sagaga 3	3	5,956	2,945	14	Sagaga 3	4	6,528	2,171
15	Sagaga 4	9	6,032	3,254	15	Sagaga 4	9	6,109	3,254
16	Alofi o Aana 1	1	4,342	2,558	16	Alofi o Aana 1	1	4,431	2,558
17	Alofi o Aana 2	2	2,363	1,745	17	Alofi o Aana 2	3	4,595	3,074
18	Alofi o Aana 3	2	3,479	2,230	18	Alofi o Aana 3	4	4,550	2,495
19	Alofi o Aana 4	7	5,583	2,778	19	Alofi o Aana 4	10	4,466	2,034
20	Aiga i le Tai	17	5,272	3,884	20	Aiga i le Tai	11	3,777	3,043
21	Falelatai & Samatau	9	3,086	2,871	21	Falelatai & Samatau	9	3,256	2,871
22	Lefaga & Faleaseela	9	4,069	3,720	22	Lefaga & Faleaseela	7	3,982	3,673
23	Safata 1	7	4,002	3,217	23	Safata 1	7	4,099	3,217
24	Safata 2	6	3,164	2,570	24	Safata 2	6	3,211	2,570
25	Siumu	3	2,446	2,183	25	Siumu	3	2,551	2,183
26	Falealili 1	10	3,525	3,089	26	Falealili 1	7	2,673	2,177
27	Falealili 2	5	1,333	1,836	27	Falealili 2	9	2,740	3,033
28	Lotofaga	3	1,882	1,187	28	Lotofaga & Lepa	8	2,940	2,125
29	Lepa	6	1,378	938	-	Lepa			
30	Aleipata Itupa i Luga	3	1,290	1,933	29	Aleipata 1	7	2,877	2,700
31	Aleipata Itupa i Lalo	10	4,220	2,274	30	Aleipata 2	6	2,887	2,007
32	Vaa o Fonoti	9	1,295	1,669	31	Vaa o Fonoti	13	2,547	2,260
33	Anoamaa 1	7	4,668	3,194	32	Anoamaa 1	7	4,618	3,127
34	Anoamaa 2	8	4,988	3,059	33	Anoamaa 2	7	4,327	2,580

Key:

 Number of voters too low

 Number of voters too high

 New Constituency

5.3.4.2 Table 6: Summary of 51 Constituencies, Savaii:

Current					Proposed				
	Electoral Constituency	Village	Popn	Voters		Electoral Constituency	Village	Popn	Voters
1	Faasaleleaga 1	10	3,662	2,440	1	Faasaleleaga 1	9	3,321	2,020
2	Faasaleleaga 2	10	3,366	2,298	2	Faasaleleaga 2	8	3,369	2,215
3	Faasaleleaga 3	12	2,894	3,305	3	Faasaleleaga 3	11	2,940	2,711
4	Faasaleleaga 4	8	2,979	2,154	4	Faasaleleaga 4	9	2,793	2,244
5	Faasaleleaga 5	3	1,559	1,621	5	Faasaleleaga 5	4	2,408	2,207
6	Gagaemauga 1	4	2,374	1,786	6	Gagaemauga 1	3	1,848	1,039
7	Gagaemauga 2	7	1,659	2,151	7	Gagaemauga 2	7	2,028	2,645
8	Gagaifomauga 1	2	1,374	1,490	8	Gagaifomauga 1	5	2,303	2,500
9	Gagaifomauga 2	8	1,915	2,030	9	Gagaifomauga 2	9	2,338	2,302

10	Gagaifomauga 3	4	1,441	1,394	-	Gagaifomauga 3			
11	Vaisigano 1	5	2,078	2,049	10	Vaisigano 1	6	2,515	2,414
12	Vaisigano 2	3	1,645	1,578	11	Vaisigano 2	4	2,125	1,898
13	Falealupo	3	1,095	1,346	12	Falealupo & Alataua i Sisifo	5	2,533	2,598
14	Alataua i Sisifo	3	1,866	1,572	-	Alataua i Sisifo			
15	Salega 1	5	2,104	1,668	13	Salega 1	5	2,139	1,668
16	Salega 2	3	1,397	1,164	14	Salega 2	5	2,434	1,803
17	Palauli 1	6	3,155	2,679	15	Palauli 1	4	2,462	2,067
18	Palauli 2	5	2,733	2,346	16	Palauli 2	4	2,740	2,001
19	Satupaitea	4	1,769	1,344	17	Satupaitea	5	2,278	1,764
20	Palauli 3	3	2,197	2,483	18	Palauli 3	4	2,601	2,828

Note: Also refer to "Attachments 2 & 3" for more details

Option Three:

- To ensure financial sustainability of Samoa's Parliament, it is a must that number of seats in Parliament be maintained at an affordable level. Looking into the future, it is recommended to consider possibility of reducing seats of Parliament to 45.
- To avoid fluctuation of number of seats in Parliament by the 10% minimum quota for Women MPs, six (6) special seats should be earmarked for women candidates only. If the current total of fifty one (51) seats be used as a ceiling, then there shall be six (6) special seats for women, and forty five (45) seats for electoral constituencies.
- In future, when there is a steady increase in the number of Women MPs especially when Political Parties drive the women's participation in elections, then the six (6) special seats for women will become obsolete, and number of seats in Parliament shall remain at forty five (45).
- For clarity of accountability and in line with other MPs, it is recommended that women MPs must be allocated designated areas (regions) for which they will be responsible; two (2) for Savaii and four (4) for Upolu. These regions shall be based on the population; and candidates will be voted only by the electoral constituencies within their respective regions.

Table 7 below summarises the allocation of seats for the forty five (45) electoral constituencies; while Tables 8 and 9 below show the allocation of six (6) Special Seats for Women MPs into Regions.

5.3.4.3 Table 7: Allocation of the 45 Seats of Parliament

UPOLU				
	Electoral Constituency	No. of Villages	Population	No. of Voters
1	Vaimauga 1	3	5,946	3,206
2	Vaimauga 2	8	6,464	4,698
3	Vaimauga 3	12	6,371	1,869
4	Vaimauga 4	20	6,542	2,628
5	Vaimauga 5	16	6,202	2,259
6	Faleata 1	4	6,671	2,761
7	Faleata 2	9	6,495	2,313
8	Faleata 3	6	6,346	6,131
9	Faleata 4	6	6,383	2,757
10	Faleata 5	2	6,338	824
11	Faleata 6	6	6,337	540
12	Sagaga 1	3	6,582	2,294
13	Sagaga 2	3	6,528	3,579
14	Sagaga 3	4	6,528	2,171
15	Sagaga 4	9	6,109	3,254
16	Aana Alofi 1	1	4,431	2,558

17	Aana Alofi 2	3	4,595	3,074
18	Aana Alofi 3	4	4,550	2,495
19	Aana Alofi 4	10	4,466	2,034
20	Aiga i le Tai	11	3,777	3,043
21	Falelatai, Samatau & Faleaseela	10	4,186	3,685
22	Lefaga & Saanapu	8	4,424	3,958
23	Safata 1	8	4,688	3,517
24	Safata 2 & Siumu	6	3,801	3,354
25	Falealili	9	3,512	3,059
26	Salani & Lotofaga	9	3,381	3,054
27	Lepa & Aleipata 1	10	3,513	3,163
28	Aleipata 2	9	3,711	2,842
29	Vaa o Fonoti	14	3,240	2,935
30	Anoamaa 1	7	3,925	2,452
31	Anoamaa 2	6	4,324	2,580
	SAVAII			
1	Faasaleleaga 1	9	3,321	2,020
2	Faasaleleaga 2	9	3,369	2,216
3	Faasaleleaga 3	12	3,241	3,305
4	Faasaleleaga 4	9	3,273	2,236
5	Faasaleleaga 3 & Lealatele	6	3,313	2,557
6	Itu o Tane 1	11	2,819	3,360
7	Itu o Tane 2	8	2,964	3,161
8	Itu o Tane 3 & Asau	8	3,084	2,851
9	Vaisigano & Falealupo	7	3,246	3,516
10	Alataua i Sisifo & Samata	6	3,414	2,734
11	Salega	8	3,325	2,526
12	Palauli 1	4	3,204	2,687
13	Palauli 2 & Satupaitea	7	3,112	2,244
14	Palauli 3	6	3,490	3,502

Note: See also "Attachment 4" for more details

5.3.4.4 Box 8: Electoral Regions for the 6 Special Seats for Women

Savaii: 2 Seats

Region 1		Region 2	
Constituencies	Population	Constituencies	Population
Faasaleleaga 1, 2, 3, 4, & 5	14,460	Palauli 1	2,462
Palauli 3	2,601	Salega 1 & 2	4,573
Satupaitea	2,278	Alataua & Falealupo	2,533
Palauli 2	2,740	Vaisigano 1 & 2	4,640
		Gagaifomauga 1 & 2	4,641
		Gagaemauga 1 & 2	3,876
Total	22,079	Total	22,725

5.3.4.5 Box 9: The Electoral Regions of the 6 Special Women Seats

Upolu: 4 seats

Region 1		Region 2	
Constituencies	Population	Constituencies	Population
Vaimauga 1, 2, 3, 4 & 5	31,514	Faleata 3, 4, 5 & 6	25,404
Faleata 1 & 2	13,166	Sagaga 1, 2 & 3	19,368
Total	44,670	Total	44,772

Region 3		Region 4	
Sagaga 4	6,109	Safata 1 & 2	7,220
Aana Alofi 1 & 2	18,042	Siumu	2,551
Aiga i le Tai	3,777	Falealili 1 & 2	5,413
Falelatai & Samatau	3,256	Lotofaga & Lepā	2,940
Lefaga & Faleaseela	3,982	Aleipata 1 & 2	5,764
Total	35,166	Vaa o Fonoti	2,547
		Anoamaa 1 & 2	8,942
		Total	35,377

Shown in Box 10 below is the comparison of the 3 options above.

5.3.4.6 Box 10: Comparisons of 3 Options above

	UPOLU	SAVAII	Total Number of Seats
Population (2021 Census)	160,382	45,175	
% of Seats Option 1	63%	37%	
No. of Seats	34	20	54+ additional women by 10%
Population per Electoral Constituency	5,173	2,259	
% of Seats Option 2	65%	35%	
Number of Seats	33	18	51
Population per Electoral Constituency	4,860	2,510	
% of Seats Option 3	69%	31%	
Number of Seats for Electoral seats plus special seats for Women MPs	31+4=35	14+2=16	51
Population per Electoral Constituency	5,174	3,227	

5.4 Eligibility Criteria for Election Candidates

5.4.1 Current Situation

The eligibility criteria for an election candidate are:

- (i) a Samoan citizen;
- (ii) a registered voter of an electoral constituency;
- (iii) holds a registered matai title for the constituency he/she wishes to stand for;
- (iv) provide community services by the registered matai to the village (monotaga) or the church (matāfale) for 3 years before the general election;
- (v) to reside permanently in Samoa for 3 years before the general election; and
- (vi) to qualify under the Constitution or any other Act.

There are also provisions for candidate non-eligibility under *section 8(2)(d)(i)* of the *Electoral Act 2019*, where a candidate is convicted of crime in Samoa or any other country. The current situation enables an intending candidate who has been convicted of a criminal offence punishable by an imprisonment term of four (4) years or more. Following a grace period of (8) years after conviction such a person can stand as candidate. The Col was concerned that often the seriousness of the crime was not always matched by the prescribed punishment in years such as domestic violence cases and others that fell below the four (4) years punishment. Although candidates as persons of good character and reputation can be validated in more ways than one, the majority opinion noted by the Col from its consultations was to ban all persons with criminal convictions from standing for Parliament.

The non-traditional villages within the traditional districts of Vaimauga and Faleata are located at the boundaries of the Apia urban area. These areas were first inhabited by private land owners, most were part of the two (2) Individual-voters seats that were cancelled after the 2011 general election. They were replaced by 2 urban seats but were also discontinued after the 2016 election. The build-up of these areas expanded by the constant flow of rural and Savaii migrants who purchased or leased lands. Development was accelerated by the release of new freehold lands by the GoS and the Churches. These areas became the growth areas of Samoa and populations have continued to soar in recent decades.

In the 2021 General Election these two urban seats were absorbed into the Traditional Constituencies of Vaimauga and Faleata. During Consultations many voters of these two urban areas expressed discontent at not being able to run for Parliament because their matai titles were not from Vaimauga nor Faleata. The eligibility criteria for election candidacy within the former urban seats had allowed any person with a matai title from any village to run for Parliament. This was considered more open and fair than the current situation.

Uncontested candidates are another phenomenon in the politics of Samoa. This was a popular strategy during the early days of Samoa's Parliament for choosing its MPs. Chosen by traditional consensus there was no need for an election. It was seen to be cost effective and maintained community harmony. The successive MP would be chosen in the same way or there would be a mutual understanding that come the new Parliamentary Term another candidate will take his or her turn.

As shown in the **5.4.2.1 Box 11 below** this unique traditional tool in Samoa's democratic development has all but disappeared. The number of unopposed MPs has declined from 32% to 6% from the 1964 to the 2021 general elections respectively. It was also raised with the Col that constituencies used to rotate the selection of their MPs from one village to the next within their constituencies. Even with the new realities of modern Samoan politics, this traditionally valued method of choosing MPs can still be revived and encouraged where possible.

5.4.2 Challenges

- a. The Population and Housing Census of 2021 recorded 33% of Samoa's population residing in the eight (8) electoral constituencies of Vaimauga 1-4 and Faleata 1-4. The remaining 67% of the population resided in the other 43 constituencies. Of the 205,000 total population of Samoa there were on average about 8,500 people per constituency for Vaimauga and Faleata, and just over 4,000 each for the other 43 constituencies.
- b. The people of the non-traditional villages around Apia at Vaimauga and Faleata made strong oral submissions to the Col that combining their populations with traditional villages along the coast made those constituencies excessively large. They requested the establishment of their own separate new constituencies. As non-traditional villages they did not have traditional matai titles; so they also wanted to establish a system to nominate candidates and select their MPs.
- c. Many of the opinions received by Col in rural villages supported the removal of exemptions in the *Electoral Act 2019* that allowed a candidate to stand for general election at a constituency where he or she was not a permanent resident. They agreed that if a candidate was not a permanent resident of the village in which his or her matai title is from, then that person should not be allowed to stand as candidate for the following reasons:

- (i) had not spent a lot of time in the village but would only appear during the 3-month election period as candidate;
 - (ii) did not have adequate knowledge of village affairs and church matters having been away most of the time at his/her own permanent home;
 - (iii) did not know many of the village people and may depend on corrupt or illegal practice to entice voters;
 - (iv) may cause disruptions and divisions amongst voters and other candidates' supporters.
- d. Authentic permanent residency as a critical eligibility criteria for candidacy, would create a voting environment that is level and fair for competing candidates. There would be no questions regarding three (3) years of village services by candidates who have lived there all of their lives and served their communities.
- e. Two important questions, also seen as big challenges, at this junction of Samoa's Parliamentary elections; and that is the issue of choosing the winning candidates as MPs without going to the polls:
- (i) Is it possible for an electoral constituency to still choose their MP based on their traditional wisdom, cultural experience and respecting the inputs by all voting sub-sectors, namely the matais, youth, women and other voters; to choose the winning candidate by **Unopposed Selection** without going to the vote; and
 - (ii) Is it also possible for the same sub-sectors to select their winning MP by turn-taking or **Village Rotation Selection**?
- f. The Col is of the opinion that Samoa may be able to continue this traditional methodology. The shared responsibility of all the community leaders in all voting sub-sectors can make it work. It would be unrealistic, however, to expect any greater success than the 32% of unopposed elected MPs as in 1964. But Samoa, by promoting a diversity of ways to elect its MPs – through Unopposed Selection, Village Rotation, secret ballot – may strengthen its election processes based on Samoan customs and usage, democratic principles, and Christian values, in line with the theme of this report – **Ua sii le matālalaga** – for better outcomes.

5.4.2.1 Box 11: Summary of Unopposed Elected MPS 1964-2021

	Election Year	Total Unopposed Candidates	Total elected MPs	% of Unopposed MPs
1	1964	15	47	31.9%
2	1967	13	47	27.6%
3	1969	12	47	25.5%
4	1973	7	47	14.8%
5	1973	3	47	6.3%
6	1979	2	47	4.2%
7	1991	2	49	4%
8	1996	2	49	4%
9	2001	1	49	2%
10	2006	1	49	2%
11	2011	2	49	4%
12	2016	4	49	2%
14	2021	3	51	5.8%
	Total	65		

Source: LAO

5.4.3 Recommendations

The following are proposed for consideration:

- a. Amendment to the *Electoral Act 2019* as follows:
 - i. Candidate to register as voter in the electoral roll of the constituency that he or she is a permanent resident;
 - ii. Candidate to hold a matai title that is entered in the Registry of Holders of Matai Titles;
 - iii. Candidate can use the same title in ii) above, to stand as Candidate for the constituency that he or she is a permanent resident (or where he or she is registered to vote).
- b. Removal of the following from the *Electoral Act 2019*:
 - i) Exemption for a candidate who wishes to stand in general election for a constituency that he or she holds a registered matai title but does not qualify as permanent resident;
 - ii) Candidate to provide community services to village (monotaga) or church (matāfale) for 3 years before general election;
 - iii) Candidate to live in Samoa for three (3) years before general election.

Example of revised eligibility criteria for election candidates, if the changes recommended in a. and b. above are supported: Take a male citizen of Samoa, over 21 years, holds a registered matai at Asau, and has lived for over 6 years before election, at his home at Vaivase-uta Village. He is eligible to register as a voter in the electoral roll for the constituency of Vaimauga 2, that includes Vaivase-uta. He is also eligible to stand as candidate for Vaimauga 2 using his matai title from Asau. But if he wishes to stand as candidate for Asau where his title is from, he must first qualify as a voter registered on the roll for the Vaisigano 1 constituency, which includes Asau. He can do that through qualifying as a permanent resident of Asau, by living there for 6 months, before general election. Then as a registered matai from Asau, he is now eligible to stand as candidate for Vaisigano 1.

- c. Review *section 8(2)(d)(i)* of the *Electoral Act 2019* on the non-qualification of a candidate convicted of any crime to be based on the seriousness of the offence rather than the prescribed number of years of punishment.
- d. Review the *Electoral Act 2019* to strengthen the existing strategies for constituencies choosing their winning candidates by:
 - (i) **Unopposed Selection**, or
 - (ii) **Village Rotation Selection**, without the need to conduct voting in a general election.
- e. Establish a **Reward Scheme** to pay \$20,000 to the constituencies (through their District Committee Accounts) that select their winning candidates by Unopposed or Village Rotation Selection, to be funded by savings from the Election Budget.

An examination of the 2021 General Election Budget showed total cost of \$2.7 millions, with about \$56,000 spent on each of the forty eight (48) constituencies that went to the polls; or nearly \$170,000 saved by the three (3) constituents that did not have to vote. These costs, however, excluded other related expenses - if all monetized - related to corruption, illegal actions, private court costs, pressure under uncertainties, stress from conflicts even violence, and keeping harmony amongst communities before, during, and after the general elections.

5.5 The Registration of Political Parties

5.5.1 Present situation

In retrospect the rise of Political Parties was established in the democratic institutional processes of Samoa since the early 1980s. In 1982, 3 Prime Ministers were appointed, leading to the GoS changing three (3) times in one (1) year. Since then, six (6) political parties had been registered but only two (2), namely the HRPP and FAST, were active after the 2021 General Elections.

The registration of political parties by the OEC includes:

- (i) the Secretary of the party applying to the Electoral Commissioner to register the party;
- (ii) the name of the party to be clearly identified with acronym/abbreviation;
- (iii) provision of details for communication;
- (iv) a list of not less than eight (8) registered financial members; and
- (v) payment of the \$3,000.00 registration fee.

During consultations many participants supported the registration of political parties, and conveyed clearly that:

- (a) any MP who left the party he or she joined during the general election should resign from Parliament and go to a by-election;
- (b) the legal provisions that banned an MP from changing his or her party be removed; and
- (c) MPs must remain in their chosen parties, particularly after swearing in to maintain the stability of Parliament.

Others emphasized that after election, MPs must remain with the parties under which they were elected, up until before the swearing-in of MPs to prevent any party-hopping uncertainties in the formation of a new Government. Independent candidates should also remain independent up to swearing-in and may change to another party as was done by the current FAST Deputy Prime Minister.

5.5.2 Challenges

- a. During the 2021 General Elections it was noted that substantial financial support for political parties came from individuals, businesses, and the Samoan diaspora. Opinions were expressed that the elections seemed to be dictated from overseas. Whilst voting is the right of the individual, candidates and political parties should comply with the legal requirements for general election campaigns which include the use of funds and financial support especially during the election period.
- b. There are no provisions in the Act that compels a candidate or political party to divulge the amount of funds donated or gifted by supporters. Without such provisions there will be problems with corruption and vote-buying by candidates, and limited chances of winning for poorly resourced candidates.
- c. There are also no provisions in the Act for political parties or candidates to divulge and publish the identity and amounts donated by private donors to support their election campaigns. Without such provisions to control the sources of campaign finances and legal penalties for non-compliance, there will always be doubt over fair competition or conflict of interest when the alleged donors are awarded big contracts by a new Government.
- d. Political parties are registered annually with the OEC and the Ministry of Commerce, Industry and Labor as incorporated societies however their political activities need to be more transparent as well as the need for penalties for non-compliance of political parties.
- e. Penalties for non-compliance of political parties and candidates on their reporting requirements to be quantified by Law i.e. monetary, suspension, disqualification and expulsion.

- f. The explosive and out-of-control nature of the use of information technology by the political parties, candidates, and the general public is a new challenge. There are no direct provisions in the Act dealing with social media abuse or fake news. Therefore a review by OEC in association with the Ministry of Communication and Information Technology is urgently needed.

5.5.3 Recommendations

The following changes are recommended to the *Electoral Act 2019*:

- a. Amend *section 2* of the Act to strengthen the proper use of information technologies by the political parties and voters and for communication with OEC.
- b. Enforce the political parties to submit their constitutions and membership details to the OEC.
- c. Amend the Act to enforce submission to the OEC by:
 - (i) the political parties and all election candidates of their audited returns, covering the 3-month election period, within three (3) months from the day of general election or bi-election;
 - (ii) the political parties of their annual returns covering all electoral-related activities for the previous financial year (attaching election period returns if relevant), within three (3) months from the last day of the year concerned.
- d. Amend the Act to set the limits of expenditures incurred by the political parties and elections candidates, and other financial transactions; with corresponding penalties for non-compliance (see “**Box 12**” below):

5.5.3.1 Box 12: Funding Limits for Election Expenditures and other Financial Transactions by Political Parties and Candidates, with corresponding Penalties for non-Compliance

Details	Political Parties		Candidates	
	Limit	Penalty	Limit	Penalty
Limit of expenditures for general election (3-month election period)	60,000.00	10,000	10,000	2,000.00
Limit of donations received during the election period, to be published within 5 working days of receipt	3,000	5,000.00	1,000.00	3,000.00
Limit of donations received during the election period, to be reported to OCE within 5 working days of receipt	500.00	2,000.00	200.00	1,000.00
Limits of donations received during 3-month election period to be summarized and reported to OEC with the audited election period returns	50.00	1,000.00	50.00	500.00

5.6 Legislation, Infringements, and Court Cases

5.6.1 Present Situation

5.6.1.1 Legislation

The findings of the Commission revealed and confirmed critical and substantial inconsistencies and disparities which guided the elections in the past sixty (60) years, particularly the 2021 General Elections.

The 2017 Commission of Inquiry had mentioned, and advised in its Report in section 13, pages 45-46 on the following areas:

- (i) vast inconsistencies and disparities of electoral legislations from 1963;
- (ii) since Electoral Act 1963, a series of amendments had been enacted;
- (iii) the Electoral Office attempted to implement the multiple sections of the Act but there were inadequacies. It is therefore strongly recommended to revisit the Act for coherence and easier implementation.

The major shifts since the 2017 Commission of Inquiry included the changes to the 1963 and 2019 Acts, such as *Electoral Constituencies 2019*, the *Electoral Commission Act 2019*, and amendments of the Constitution of Samoa, especially Part V (Parliament). In spite of the major changes to the legislation, the 2021 General Elections was recorded as the most controversial and divisive one. According to the records, nineteen (19) amendments were made in 2020 and two (2) in 2021. The final amendment was enacted on 3rd March 2021 before the General Elections in April. It is noted by the Col that the major changes to the legislation were hastily drafted and made into law, without proper consultation and awareness of the people, particularly the candidates and the OEC.

Some of the legal issues articulated by the people are to:

- (i) remove the legal right to lodge a court proceeding against a winning candidate if 50 percent is not attained by a complainant or plaintiff but allow the candidates and the voters at large to lodge proceedings on illegal electoral activities;
- (ii) introduce regulations and guidelines to replace those of 1963 that are still being used by the Court, so that the procedures against illegal electoral activities, such as petitions and counter petitions are properly conducted and adjudicated;
- (iii) amend the legislation to invalidate any candidate who is proven guilty of any electoral infringements.

5.6.1.2 Infringements and Court Cases

The hasty move to pass the new legislations in 2019 resulted in confusion and a rise in illegal activities and court cases and some are continuing in February 2023 as the Col deliberates. Furthermore, a degree of discord was visible in Parliament, a lack of steadfastness amongst public servants, and division within families, villages, churches, and the country as a whole as well as the diaspora. This scenario continues after twenty two (22) months since the General Elections.

At the closure of the 2021 General Elections, there were thirty two (32) court cases under the Act, compared to one hundred and eight (108) court cases under the Electoral Act 1963. So during fifty three (53) years from 1964 to 2017 under the Electoral Act 1963, there were seventy six (76) cases that came before the Court (see **“Box 13”** below).

5.6.1.3 Box 13: Number of electoral Cases that were handled by the Court, 1964 – 2021.

Year	64	67	70	73	76	79	82	85	88	91	96	01	06	11	16	21
No. of Cases	2	2	1		4	8	23	5	7	11	17	10	4	5	7	32

Source: OAG Information

It was noted by the Col that from 1964 – 2017, that most common issues before the courts were:

- (i) the authority of the Electoral Commissioner;
- (ii) eligibility of candidates;
- (iii) corrupt practices; and
- (iv) electoral petitions.

However, it was also noted that the 2021 General Elections were different in that the Court dealt with significant issues on the Constitution and the elections as listed below:

- i. Vaai v Speaker of the Legislative Assembly [2020] WSSC 89 (14 December 2020)
- ii. Vaai v Speaker of the Legislative Assembly [2020] WSSC 90 (15 December 2020)
- iii. FAST Party v Attorney General [2021] WSSC (17 May 2021)
- iv. Electoral Commissioner v FAST Party [2021] WSCA 21 (21 May 2021)
- v. FAST Party v Attorney General [2021] WSSC 25 (23 May 2021)
- vi. Electoral Commissioner v FAST Party [2021] WSCA 2 (2 June 2021)
- vii. Electoral Commissioner v FAST Party [2021] WSCA 5 (25 June 2021)
- viii. Attorney General v Latu [2021] WSCA 31 (28 June 2021)
- ix. Attorney General v Latu [2021] WSCA 6 (23 July 2021).

Below in “Box 14” are the numbers of Court decisions of the above cases:

5.6.1.4 Box 14: Summary of Election Offences and Court Proceedings from the 2021 Election

No	Criminal Charge	Total	Section of the Law
1	Eligibility of candidates	9	Section 8
2	Corruption activities / infringements	11	Section 13
3	Electoral petitions	3	Section 14
4	Court cases on the Constitution and Electoral Act 2019	9	Section 6

Source: OAG

5.6.2 Challenges:

- a. There were no public consultations with the public at large for the amendments of the Act, but twenty one (21) amendments were enacted before the 2021 General Elections; there was no time limit under the law to prevent any amendment prior to the election for the people to have time to understand the new changes.
- b. It is discriminatory to prevent a losing candidate to lodge a court claim against a successful candidate if the former failed to attain 50% of the latter’s total votes. It provides opportunities for those with the means to entice voters to vote for them, preventing the other candidates from attaining 50%, thus suppressing those candidates who lack financial resources.
- c. During consultations with the CoI, some participants raised that voters who were alleged to be involved in corrupt practices during general election had not been investigated or charged.
- d. Others also voiced their concerns that those who had been convicted of serious crimes were still eligible after a grace period, to stand for election candidates again; while those with minor convictions – punishment of less than 4 years – could stand any time.
- e. While the *Electoral Act 1963* had regulations and numerous amendments enacted for over 50 years the *Electoral Act 2019* was enacted and passed with many amendments enacted, but without adequate regulations. An example is the lack of court procedures for counter petitions, once the *Electoral Act 1963* was repealed.

5.6.3 Recommendations

The following changes are recommended to the *Electoral Act 2019*:

- a. Legislate that there shall be no amendments to the Act within twelve (12) months prior to a general election.
- b. Remove *section 108(2)* to allow any person to file a petition against a person elected or returned at the election.

- c. Amend the Act for infringements under the eligibility provisions for a person to qualify as an election candidate based on the gravity of the offence.
- d. Enforce the prosecution of voters who may be guilty from election petitions as noted in the s Justice Election Petition’s Report to the Speaker of Parliament.
- e. Prepare required regulations for the Act well before the next General Election.

5.7 Voting for Overseas-based Samoans

5.7.1 The current law

As of now a Samoan residing overseas can vote in the Samoa’s General Elections if that person meets the voter’s eligibility criteria, and registers in the electoral roll of the constituency where the voter is a permanent resident (**see “section 5.1” above**). Likewise, any voter can stand as candidate in the same Consistency if the voter meets the criteria for candidates (**see “section 5.4” above**). And for an overseas voter, one’s last place of residence in Samoa before moving aboard shall qualify that voter as permanent resident for Samoa’s general election (*section 21(5) of the Act*).

Example of eligibility for overseas voters: If a Samoan female citizen living overseas, aged twenty one (21) years or older, holds a registered matai title from Salelologa Village and lived at her family home at Vaitele-uta Village before moving overseas, she is eligible to register in the Electoral Roll for the Electoral Constituency of Faleata 3, which includes the village of Vaitele-uta.

If the proposed changes for Eligibility of Electoral Candidates are approved (**see “section 5.4.3” above**), she can stand as Candidate for Faleata 3 Electoral Constituency using her matai title from her natal village of Salelologa. But if she wishes to stand as candidate at Salelologa where her title is from, she must first become a registered voter at Salelologa, by qualifying for permanent residence through living there for six (6) months before the general election – that will qualify her to be a candidate for Faasaleleaga 1.

5.7.2 Challenges

- a. Most of the views that were given to the Col did not support overseas-based Samoans to vote from abroad. Some preferred the existing system whereby they registered and voted in Samoa, in person. The main concern being articulated was that the population of overseas Samoans outnumbered the local population. It means that results of the elections would be dictated from overseas not only at the voter level but the spread of MPs and the Government make-up.
- b. Statistics from the New Zealand Census of Population and Housing in 2018, recorded 182,000 Samoans including 55,512 that were born in Samoa. And the Australian Census statistics in 2016 showed 75,777 Samoans including 24,017 Samoan-born. The total number of those who were Samoa-born residing in Australia and New Zealand between 2016-2018 was close to 80,000.

These people were qualified to vote in Samoa as they were:

- (i) Samoan citizens by birth, and
- (ii) qualified as permanent residents because they lived with their families in Samoa before migrating overseas.

Comparing the total number of possible voters from New Zealand and Australia against the 98,860 voters who voted in Samoa’s General Elections 2021, the figures reflected a massive

number of possible voters from New Zealand and Australia; two (2) of the many countries that received Samoan migrants.

- c. The Col held a meeting with a consultant of the New Zealand Electoral Commission, and confirmed that ways have been put in place for overseas-based New Zealanders voters to vote directly from their countries of residence, and to visit home once between general elections. This was an attempt to encourage overseas-based voters to continue contact with the homeland. A similar system is already in place for overseas-based Samoans. However, they have to register to vote and cast their votes in Samoa, in person.

5.7.3 Recommendations

The following proposals are recommended for consideration:

- a. Amendments to the *Electoral Act 2019*:
 - i. To maintain the present system for overseas-based Samoans to both register in the Electoral Roll and to cast their vote in person in Samoa.
 - ii. An overseas-based voter to visit Samoa once during the electoral cycle (5 years).
- b. A Way Forward:
 - i. To continue the current system for the overseas-based Samoans who were eligible to register and vote at an electoral constituency in Samoa. They should travel to Samoa to register in the electoral roll and cast their votes during the general elections. The majority of views expressed was not to undertake headlong decisions, but deliberate carefully with vision and prudence as this was an extremely delicate matter.
 - ii. Establish a Special Committee, chaired by the Commissioner of OEC and other members include Attorney General, CEO of Finance, CEO of Foreign Affairs & Trade, and CEO of SBS to investigate all the relevant issues involved, generally including, but not restricted to:
 - Overview of overseas-based Samoan voters (e.g. personal, country, numbers)
 - Election and electoral issues
 - Financial costs
 - Legal implications.
 - Impacts on dual citizens and families.

5.8 Members of Political Parties

5.8.1 Current Situation

The Act stipulates that should a member resign from his or her Political Party, then he or she shall return to the electoral constituency for a by-election. However, in two instances where the Speaker of the House terminated MPs under that provision, they were rejected by the Supreme Court. The Court ruling confirmed that the Act was in contravention of the Constitution of Samoa. The Col acknowledges the intention of this provision of the Act, to ensure and safeguard political stability in the country.

When consulted about laws and guidelines to protect members of political parties, the public's responses were mixed as follows:

- i. Candidate to be a resident of the constituency so that voters will understand the candidate and his or her political party. Some testified to having no idea who their MPs were, as they did not live in their constituency
- ii. MPs should remain with the political parties with which they were voted in by their constituencies, but if they change their minds, the constituencies must be consulted.

- iii. MPs should be free to exercise their right to leave their political parties if they had sound grounds for doing so.

5.8.2 Challenges

- a. MPs that left their political parties were not compliant with the Act. Since the General Election 2021, three (3) MPs have left the HRPP, and a Court decision is pending on their resignation from their political party.
- b. A key question at hand now is - **why should a seat for a constituency in Parliament be vacant when the MP has resigned from the political party but not Parliament?** There needs to be a clear understanding of this matter, as some important points must be taken into consideration such as:
 - (i) prior to election, the constituency accepted the candidate and his or her political party;
 - (ii) after the election, the constituency made an official presentation of their MP to the political party they have agreed upon;
 - (iii) if an MP wishes to leave that political party, it is not a unilateral decision on his or her part but needs to seek some advice from the constituency; and
 - (iv) it is hard to avoid sound and justified grounds on which an MP may decide to leave a political party especially if the MP has different values from most of the Party members, or there is no more confidence in the management of the political party.
- c. There are differing views of the Speaker and the Courts in applying the Act when MPs leave their political parties. It appears that the Courts uphold human rights as protected under the Constitution of Samoa. To avoid conflicts between the Act and the Constitution of Samoa, there must be alternative measures that are easier and less costly to address these gaps in the laws.
- d. The following Alternatives place direct responsibility on the MP who has resigned and hopefully serves to deter others from changing sides in order to maintain stability in Parliament. They should avoid by-elections that are more expensive to voters, candidates, and the national economy:

Alternative 1

- i. MPs must not be allowed to leave their political parties during the twelve (12) months of oath. Past experience had shown that MPs were most susceptible to ‘party hopping’ during this period of Government formation, causing political instability.
- ii. Should an MP resign from his or her political party during this period, it means acceptance of having to go back to the constituency for a by-election.
- iii. An MP may resign from his or her political party after twelve (12) months of oath and become an Independent Member and shall be prohibited from becoming a member of another Political party.

Alternative 2

- i. Should an MP resign from his or her political party any time after oath, it is a must for the MP to consult his or her constituency about quitting the party. The MP to submit to the Speaker, a written undertaking signed by at least 30% of voters in the constituency confirming support for his or her resignation from the political party.
 - ii. Such a written undertaking must be signed by chiefs and orators 10%; women voters 10%; and young voters 10% and would indicate support from the constituency of the MPs decision to leave his or her party.
- e. It appears that MPs are too tied to the stability of their political parties that they sometimes forget that they were elected to Parliament in the first instant to represent their

constituencies, not their political parties. Past experience has shown that MPs generally maintain allegiance to their political parties when all is going well but when things start to go wrong for their party, some tend to look after their own personal interests regardless of the views of their constituencies or the costs involved.

5.8.3 Recommendations

The following are recommended for consideration:

- a. Future options such as Alternatives 1 or 2, should consider the following:
 - (i) comply with Electoral Acts and the Constitution of Samoa;
 - (ii) consider the wishes of the MP's constituency;
 - (iii) discourage party hopping and maintain political stability;
 - (iv) to be practical and cost effective.
(see "*section 5.8.2d*" above, for details of Alternatives 1 & 2)
- b. Promote transparent and effective processes to encourage MPs to speak up on important or difficult issues affecting their constituencies or the entire country.

5.9 Re-structuring of the OEC

5.9.1 Current Situation

The OEC is administered by the Electoral Commissioner with five (5) ACEOs. Pursuant to the *Electoral Commission Act 2019* the Electoral Commissioner is independent and singular authority to make any decision on any issue related to the general elections assisted by the Assistant Electoral Officers. The total personnel allocated is forty nine (49), however, only forty five (45) positions are filled with four (4) vacant. The premise that this body is independent according to *section 5* of the *Electoral Commission Act 2019* is misleading as the Commissioner is appointed by the HoS on Cabinet advice. Similarly, Cabinet not only appoints the Assistant Electoral Officers but seek concurrence of the Public Service Commission and the Ministry of Finance for additional staff.

"**Section 4.1.6**" of the Report above, noted a number of complaints against the Electoral Commissioner's handling of previous elections, particularly the process of decision-making. Some of these decisions included the 10% minimum quota of women MPs as well as the illegal edict from the HoS to hold new elections. The repercussions that followed meant a substantial increase in financial expenses of \$2.7million for the 2021 General Elections.

The difficulties and inconvenience experienced by travelling voters due to the removal of special booths were also costly in terms of time, money and well-being.

5.9.2 Obstacles and Challenges

- a. Commissioner of OEC – Execution of decisions
Heading the OEC is not an easy responsibility as it is buffeted by politics, especially when elections are imminent. Some decisions and their execution just prior to the last elections and the vote-counting afterwards, highlighted the complexities for one person to cope with multiple challenges and demands of the voters, candidates, political parties, and elected MPs. Set out below are examples of the decisions and execution of responsibilities that were criticized and questioned his independence.
- b. Candidates' appeal against the decisions by the Electoral Commissioner:

Prior to the General Elections some candidates, namely Tuala Iosefo Ponifasio and Papali'i Tavita Moala, appealed against the Commissioner's decision to invalidate their candidacies because they had not satisfied the three (3)-year period of the monotaga in their respective constituencies. The appellants won their case and were able to contest the 2021 General Elections. It would seem that the Commissioner may have misinterpreted the law.

c. The Electoral Commissioner's decision at the conclusion of the General Election on Elected MPs and Additional Women MPs:

The independence of the Electoral Commissioner was queried after changing his original decision, that *Article 44(1A)* of the Constitution of Samoa was satisfied with the election of five (5) women candidates. With the later activation of an additional woman MP under *Article 44(1A)* this led to a tie between the two (2) political parties at twenty six (26) seats each. The timing of his decision to add an additional women MP under *Article 44(1A)* was highly questionable.

Pending the decision of the independent member, the Commissioner however declared that an additional one (1) women representative was warranted to satisfy *Article 44(1A)*, even though he had declared on social media that the aforementioned Article had been satisfied after the official counting of votes. However the Constitution of Samoa was very clear on *Article 44 (1A)(a)* that: under clause (1) which for the avoidance of doubt, is presently 5.

It was established that the FAST Party had won with twenty six (26) elected MPs to the twenty five (25) for HRPP. However, subsequently the Commissioner rescinded his first decision and the two political parties then had equal numbers of elected MPs each at 26. There was no fundamental reasoning for his new decision to declare an additional woman representative, when *Article 44(1A)* of the Constitution of Samoa is very clear on having five (5) women members.

5.9.2.1 Recommendations for new ESC

Many views indicated that the Commissioner of OEC was not independent in his decision-making because of political interference. Therefore the CoI believes that a revised framework is necessary:

- a. An ESC to be established, to shift the responsibility from one (1) individual adjudicating delicate and complex issues, and avoid being partial to the Government of the day.
- b. The ESC shall consist of three (3) members – all to be respected members of the community; holding matai titles, with extensive senior experience in Government operation and community development; a Samoan citizen, over 50 years old, with vision, integrity, and prudence.
- c. The ESC shall have a Chairperson and two (2) Assistant Commissioners, with expected skills in Law, Politics, Economics, Human Resources, or the Humanities.
- d. Responsibilities of the ESC would include:
 - Pre-Election Period (48 months)
 - Oversee election preparation, legislative reviews, public awareness, election promotion
 - Election Period (3 months)
 - Monitor election operations/implementation, voter / candidates / political parties behavior.
 - Monitor social media posts, printed media, television ads, radio promotion.
 - Post-Election (9 months)
 - Coordinate preparation of election debriefs, and official reports to Cabinet and Parliament.

- Oversee examination reviews of political parties and candidates returns on election finances.
- Supervise reviews of annual returns from political parties.

General Tasks

- Advise on - budgetary proposals, human resources development, public communications, asset management.

5.9.3 The Commissioner and Staff of the OEC (General)

5.9.3.1 Electoral Commissioner and Staff

The CoI deliberated on the existing framework for administration, and its flaws were apparent and it should be re-structured that the head shall be the CEO, and the next five (5) immediately below shall be ACOs - this should elaborate and improve the whole structure.

It is noted that the OEC was not conducting its functions and responsibilities effectively, because the appointment of a CEO was long delayed. From our observation, many staff members were casual workers, and were not as committed to their tasks if on permanent status with good supervision.

5.9.3.2 Other Office Matters

Some of the views expressed by the public questioned the capability of staff and their overall commitment to the jobs and the people they served. The CoI noted that a number of areas needed to be improved. These issues have been raised with the new Commissioner but previously the Assistant Commissioners had been advised. The Electoral Commissioner admitted that it was necessary to re-structure the staff according to their relevant skills and capabilities.

5.9.3.3 General Recommendations

It is recommended for the Commissioner and other staff as follows:

- a. Repeal section 3 and section 4 of the Electoral Commission Act 2019, in order to change the administrator of the OEC as CEO, and the Assistant Commissioners as ACEOs.
- b. That a senior/mature person be recruited to train the senior staff and secure assistance from New Zealand or Australia to adequately upskill and upgrade staff.
- c. The relevant Ministries to work closely with the OEC to update and cross check voter information on the electoral roll (**see “Chart 1 at 5.1.3.1” above for the Framework for Preparation of the Electoral Roll**).
- d. OEC to prepare detailed annual budgets to support its activities.

5.9.4 Overall Recommendations

It is recommended overall for the OEC that

- a. An ESC to be established, to shift the responsibility from one (1) individual adjudicating delicate and complex issues, and avoid being partial to the Government of the day.
- b. The ESC shall consist of three (3) members – all to be respected members of the community; holding matai titles, with extensive senior experience in Government operation and community development; a Samoan citizen, over 50 years old, with vision, integrity, and prudence
- c. The ESC shall have a Chairperson and 2 Assistant Commissioners, with expected skills in Law, Politics, Economics, Human Resources, or the Humanities
- d. Responsibilities would include:

Pre-Election Period (48 months)

- Oversee election preparation, legislative reviews, public awareness, election promotion

Election Period (3 months)

- Monitor election operations/implementation, voter / candidates / political parties behavior
- Monitor social media posts, printed media, television ads, radio promotion

Post-Election (9 months)

- Coordinate preparation of election debriefs, and official reports to Cabinet and Parliament
- Oversee examination reviews of political parties and candidates returns on election finances
- Supervise reviews of annual returns from political parties

General Tasks

- Advise on budgetary proposals, human resources development, public communications, and asset management.
- e. To repeal Section 3 and Section 4 of the Electoral Act 2019, in order to change the administrator of the OEC as CEO, and the Assistant Commissioners as ACEOs
 - f. A senior/ mature person be recruited to train the senior staff and secure assistance from New Zealand or Australia to adequately upskill and upgrade staff
 - g. The relevant GoS Ministries to work closely with the OEC to update and cross check voter information on the electoral roll (see “**Chart 1 at 5.1.3.1**” above for the **Framework for Preparation of the Electoral Roll**)
 - h. OEC to prepare detailed annual budgets to support its activities.

5.10 General Matters

5.10.1 Strengthening Traditional Governance in the Polity of Samoa

It was noted with concern by the Col that substantial actions and decisions which the Caretaker Government undertook after the General Elections 2021 were unlawful. These included the passing of a Three (3) Month Budget; the appointment of Land & Titles Judges; and use of Government assets, resources and offices. The stance of the Caretaker Government following the forty five (45) days after General Elections was unconstitutional and it was only by the Grace of God and a vigilant Supreme Court that Samoa was saved from what could have been a major political disaster or worse.

This turn of events is one of the reasons why the Col considered a revisiting of the House of Tumua & Pule Ono, which can serve as a balancing force during times of civil unrest or political chaos.

When the Col met with representatives of all the electoral constituencies around the country, numerous complaints were voiced against new electoral boundaries. They felt these had disrupted established and traditional districts of Samoa. For example and in particular the redistribution of boundaries of the Parliamentary seat for one of the Pule o Salafai. According to the views expressed of the people:

- i. The traditional dominion and leadership was fading away, yet it has a key role in upholding one’s identity and promoting integrity and harmony.
- ii. It was also apparent that Samoa’s polity was strongly influenced by foreign concepts, and yet Samoa had already established a proven record in traditional governance and leadership.

5.10.1.1 Challenges

The Col noted the people’s concern that the multiple changes and amendments to the Electoral Acts in the past reflected a decline in acknowledging Samoa’s traditional institutions and frameworks. The original traditional constituencies being replaced by the new electoral constituencies is a major example. The rash way that constituency boundaries were redrawn without public consultations irked and upset many people.

From the Col’s observation there were other confronting challenges and obstacles during and after the 2021 General Elections. Therefore it was timely to revisit the traditional-politico contributions of Tumua & Pule in strengthening the impacts of Samoan customs and usage in political development. When the political parties were at an impasse thus delaying the instalment of the newly elected Government after the 2021 General Elections, an appealing call was resoundingly audible- ‘Where is Tumua & Pule?’

The context of Tumua & Pule is based on the divisions of Tumua (Upolu) and Pule (Savaii) into five (5) and six (6) traditional districts respectively as follows:

Tumua (Upolu)

(Five (5) traditional districts)

1. Atua
2. Aana
3. Tuamasaga
4. Aiga-ile-Tai
5. Vaa-o-Fonoti

Pule (Savaii)

(Six (6) traditional districts)

1. Faasaleleaga
2. Gaga’emauga
3. Gagaifomauga
4. Vaisigano
5. Alataua-i-Sisifo
6. Palauli

The combined eleven (11) traditional districts make up Tumua & Pule, and the basis of the proposed House of Tumua & Pule. The Col sees the raising of this issue as quite timely under recent circumstances, and supports the possibility of reconsidering the establishment of the House of Tumua & Pule through a second National Referendum, to bolster political harmony and to affirm the over-arching role of Culture and Tradition in the polity of Samoa.

5.10.1.2 Recommendations:

Recognizing the considerable contribution and time-honored role of traditional districts in the political development of Samoa, the Col recommends revisiting by referendum the establishment of the Maota of Pule & Tumua, to strengthen traditional good governance of Samoa’s political discourse.

5.10.2 Lowering Voting Age to 18 Years

5.10.2.1 Current situation

Since 2020, the OEC has conducted pre-registration for students at both secondary schools and post-secondary institutions, preparing them for easy transition to vote when they turn twenty-one (21). During discussions between the Col and students from Colleges, TVET institutions, University of South Pacific, and the National University of Samoa, many voiced their enthusiasm to vote at eighteen (18). Having gained an understanding from public notices and awareness programmes on general elections, this has stimulated their interest regarding the importance of voting and choosing new leaders for the country.

Moreover, that a woman is now the Prime Minister amplified for students the significance of the democratic process in Samoa. They had excellent communication skills presenting their views in both Samoan and English with confidence. Many of their views were mature and well thought-out,

such as why criminal charges are not administered during the campaign period but only after the election. The students' sense of responsibility and their outlook on life was reflected in the way they organized and conducted themselves as groups to discuss, and then confidently voice their concerns. The majority supported voting at eighteen (18), joining most of their peers in other Pacific countries, except Nauru and Tonga (see "**Box 15**" below)

5.10.2.1.1 Box 15: Comparison of Voting Ages in the Pacific Region

Country	Voting Age
Cook Islands, Australia, Fiji, New Zealand, Micronesia, Niue, New Caledonia, PNG, Tahiti, Tuvalu, Vanuatu, Tokelau	18
Nauru	20
Samoa, Tonga	21

Source: <https://en.wikipedis.org>

5.10.2.2 Challenges

- a. Most of the adults, presumed parents of young people, did not support their children being eligible to vote at eighteen (18) years old. Their reasons, given to the CoI during public consultation seemed protective of their children as too young, still immature to think for themselves and can be easily corrupted by the campaigning pressures and influences of general elections.
- b. However, eighteen (18) year olds have been progressively recognized by law for over 60 years, to be eligible for most adult entitlements and obligations, and would be able to:
 - i. Acquire a Driver's Licence, at 17 (Samoa National Road Code 1960);
 - ii. Get married legally (Marriage Ordinance 1961);
 - iii. Make a Will (Wills Act 1975);
 - iv. Register as an adult (Birth, Deaths & Marriages Registration 2002);
 - v. Be charged as an adult, if one breaks the law (Young Offenders' Act 2007);
 - vi. Be employed, receive wages, and pay taxes (Labour & Employment Relations Act 2013).

5.10.2.2.1 Box 16: Projection of Additional 18 year old Voters in 2026.

	2021	2021 - 2026	2026
Youth		Population Change	
Total	205,557	2,000	207,557
18 Year Olds	3,656	25	3,208
19 Year Olds	3,183	-50	3,133
20 Year Olds	3,203	-80	3,123
Total			9,464

Source: SBS 2016, 2021

- c. There are also marked differences in population indicators between age group growth rates, voter numbers between urban and rural constituencies and total voter numbers between Upolu and Savaii. As shown in "**Box 16**" above, it is projected that over 9,000 new voters will be added to the voting population if eighteen 18-year olds are given the right to vote in 2026. That is despite the negative growth rates forecasted in the 19- and 20-year olds age group during 2021-2026.

5.10.2.3 Recommendations

It is recommended that:

- i. The Voting Age be lowered from 21 to 18 years, so Samoa's youth and young citizens can exercise their constitutional rights, this places them alongside most of their peers in the Pacific Region to vote at the next general election to select Samoa's political leaders.
- ii. The Ministry of Education, Sports and Culture to improve curriculum content in democracy and good governance and strengthen political awareness of teachers and students through collaboration with OEC and their strategy for electoral information dissemination.

5.11 Summaries of Recommendations from the TOR Topics

5.11.1 Electoral Roll (5.1)

- a. Amend *section 13* of the Act to remove the fine for non-registration of twenty (20) penalty units or \$2000 and replace with one (1) penalty unit or \$100.
- b. Remove *section 63* of the Act on compulsory voting.
- c. Remove *section 16* of the Act on exemptions for voters to register in the electoral rolls of constituencies where they do not reside permanently, including:
 - i. Matai registering in the electoral roll of a constituency where he is a registered matai
 - ii. Child registering in the electoral roll of a constituency where either of his parents is a candidate for election
 - iii. Wife of a candidate registering in the electoral roll of the constituency where her husband is a candidate
- d. Remove *section 18* of the Act for the transfer of a voter from one constituency to another where he or she is not a permanent resident.
- e. Develop a framework to guide the compilation of the electoral roll, where the GoS agencies and the general public would work together with the OEC to support the preparation, including the checking, of the electoral roll (*see section 5.1.3.1 - Chart 1 above*)
- f. Enforce by law the Framework for Preparation of electoral roll, highlighting the relationship between the GoS agencies and OEC, with Cabinet oversight; while recognizing the important role of the various voter subsectors in checking and confirming the information contained in the respective electoral roll for each electoral constituency.

5.11.2 Women MPs (5.2)

- a. **Option 1:**
 - i. To put into effect the 10% minimum quota for women in parliament, use six (6) as a definite absolute number as declared by the Court of Appeal. To select the six (6) women members of parliament, use the new methodology so that there is equal consideration of all women and there is no undue advantage for women who belong to electorates with small numbers of voters.
 - ii. Amend *Article 44* of the Constitution of Samoa to ratify the new methodology and change the number five (5) to six (6) to correlate with the ruling of the Court of Appeal. Make other amendments as appropriate.
 - iii. Provide proper and suitable training for legal drafters to write clearly in a language that is clearly understood and interpreted
- b. **Option 2**
Legislate the inclusion of women in party election candidacy at a ratio of 1:5 i.e. for every five (5) candidates there should be at least one (1) woman candidate.

c. **Option 3**

Secure six (6) special seats for Women MPs at any one time. These are women MPs for the proposed six (6) regions of Samoa, not the electoral constituencies (see “**Boxes 8, 9 & 10**” above)

5.11.3 Traditional and Electoral Constituencies (5.3)

Option 1:

- a. Retain status quo of twenty (20) seats for Savaii and thirty one (31) for Upolu.
- b. Establish three (3) new urban seats two (2) for Faleata and one (1) for Vaimauga.
- c. Use the new formula as recommended in “**section 5.2**” above and “**Attachment 1**”, for calculating Women Parliamentarians under the 10 % minimum quota.

Option 2:

- a. Retain electoral constituencies for electing MPs as the current practice, but there is a need to reorganize villages and sub-villages so that it would be close to equal the number of people in each constituency.
- b. The seats for Savaii be reduced by two (2) and rural Upolu be reduced by one (1) in accordance with their population.
- c. Establish two (2) new urban seats for Faleata, and one (1) for Vaimauga to accommodate the residents of the non-traditional urban villages around Apia.
- d. The current total of fifty one (51) seats be maintained despite the addition three (3) new urban seats.
- e. The 10% minimum quota affirmative action for Women be maintained, a new formula as recommended in “**section 5.2**” above and “**Attachment 1**”, for calculating additional Women MPs under the 10 % minimum quota be maintained.
- f. Should this Option be accepted, there would be a need for mass re-registration of voters in all constituencies

Option 3

- a. To ensure financial sustainability of Samoa’s Parliament, it is a must that number of seats in Parliament be maintained at an affordable level. Looking into the future, it is recommended to consider possibility of reducing seats of Parliament to forty five (45).
- b. To avoid fluctuation of number of seats in Parliament by utilizing the 10% minimum quota for Women MPs, six (6) special seats should be earmarked for women candidates only. If the current total of 51 seats be used as a ceiling, then there shall be six (6) special seats for women, and forty five (45) seats for electoral constituencies.
- c. In future, when there is a steady increase in the number of Women MPs especially when Political Parties drive the women’s participation in elections, then the six (6) special seats for women will become obsolete, and number of seats in Parliament shall remain at forty five (45).
- d. For clarity of accountability and in line with other MPs, it is recommended that women MPs must be allocated designated areas (regions) for which they will be responsible; two (2) for Savaii and four (4) for Upolu. These regions shall be based on the population; and candidates will be voted only by the electoral constituencies within their respective regions.
(see “**Boxes 8 & 9**” of section 5.3.4 above for more details)

5.11.4 Eligibility of Election Candidates (5.4)

The following are proposed for consideration:

- a. Amendment to the *Electoral Act 2019* as follows:

- i. Candidate to register as voter in the electoral roll of the constituency that he or she is a permanent resident.
 - ii. Candidate to hold a matai title that is entered in the Registry of Holders of Matai Titles.
 - iii. Candidate can use the same title in ii) above, to stand as Candidate for the constituency that he or she is a permanent resident (or where he is registered to vote).
- b. Removal from the *Electoral Act 2019*:
- i. Exemption for a candidate who wishes to stand in general election for a constituency that he or she holds a registered matai title but does not qualify as permanent resident.
 - ii. Candidate to provide community services to village (monotaga) or church (matāfale) for three (3) years before general election.
 - iii. Candidate to live in Samoa for three (3) years before general election.
- c. Review *section (2)(d)(i)* of the Act on the non-qualification of a candidate convicted of any crime to be based on the seriousness of the offence rather than the prescribed number of years of punishment.
- d. Review the Act to strengthen the existing strategies for constituencies choosing their winning candidates by: (i) **Unopposed Selection**, or (ii) **Village Rotation Selection**, without the need to conduct voting in a general election.

Establish a **Reward Scheme** to pay \$20,000 to the constituencies (through their District Committee Accounts) that select their winning candidates by Unopposed or Village Rotation Selection, to be funded by savings from the election budget.

5.11.5 Registration of Political Parties (5.5)

The following changes are recommended to the *Electoral Act 2019*:

- a. Amend *section 2* of the Act to strengthen the use of information technologies by the political parties and voters for communication with OEC.
- b. Enforce the political parties to submit their constitutions and membership details to the OEC.
- c. Amend the Act to enforce submission to the OEC by:
 - (i) the political parties and all election candidates of their audited returns, covering the three (3)-month election period, within three (3) months from the day of general election or by-election;
 - (ii) the political parties of their annual returns covering all electoral-related activities for the previous financial year (attaching election period returns if relevant), within three (3) months from the last day of the year concerned.
- d. Amend the Act to set the limits of expenditures incurred by the political parties and elections candidates, and other financial transactions; with corresponding penalties for non-compliance. **(see “Box 12” below for details)**

5.11.5.1 Box 12: Funding Limits for Election Expenditures and other Financial Transactions by Political Parties and Candidates, with corresponding Penalties for non-Compliance

Details	Political Parties		Candidates	
	Limit	Penalty	Limit	Penalty
Limit of expenditures for general election (3-month election period)	60,000.00	10,000	10,000	2,000.00
Limit of donations received during the election period, to be	3,000	5,000.00	1,000.00	3,000.00

published within 5 working days of receipt				
Limit of donations received during the election period, to be reported to OCE within 5 working days of receipt	500.00	2,000.00	200.00	1,000.00
Limits of donations received during 3-month election period to be summarized and reported to OEC with the audited election period returns	50.00	1,000.00	50.00	500.00

5.11.6 Legislation, Infringements, and Court Cases (5.6)

The following changes are recommended to the *Electoral Act 2019*:

- a. Legislate that there shall be no amendments to the Act within twelve (12) months prior to a general election.
- b. Remove *section 108(2)* of the Act to allow any person to file a petition against an elected or returned candidate at the general election.
- c. Amend the Act for infringements under the eligibility provisions for person to qualify as an election candidate.
- d. Enforce the prosecution of voters who may be guilty from election petition hearings as noted in the Chief Justice Election Petition's Report to the Speaker of Parliament (2021).
- e. Prepare regulations for the Act well before the next General Election.

5.11.7 Voting for Overseas-based Samoans (5.7)

The following proposals are recommended for consideration:

- a. Amendments to the *Electoral Act 2019*:
 - i. To maintain the present or existing system for overseas-based Samoans to both register in the Electoral Roll and to cast their vote in person in Samoa.
 - ii. An overseas-based voter to visit Samoa once during the electoral cycle (5 years).
- b. A Way Forward:
 - i. To continue the current system for the overseas-based Samoans who were eligible to register and vote at an electoral constituency in Samoa. They should travel to Samoa to register in the electoral roll and cast their votes during the general elections. The majority of views expressed was not to undertake headlong decisions, but deliberate carefully with vision and prudence as this was an extremely delicate matter.
 - ii. Establish a Special Committee, chaired by the Commissioner of OEC and other members include Attorney General, CEO of Finance, CEO of Foreign Affairs & Trade, and CEO of SBS to investigate all the relevant issues involved, generally including, but not restricted to:
 - Overview of overseas-based Samoan voters (e.g. personal, country, numbers);
 - Election and electoral issues;
 - Financial costs;
 - Legal implications;
 - Impacts on dual citizens and families.

5.11.8 Members of Political Parties (5.8)

The following are recommended for consideration:

- a. Future options such as Alternatives 1 or 2, should consider the following:

- (i) comply with Electoral Acts and the Constitution of Samoa;
 - (ii) consider the wishes of the MP's constituency;
 - (iii) discourage party hopping and maintain political stability;
 - (iv) to be practical and cost effective (see "*section 5.8.2d*" above, for details of **Alternatives 1 & 2**)
- b. Also promote transparent and effective processes to encourage MPs to speak up on important or difficult issues affecting their constituencies or the entire country.

5.11.9 Restructuring of the OEC (5.9)

It is recommended, overall for the OEC, that:

- a. An ESC to be established, to shift the responsibility from one individual adjudicating delicate and complex issues, to avoid being partial and safeguard independence.
- b. The ESC shall consist of three (3) members – all to be respected representatives of the community; holding matai titles, with extensive senior experience in Government operation and community development; a Samoan citizen, over 50 years old, with vision, integrity, and prudence
- c. The ESC shall have a Chairperson and two (2) Assistant Commissioners, with expected skills in Law, Politics, Economics, Human Resources, or the Humanities
- d. Responsibilities would include:
 - Pre-Election Period (48 months)
 - Oversee election preparation, legislative reviews, public awareness, election promotion
 - Election Period (3 months)
 - Monitor election operations/implementation, voter / candidates / political parties behavior
 - Monitor social media posts, printed media, television ads, radio promotion
 - Post-Election (9 months)
 - Coordinate preparation of election debriefs, and official reports to Cabinet and Parliament
 - Oversee examination reviews of political parties and candidates returns on election finances
 - Supervise reviews of annual returns from political parties
 - General Tasks
 - Advise on budgetary proposals, human resources development, public communications, asset management.
- e. Repeal section 3 and section 4 of the *Electoral Commission Act 2019*, in order to change the administrator of the OEC as CEO, and the Assistant Commissioners as ACEOs
- f. That an experienced person be recruited to train the senior staff and secure assistance from New Zealand or Australia to adequately upskill and upgrade all staff.
- g. The relevant GoS Ministries to work closely with the OEC to update and cross check voter information on the electoral roll (see "**5.1.3.1 – Chart 1**" for the **Framework for Preparation of the Electoral Roll**).
- h. OEC to prepare detailed annual budgets to support its activities

5.11.10 Strengthening of Traditional Governance in the Polity of Samoa (5.10.1)

Recognizing the considerable contribution and time-honored role of traditional districts in the political development of Samoa, the Col recommends revisiting by referendum the establishment of the Maota of Tumua & Pule Ono to strengthen traditional good governance of Samoa's political discourse.

5.11.11 Lowering the Voting Age to 18 Years (5.10.2)

It is recommended that:

- i. The Voting Age to be lowered from twenty one (21) to eighteen (18) years, so Samoa's youth and young citizens can exercise their constitutional rights, like most of their peers in the Pacific Region to vote at the next general election to select Samoa's political leaders.
- ii. The Ministry of Education, Sports and Culture to improve knowledge of and strengthen awareness by teachers and students in democratic discourse and good political governance in Samoa and beyond, through teaching relevant courses and disseminating appropriate information at school.

6. Conclusion

The members of the Commission believe that at the conclusion of its Report, all the issues under the Terms of Reference have been achieved as mentioned in "**section 3.4**". Included is a close scrutiny of critical issues that arose from the 2021 General Elections, so that they shall not re-emerge. All commentaries and information from public consultations were treated without bias. Other sources of information included Reports by previous Commissions of Inquiries, social media and other recent records which were helpful moving forward. The Report is compiled for clarity and ease of understanding.

Some of the recommendations in the Report are difficult but the Commission believes that for sixty (60) years since independence, our nation has been continuously confronted with surmounting electoral problems. Hence the theme of this work "***Ua si'i le matalalaga***" is a determination to undertake changes for a better future. With open mindedness, resolve and vision; Cabinet, Parliament and our nation as a whole can continue to address the electoral challenges that have besieged our political history for so long.

'There is rarely a fishing expedition without spillage.' Undoubtedly the Commission may have been amiss in some of its undertakings and prays for understanding and goodwill as it comes to the conclusion of its work. It is hoped that the recommendations of this Report may provide food for thought and action to strengthen future general election processes and positive political developments for Samoa.

7. List of Attachments

7.1 Attachment 1: New Methodology for the Selection of Additional Women MPs under the 10% Quota

TŪSIGA MO LE KOMITI O LE TULAFONO O FAIGA PALOTA

Vavatau Taufao

Piu-Falealili

1. Po’o lelei le auala o loo filifili ai sui tamaita’i ina ia faaatoa ai le 10%.

Women candidates from various constituencies are not playing on a level playing field in the formula used. From the constitution, the formula is:

“Highest number of votes” means the percentage of the total valid votes in a constituency polled by a woman candidate ...

There are two factors at work in this formula:

- (i) The number of candidates running
- (ii) The number of voters.

Effects of the second factor are subjective and small and are often cancelled out when the amount of campaigning from running candidates are either levelled or nil. It is the first factor that provides stunning effects of unfairness even with a difference of just one (1) in the number of candidates. A woman competing with one other candidate has a much higher chance than a woman competing with two other candidates. That is, with the formula in the constitution, the lesser the number of running candidates the higher the chance to be selected. The classical evidence for us is the two selected women who are now in the parliament from this formula; they are both from constituencies where only two (2) candidates competed in the election.

2. Suggested Formula

- If there are two candidates running in a constituency, the winning candidate is the one that is supported by the majority of voters. The percentage of votes the runner-up gets is a measure of his/her popularity compare to the winning candidate.
- If there are three candidates, then it is a different comparison. The percentage of votes any of the losing candidates gets is a measure of his/her popularity compare to the other two candidates (the winning candidate and the other losing candidate).
Similarly when there are four, five or more candidates. The chance of being selected drops dramatically with an increase of 1 candidate. For example, while the chance when there are two candidates is about 0.009, the chance when there are three drops to 0.0006 which is 15 times lesser.
- To make things levelled, I suggest that we compare the popularity of a woman candidate and the winning candidate only. How this done:
Step 1: Add the votes polled by the woman candidate and the votes poled by the winning candidate (If there are more than two candidates, discard votes polled by the others).
Step 2: Divide the number of votes polled by the woman candidate by the total in Step 1.
Step 3: Multiply the result of step 2 by 100 to get the percentage popularity of the woman candidate compare to the winning candidate. This is the percentage that should be used to select additional women to fulfil the requirement of 10%.

- The advantages of this formula over the one in the constitution are:

(i) It gives a fairer comparison.

(ii) The effects of both two factors given above are all removed.

- The only disadvantage is the exclusion of voters. However, the formula is still safe because the number used is the best representation of the constituency as it will surely be the vast majority of voters of the constituency.

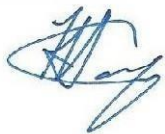
- Here are some examples from our election results.

Alataua West	Seuulaloane	695
	Ali'imalemanu Alofa Tu'uau	464
TOTAL		1159
Ali'imalemanu popularity % compare to the winning candidate		40.035%

Anoama'a 2	Fonotoe Pierre Lauofo	1121
	Toomata Norah Leota	780
	TOTAL	1901
Toomata's popularity % compare to the winning candidate		41.031%

Fa'asaleleaga 2	Magele Sekati Fiaui	649
	Gatoloaifaana	555
	TOTAL	1204
Gatoloaifaana's popularity % compare to the winning candidate		46.096%

Siumu	Tuu'u Anasi'I Leota	633
	Atuatasi	244
	TOTAL	877
Atuatasi's popularity % compare to the winning candidate		27.822%



Vavatau Taufao
Piu-Falealili.

7.2 Attachment 2: Review of the 51 Electoral Constituencies – Option 1

IP 1 - VAIMAUGA 1:			
	Nuu	Aofai o Tagata	Tagata Palota
1	Laulii	2217	1233
2	Letogo	1565	807
3	Vailele tai	2164	1166
		5,946	3,206
IP 2 - VAIMAUGA 2:			
1	Fagalii	1670	1102
2	Moataa	1420	1215
3	Vaiala tai	560	599
4	Vaiala uta	342	7
5	Maagiagi tai	1822	1116
6	Maagiagi uta	351	5
7	Apia	174	597
8	Tauese	125	57
		6,464	4,698
IP 3 - VAIMAUGA 3			
1	Vailele uta	1120	41
2	Moataa uta	232	7
3	Vaivase uta	1024	451
4	Tanoaleia	660	0
5	Vaivase tai	824	326
6	Toomatagi	232	63
7	Faatoia	906	284
8	Levili	64	46
9	Vini Fou	81	4
10	Vaipuna	363	219
11	Matautu tai	192	167
12	Matautu uta	673	261
		6,371	1,869
IP 4 - VAIMAUGA 4			
1	Tamaligi	0	6
2	Vaisigano	270	53
3	Leone	626	198
4	Aai o Niue	135	62
5	Matafele	6	16
6	Tufuiopa	421	223
7	Togafuafua	261	127
8	Tuloto	102	6
9	Malifa	146	113
10	Taufusi	316	246
11	Saleufi	96	63
12	Lalovaea	753	382
13	Palisi	1004	256

IP 6 - FALEATA 1			
	Nuu	Aofai o Tagata	Tagata Palota
1	Vaimoso	2580	1562
2	Sinamoga	1346	480
3	Moamoa	1442	679
4	Moamoafou	1303	40
		6,671	2,761
IP 7 - FALEATA 2			
1	Lepea	651	951
2	Vaitoloa	658	230
3	Seese	655	92
4	Pesega	79	45
5	Lotopa	1474	360
6	Alafua	1455	297
7	Tuanaimato	584	72
8	Tuaefu	159	39
9	Tulaele	780	227
		6,495	2,313
IP 8 - FALEATA 3			
1	Vailoa	1523	854
2	Vaiusu	2596	1331
3	Vaigaga	696	854
4	Vaitele tai	796	2778
5	Talimatau	537	210
6	Elise fou	198	104
		6,346	6,131
IP 9 FALEATA 4			
1	Saina	268	221
2	Toamua	2401	1374
3	Safune	273	14
4	Puipaa	1417	560
5	Falelauniu	396	531
6	Tafaigata	1628	57
		6,383	2,757
IP 10 - FALEATA 5			
1	Vaitele uta	2771	134
2	Siusega	3567	690
		6,338	824
IP 11 - FALEATA 6			
1	Vaitele fou	4657	209
2	Ululoloa	793	182
3	Tanumapua	552	69
4	Tapatapao	270	68

14	Fugalei	186	62
15	Savalalo	95	57
16	Sogi	132	88
17	Mulinuu	22	30
18	Vaimea	406	90
19	Alamagoto	922	283
20	Aai o Fiti	175	79
21	Maluafou	73	19
22	Leififi	34	32
23	Motootua	361	137
		6,542	2,628
	IP 5 - VAIMAUGA 5		
1	Maagao	0	69
2	Lelata	199	62
3	Leufisa	255	112
4	Tanugamanono	810	566
5	Papauta	437	294
6	Nafanua	344	22
7	Tanumaleko	61	5
8	Papaloloa	272	71
9	Vailima	854	524
10	Avele	407	17
11	Letava	689	51
12	Vaoala	1008	550
13	Malololelei	390	72
14	Tiapapata	202	95
15	Afiamalu	263	78
16	Tiavi	11	4
		6,202	2,592
	Tulaga o iai nei:		
	Aana Alofi 1		
	Village	Popn	Voters
1	Faleasiu	4,342	2,558
	Aana Alofi 2		
1	Fasitoo uta	2192	1729
2	Lepale	171	16
		2,363	1,745
	Aana Alofi 3		
1	Nofoalii	2184	1329
2	Leulumoega	1295	911
		3,479	2,240

5	Leaupuni	65	1
6	Laloanea	-	11
		6,337	540
	IP 12 - SAGAGA 1		
1	Faleula	3278	1804
2	Nuu	2399	220
3	Aele	905	270
		6,582	2,294
	IP 13 - SAGAGA 2		
1	Afega	2332	1251
2	Tuanai	1573	628
3	Malie	2623	1700
		6,528	3,579
	1P 14 - SAGAGA 3		
1	Leauvaa	3810	2126
2	Aleisa E	1213	
3	Aleisa W	999	
4	Tanumalala	506	45
		6,528	2,171
	IP 15 - SAGAGA 4		
1	Levi	1133	756
2	Alamutu	368	53
3	Lotosoa	853	551
4	Salepoa'e	726	564
5	Noono'a	506	284
6	Fatitu	101	11
7	Malua	424	13
8	Utualii	540	308
9	Tufulele	1458	714
		6,109	3,254
	Faatulagaga fou:		
	IP 16 - Aana Alofi 1		
	Village	Popn	Voters
1	Faleasiu	4,431	2,558
	IP 17 - Aana Alofi 2		
1	Fasitoo uta	2214	1729
2	Lepale	171	16
3	Nofoalii	2210	1329
		4595	3074
	IP 18 - Aana Alofi 3		
1	Leulumoega	1298	911
2	Fasitootai	1655	884
3	Vailuutai	953	420
4	Faleatiu	644	280

3	Matafaa	113	124
4	Matautu	940	899
5	Safaatoa	529	513
6	Savaia	455	405
7	Tafagamanu	412	281
8	Tanumalala	123	45
9	Vaiama		2
		4,069	3,720
	Safata 1		
1	Lotofaga	716	540
2	Saanapu	112	1069
3	Saanapu uta	1249	30
4	Salamumu	37	361
5	Salamumu uta	366	7
6	Sataoa	208	1195
7	Sataoa uta	1314	15
		4,002	3,217
	Safata 2		
1	Fausaga	333	301
2	Fusi	798	696
3	Mulivai	399	522
4	Nuusuatia	492	255
5	Tafitoala	510	348
6	Vaiee	632	448
		3,164	2,570
	Siumu		
1	Maninoa	427	175
2	Saaga	408	278
3	Siumu	1611	1730
		2,446	2,183
	Falealili 1		
1	Togitogiga	24	
2	Malaemalu	264	168
3	Matautu	423	476
4	Piu	63	31
5	Poutasi	449	325
6	Saleilua	765	539
7	Satalo	336	289
8	Tafatafa	209	174
9	Vaovai	491	495
10	Sapunaoa	501	593
		3,525	3,090
	Falealili 2		
1	Salani	525	781
2	Salesatele	311	416
3	Sapoe	77	221

3	Matafaa	121	124
4	Matautu	941	899
5	Safaatoa	537	513
6	Savaia	455	405
7	Tafagamanu	413	281
		3,982	3,673
	IP 23 - Safata 1		
1	Lotofaga	738	540
2	Saanapu	112	1069
3	Saanapu uta	1260	30
4	Salamumu	37	361
5	Salamumu uta	376	7
6	Sataoa	214	1195
7	Sataoa uta	1362	15
		4,099	3,217
	IP 24 - Safata 2		
1	Fausaga	339	301
2	Fusi	833	696
3	Mulivai	399	522
4	Nuusuatia	492	255
5	Tafitoala	512	348
6	Vaiee	636	448
		3,211	2,570
	IP 25 - Siumu		
1	Maninoa	445	175
2	Saaga	433	278
3	Siumu	1673	1730
		2,551	2,183
	IP 26 - Falealili 1		
1	Togitogiga	25	
2	Malaemalu	265	168
3	Matautu	430	476
4	Poutasi	457	325
5	Saleilua	795	539
6	Tafatafa	209	174
7	Vaovai	492	495
		2,673	2,177
	IP 27 - Falealili 2		
1	Salani	562	781
2	Salesatele	324	416
3	Sapoe	77	221

10	Falefia	464	
		3,662	2,440
	FAASALELEAGA 2		
1	Salelavalu	632	545
2	Salelavalu tai	514	9
3	Iva		894
4	Tino I Iva	717	
5	Va o Iva		1
6	Vaiafai	376	144
7	Vaisaulu	150	61
8	Vaifou	265	
9	Lalomalava	408	562
10	Safua	304	82
		3,366	2,298
	FAASALELEAGA 3		
1	Sapapalii	965	1133
2	Vaimaga	373	73
3	Eveeve	138	43
4	Fusi	183	727
5	Tapueleele	324	321
6	Vaiola	85	
7	Vaiaata	44	
8	Fuifatu	87	23
9	Fatausi	236	300
10	Fogapoa	294	594
11	Tuasivi	165	82
12	Safotulafai		9
		2894	3305
	FAASALELEAGA 4		
1	Siufaga	637	365
2	Sapini	194	112
3	Luuu	277	154
4	Malae	259	106
5	Salimu	253	114
6	Faga		249
7	Saasaai	611	468
8	Saipipi	748	586
		2,979	2,154
	FAASALELEAGA 5		
1	Lano	693	786
2	Assaga	280	217

		3,321	2,020
	FAASALELEAGA 2		
1	Salelavalu uta	660	545
2	Salelavalu tai	536	9
3	Iva	0	894
4	Tino I Iva	764	0
5	Vaiafai	472	144
6	Vaisaulu	164	61
7	Vaifou	308	0
8	Lalomalava	465	562
		3,369	2,215
	FAASALELEAGA 3		
1	Safua	321	82
2	Sapapalii	986	1133
3	Vaimaga	384	73
4	Eveeve	138	43
5	Fusi	183	727
6	Tapueleele	330	321
7	Vaiola	165	0
8	Vaiaata	85	0
9	Fuifatu	87	23
10	Fatausi	261	300
11	Safotulafai	0	9
		2,940	2,711
	FAASALELEAGA 4		
1	Tuasivi	177	82
2	Siufaga	680	365
3	Sapini	194	112
4	Luuu	307	154
5	Malae	259	106
6	Salimu	253	114
7	Faga	0	249
8	Saasaai	622	468
9	Fogapoa	301	594
		2,793	2,244
	FAASALELEAGA 5		
1	Saipipi	781	586
2	Lano	734	786

3	Puapua	586	618
		1,559	1,621
	Gagaemauga 1		
1	Samalaeulu	981	520
2	Patamea	674	416
3	Mauga	156	103
4	Saleaula	563	747
		2,374	1,786
	Gagaemauga 2		
1	Fagamalo	370	481
2	Lelepa	309	397
3	Avao	288	551
4	Vaipouli	33	60
5	Saleia	151	170
6	Safai	248	239
7	Satoalepai	260	253
		1,659	2,151
	Gagaifomauga 1		
1	Manase	96	123
2	Safotu	1278	1367
		1,374	1,490
	Gagaifomauga 2		
1	Paia	272	236
2	Samauga	369	521
3	Leagiagi	171	5
4	Lefagaoalii	445	512
5	Matavai	117	177
6	Faletagaloa	392	330
7	Fatuvalu	149	183
8	Safune		66
		1,915	2,030
	Gagaifomauga 3		
1	Fagaee	175	206
2	Sasina	535	585
3	Letui	323	238

3	Assaga	280	217
4	Puapua	613	618
		2,408	2,207
	Gagaemauga 1		
1	Patamea	680	416
2	Samalaeulu	1006	520
3	Mauga	162	103
		1,848	1,039
	Gagaemauga 2		
1	Saleaula	571	747
2	Fagamalo	389	481
3	Lelepa	314	397
4	Avao	294	551
5	Vaipouli	33	60
6	Saleia	169	170
7	Safai	258	239
		2,028	2,645
	Gagaifomauga 1		
1	Satoalepai	260	253
2	Manase	97	123
3	Safotu	1301	1367
4	Paia	272	236
5	Samauga	373	521
		2,303	2,500
	Gagaifomauga 2		
1	Leagiagi	171	5
2	Lefagaoalii	447	512
3	Matavai	117	177
4	Faletagaloa	395	330
5	Fatuvalu	160	183
6	Safune	0	66
7	Fagaee	185	206
8	Sasina	540	585
9	Letui	323	238
		2,338	2,302

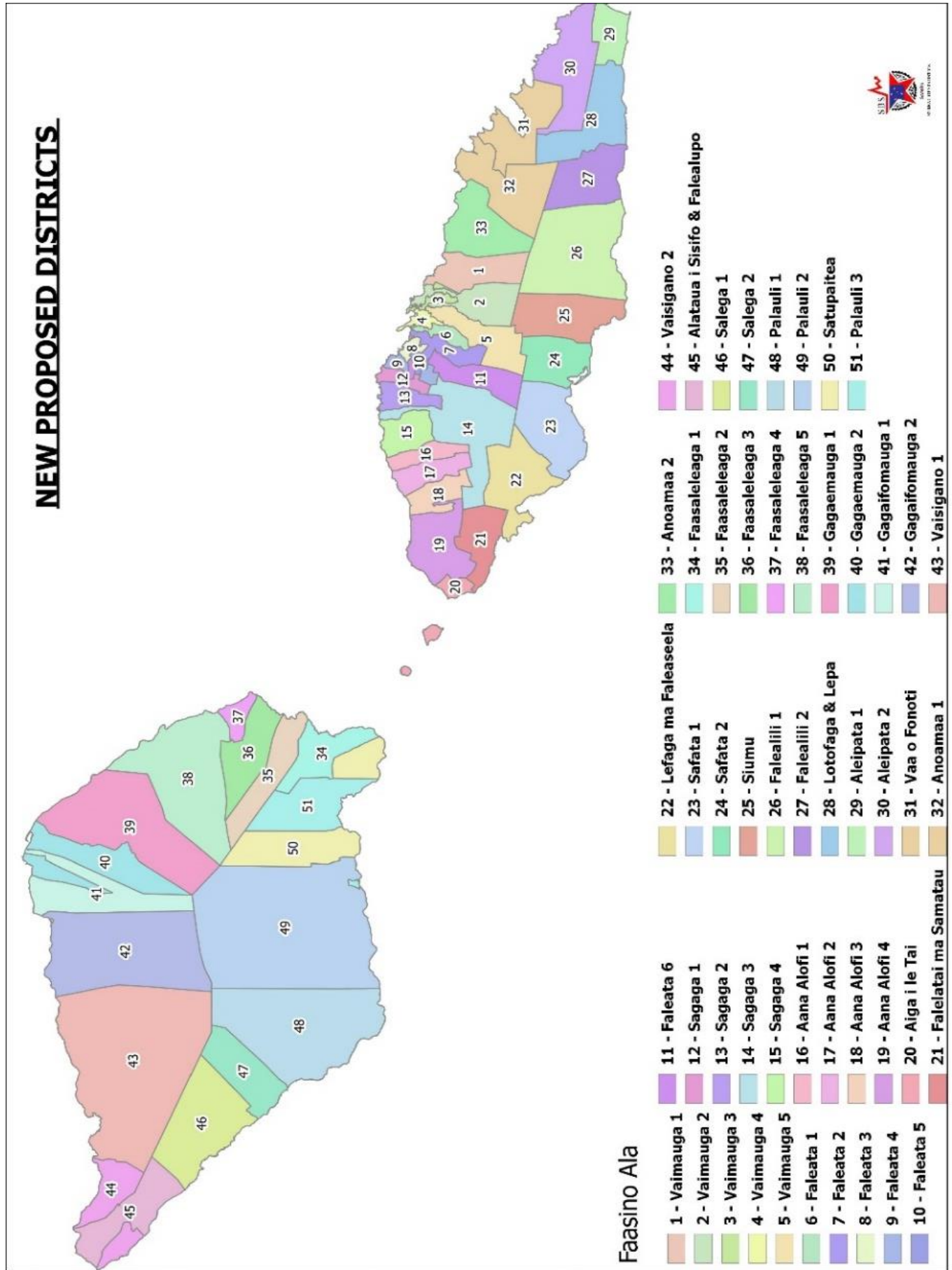
4	Aopo	408	365
		1,441	1,394
	Vaisigano 1		
1	Utuloa	20	91
2	Matavai		293
3	Asau	1133	654
4	Auala	453	419
5	Vaisala	472	592
		2,078	2,049
	Vaisigano 2		
1	Fagasa	276	146
2	Sataua	852	1088
3	Papa Sataua	517	344
		1,645	1,578
	Falealupo		
1	Avata	350	128
2	Vaotupua	209	292
3	Falealupo	536	926
		1,095	1,346
	Alataua i Sisifo		
1	Neiafu	960	881
2	Falelima	450	371
3	Tufutafoe	456	320
		1,866	1,572
	Salega 1		
1	Fagafau	309	219
2	Faiaai	370	275
3	Fogatuli	236	231
4	Samata I Tai	491	529
5	Samata I Uta	698	414
		2,104	1,668
	Salega 2		
1	Vaipua	470	290
2	Fogasavaii	332	272
3	Sagone	595	602
		1,397	1,164
	Palauli 1		

	Vaisigano 1		
1	Aopo	416	365
2	Utuloa	20	91
3	Matavai	1140	293
4	Asau	0	654
5	Auala	460	419
6	Vaisala	479	592
		2,515	2,414
	Vaisigano 2		
1	Fagasa	277	146
2	Sataua	858	1088
3	Papa Sataua	526	344
4	Tufutafoe	464	320
		2,125	1,898
	Alataua i Sisifo & Falealupo.		
1	Avata	358	128
2	Vaotupua	209	292
3	Falealupo	539	926
4	Neiafu	973	881
5	Falelima	454	371
		2,533	2,598
	Salega 1		
1	Fagafau	317	219
2	Faiaai	380	275
3	Samata I Tai	496	529
4	Samata I Uta	710	414
5	Fogatuli	236	231
		2,139	1,668
	Salega 2		
1	Vaipua	489	290
2	Fogasavaii	336	272
3	Sagone	620	602
4	Foailalo	391	261
5	Foailuga	598	378
		2,434	1,803
	Palauli 1		

1	Foailalo	385	261
2	Foailuga	580	378
3	Satuiatua	243	217
4	Salailua	854	959
5	Siutu	420	239
6	Taga	673	652
		3,155	2,706
	Palauli 2		
1	Gataivai	870	847
2	Gautavai	319	345
3	Papa Puleia	336	254
4	Puleia	198	191
5	Sili	1010	709
		2,733	2,346
	Satupaitea		
1	Moasula	485	78
2	Pitonuu	223	521
3	Satufia	512	345
4	Vaega	549	400
		1,769	1,344
	Palauli 3		
1	Faala	931	797
2	Vailoa	585	888
3	Vaitoomuli	681	798
		2,197	2,483

1	Satuiatua	275	217
2	Salailua	908	959
3	Siutu	471	239
4	Taga	808	652
		2,462	2,067
	Palauli 2		
1	Gataivai	1017	847
2	Papa Puleia	364	254
3	Puleia	214	191
4	Sili	1145	709
		2,740	2,001
	Satupaitea		
1	Moasula	491	78
2	Pitonuu	267	521
3	Satufia	512	345
4	Vaega	549	400
5	Tafua	459	420
		2,278	1,764
	Palauli 3		
1	Gautavai/Vaiala	328	345
2	Faala	959	797
3	Vailoa	605	888
4	Vaitoomuli	709	798
		2,601	2,828

7.3 Attachment 3: Map of the Boundaries of 51 Electoral Constituencies - Option 2



7.4 Attachment 4: Review of 51 Electoral Constituencies to Compile 45 Electoral Districts – Option 3

	VAIMAUGA 1		
	VILLAGE	POP	VOTERS
1	Laulii	2217	1233
2	Letogo	1565	807
3	Vailele tai	2164	1166
		5,946	3,206
	VAIMAUGA 2:		
1	Fagalii	1670	1102
2	Moataa	1420	1215
3	Vaiala tai	560	599
4	Vaiala uta	342	7
5	Maagiagi tai	1822	1116
6	Maagiagi uta	351	5
7	Apia	174	597
8	Tauese	125	57
		6,464	4,698
	VAIMAUGA 3		
1	Vailele uta	1120	41
2	Moataa uta	232	7
3	Vaivase uta	1024	451
4	Tanoaleia	660	0
5	Vaivase tai	824	326
6	Toomatagi	232	63
7	Faatoia	906	284
8	Levili	64	46
9	Vini Fou	81	4
10	Vaipuna	363	219
11	Matautu tai	192	167
12	Matautu uta	673	261
		6,371	1,869
	VAIMAUGA 4		
	VILLAGE	POP	VOTERS
1	Tamaligi	0	6
2	Vaisigano	270	53
3	Leone	626	198
4	Aai o Niue	135	62
5	Matafele	6	16
6	Tufuiopa	421	223
7	Togafuafua	261	127
8	Tuloto	102	6
9	Malifa	146	113

	FALEATA 1		
	Village	Population	Voters
1	Vaimoso	2580	1562
2	Sinamoga	1346	480
3	Moamoa	1442	679
4	Moamoafou	1303	40
		6,671	2,761
	FALEATA 2		
1	Lepea	651	951
2	Vaitoloa	658	230
3	Seesee	655	92
4	Pesega	79	45
5	Lotopa	1474	360
6	Alafua	1455	297
7	Tuanaimato	584	72
8	Tuaefu	159	39
9	Tulaele	780	227
		6,495	2,313
	FALEATA 3		
1	Vailoa	1523	854
2	Vaiusu	2596	1331
3	Vaigaga	696	854
4	Vaitele tai	796	2778
5	Talimatau	537	210
6	Elise fou	198	104
		6,346	6,131
	FALEATA 4		
1	Saina	268	221
2	Toamua	2401	1374
3	Safune	273	14
4	Puipaa	1417	560
5	Falelauniu	396	531
6	Tafaigata	1628	57
		6,383	2,757
	FALEATA 5		
1	Vaitele uta	2771	134
2	Siusega	3567	690
		6,338	824
	FALEATA 6		
1	Vaitele fou	4657	209
2	Ululoloa	793	182
3	Tanumapua	552	69
4	Tapatapao	270	68

10	Taufusi	316	246
11	Saleufi	96	63
12	Lalovaea	753	382
13	Palisi	1004	256
14	Fugalei	186	62
15	Savalalo	95	57
16	Sogi	132	88
17	Mulinuu	22	30
18	Vaimea	406	90
19	Alamagoto	922	283
20	Aai o Fiti	175	79
21	Maluafofu	73	19
22	Leififi	34	32
23	Motootua	361	137
		6,542	2,628
	VAIMAUGA 5		
1	Maagao	0	69
2	Lelata	199	62
3	Leufisa	255	112
4	Tanugamanono	810	566
5	Papauta	437	294
6	Nafanua	344	22
7	Tanumaleko	61	5
8	Papaloloa	272	71
9	Vailima	854	524
10	Avele	407	17
11	Letava	689	51
12	Vaoala	1008	550
13	Malololelei	390	72
14	Tiapapata	202	95
15	Afiamalu	263	78
16	Tiavi	11	4
		6,202	2,592

5	Leaupuni	65	1
6	Laloanea	-	11
		6,337	540
	SAGAGA 1		
	Village	Populatn	Voters
1	Faleula	3278	1804
2	Nuu	2399	220
3	Aele	905	270
		6,582	2,294
	SAGAGA 2		
1	Afega	2332	1251
2	Tuanai	1573	628
3	Malie	2623	1700
		6,528	3,579
	SAGAGA 3		
1	Leauvaa	3810	2126
2	Aleisa E	1213	
3	Aleisa W	999	
4	Tanumalala	506	45
		6,528	2,171
	SAGAGA 4		
1	Levi	1133	756
2	Alamutu	368	53
3	Lotosoa	853	551
4	Salepoa'e	726	564
5	Noono'a	506	284
6	Fatitu	101	11
7	Malua	424	13
8	Utualii	540	308
9	Tufulele	1458	714
		6,109	3,254

	Aana Alofi 1		
1	Faleasiu	4,431	2,558
	Aana Alofi 2		
1	Fasitoo uta	2214	1729
2	Lepale	171	16
3	Nofoalii	2210	1329
		4595	3074
	Aana Alofi 3		
1	Leulumoega	1298	911

	Falealili		
1	Togitogiga	25	
2	Malaemalu	265	168
3	Matautu	430	476
4	Poutasi	457	325
5	Saleilua	795	539
6	Tafatafa	209	174
7	Vaovai	492	495
8	Satalo	338	289
9	Sapunaoa	501	593
		3512	3059

2	Fasitootai	1655	884
3	Vailuutai	953	420
4	Faleatiu	644	280
		4,550	2,495
	Aana Alofi 4		
1	Satapuala	2100	1113
2	Faleolo	15	1
3	Afia	248	0
4	Tausagi	51	0
5	Olo	4	0
6	Paepaeala	177	0
7	Fuailoloo	1258	459
8	Lalovi	528	338
9	Samea	85	44
10	Sagafili	-	79
		4,466	2,034
	Aiga i le Tai		
1	Satuimalufilufi	726	449
2	Apolima Fou	482	391
3	Falepuna	154	2
4	Manono uta	1526	220
5	Faleu	247	674
6	Lepuiai	166	279
7	Apai	104	109
8	Satuilagi	59	
9	Salua	120	797
10	Satoi	112	8
11	Apolima Island	81	114
		3,777	3,043
	Falelatai, Samatau & Faleaseela		
	Village	Popn	Voters
1	Falevai	218	187
2	Levi	137	37
3	Matanofu	65	48
4	Matautu	208	510
5	Nefunefu	136	8
6	Pata	455	425
7	Samai	161	131
8	Samatau	1181	837
9	Siufaga	695	688
10	Faleaseela	930	814
		4186	3685

	Salani & Lotofaga		
1	Salani	562	781
2	Salesatele	324	416
3	Sapoe	77	221
4	Siuniu	181	276
5	Utulaelae	239	142
6	Piu	63	31
7	Matatufu	455	284
8	Lotofaga	1097	731
9	Vavau	383	172
		3381	3054
	Lepa & Aleipata 1		
1	Aufaga	466	304
2	Vaigalu	115	26
3	Lepa	139	348
4	Siupapa	23	4
5	Lealatele	170	0
6	Saleapaga	547	256
7	Lalomanu	733	1255
8	Vailoa	425	454
9	Ulutogia	180	224
10	Satitua	715	292
		3513	3163
	Aleipata 2		
1	Malaela	190	110
2	Lotopue	240	156
3	Mutiatele	394	209
4	Saleaamua	573	742
5	Utufaalaalafa	165	50
6	Samusu	896	489
7	Amaile	244	202
8	Tiavea	976	524
9	Alafou	33	
		3,711	2,482
	Vaa o Fonoti		
1	Lona	185	301
2	Maasina	161	148
3	Musumususu	95	114
6	Saletele	161	119
7	Salimu	52	131
8	Samamea	79	119
9	Sauano	256	186

1	Salelavalu uta	660	545
2	Salelavalu tai	536	9
3	Iva	0	894
4	Tino I Iva	764	0
5	Va o Iva	0	1
6	Vaiafai	472	144
7	Vaisaulu	164	61
8	Vaifou	308	0
9	Lalomalava	465	562
		3369	2216
	Faasaleleaga 3		
1	Safua	321	82
2	Sapapalii	986	1133
3	Vaimaga	384	73
4	Eveeve	138	43
5	Fusi	183	727
6	Tapueleele	330	321
7	Vaiola	165	0
8	Vaiaata	85	0
9	Fuifatu	87	23
10	Fatausi	261	300
11	Safotulafai	0	9
12	Fogapoa	301	594
		3241	3305
	Faasaleleaga 4		
1	Tuasivi	177	82
2	Siufaga	680	365
3	Sapini	194	112
4	Luaa	307	154
5	Malae	259	106
6	Salimu	253	114
7	Faga	0	249
8	Saasaai	622	468
9	Saipipi	781	586
		3273	2236
	Faasaleleaga 5 & Samalaeulu		
1	Lano	734	786
2	Asaga	280	217
3	Puapua	613	618
4	Samalaeulu	1006	520
5	Patamea	680	416
		3313	2557
	Itu o Tane 1		
1	Mauga	162	103
2	Saleaula	571	747

4	Aopo	416	365
5	Utulua	20	91
6	Matavai	0	293
7	Asau	1140	654
8	Auala	460	419
		3084	2851
1	Vaisala	479	592
2	Fagasa	277	146
3	Sataua	858	1088
4	Papa Sataua	526	344
5	Avata	358	128
6	Vaotupua	209	292
7	Falealupo	539	926
		3246	3516
	Alataua i Sisifo & Samata		
1	Tufutafoe	464	320
2	Neiafu	973	881
3	Falelima	454	371
4	Fagafau	317	219
5	Samata I Tai	496	529
6	Samata I Uta	710	414
		3414	2734
	Salega		
1	Fogatuli	236	231
2	Faiaai	380	275
3	Vaipua	489	290
4	Fogasavaii	336	272
5	Sagone	620	602
6	Foailalo	391	261
7	Foailuga	598	378
8	Satuiatua	275	217
		3325	2526
	Palauli 1		
1	Salailua	908	959
2	Siutu	471	239
3	Taga	808	652
4	Gataivai	1017	847
		3204	2697
	Palauli 2 & Satupaitea		
2	Gautavai	328	345
3	Sili	1145	709
4	Puleia	214	191
5	Papa Puleia	364	254
6	Vaega	549	400
7	Satufia	512	345

3	Fagamalo	389	481
4	Lelepa	314	397
5	Avao	294	551
6	Vaipouli	33	60
7	Saleia	169	170
8	Safai	258	239
9	Satoalepai	260	253
10	Manase	97	123
11	Paia	272	236
		2819	3360

		3112	2244
	Palauli 3		
1	Pitonuu	267	521
2	Moasula	491	78
3	Faala	959	797
4	Vailoa	605	888
5	Vaitoomuli	709	798
6	Tafua	459	420
		3490	3502

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