

# The Paradox of Liminality: American Samoa's Attenuated Sovereignty in the Twenty-First-Century American Empire

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**Abstract:** American Samoa, an unincorporated, unorganized US insular territory in the Pacific, is faced with a 'paradox of liminality.' On the one hand, the US unincorporation doctrine denies American Samoans basic rights, such as the right to vote in federal elections, fair representation in government, and American citizenship, in effect subjecting them to what Lea Ypi regards as the primary wrong of colonialism: the refusal of "equality and reciprocity in decision making." On the other hand, American Samoa's liminal status as unincorporated, unorganized territory protects indigenous Samoan culture (*Fa'a Sāmoa*) and the traditional system of governance (*Fa'amatai*) in ways that full legal integration would not. This paradox of liminality creates clear tensions between conditions of subjugation and protection. How do the argument of moral wrongs and the protection of indigenous culture relate to one another? This paper addresses this complexity by tracing the discursive practices and historical roots that comprise the foundation for US rule over American Samoa. By analyzing American Samoa's idiosyncrasies, this paper shows how its peculiar status problematizes decolonization processes informed by either/or thinking. Ultimately, I call for a rethinking of the process and progress of the dissolution of American empire by encouraging both/and approaches.

The mid-twentieth century saw the decline of a global system dominated by direct colonialism, in which European nations had created a world order of hegemony over peripheral, subaltern peoples (Pinderhughes 235). In conjunction with the dissolution of direct colonialism, a formal US empire began to dissolve as the territories that the US possessed had either been granted independent status (e.g., the Philippines), had been admitted as states to the Union (most recently Hawaii and Alaska), or had been absorbed as official US territories

(Puerto Rico, Guam, and the Northern Mariana Islands, among others). The demise of direct colonialism and formal empires propelled the study of new fields of academic interest in the form of post- and decolonial approaches, which were shaped by influential scholars such as Frantz Fanon, who investigated the necessity of violence for decolonization processes (cf. *The Wretched of the Earth*), Edward Said, who shed light on the political functions of Western imaginations of Eastern people (cf. *Orientalism*), and Gayatri Spivak, who focused on the remnants of colonialism found in everyday customs, such as the dominance of the English language in India (cf. Landry and MacLean, *The Spivak Reader*). While these studies offer valuable insights into a changing world, this essay looks not at what has changed but at that which has stayed the same.

More specifically, this essay focuses on American Samoa—the eastern part of a small island group in the South Pacific, home to over 55,000 people—which has been a colonial territory of the United States since the 1898 Treaty of Berlin. Since then, American Samoa has not undergone any decolonization process, such as the processes experienced by former European colonies that are now sovereign nations. American Samoa's colonial status is a peculiar one, however. On the one hand, American Samoans are stripped of basic rights, such as the right to vote in general elections, fair representation in national government, and American citizenship, because of their status as an unincorporated, unorganized territory. They are refused “equality and reciprocity in decision making,” which Lea Ypi, Professor of Political Theory at the London School of Economics, regards as the primary moral wrong of colonialism (163). On the other hand, American Samoa's dependency on the US has provided it with strategic geopolitical and economic advantages that are accompanied by a significant degree of cultural and political autonomy regarding domestic matters. This autonomy, made possible only by American Samoa's liminal status within American society, is what protects it from being absorbed fully into the American (neo)liberal democratic system and provides what anthropologists Fa'anofa Lisaclaira Uperesa and Adriana María Garriga-López call “enabling spaces of self-determination and sovereign action” that protect traditional Samoan culture (42).

This essay shows how American Samoa's peculiar situation, which I call a ‘paradox of liminality,’ problematizes decolonization processes as they have historically happened in former European colonies as the right path for American Samoa. By addressing the question of how the argument of moral wrongs and the

protection of indigenous cultures relate to one another, I show that American Samoa's paradox of liminality creates clear tensions between conditions of subjugation and protection. I start with an overview of the discursive practices on American colonialism and the US empire, which continue to shape the discussion on American Samoa's political status. Indeed, as Nelson Maldonado-Torres has urged, "[i]n a context where coloniality perpetuates itself through multiple forms of deception and confusion, clarity can become a powerful weapon for decolonization" (2). Therefore, I also suggest definitions of the terms 'colonialism' and 'empire' that allow us to understand the complexity of the American Samoan case. I then focus on the outdated legal foundations known as the Insular Cases, which have determined American Samoa's inferior political status until this day. Although the Insular Cases also set the legal foundations for the other territories that the US possesses, I focus specifically on American Samoa and its idiosyncrasies because its status as unincorporated and unorganized is unique among the inhabited territories. Finally, I show that American Samoa's cultural and political idiosyncrasies make independence as an either/or matter a far too inflexible term to capture the decolonization process of this insular territory.

### ON THE DISCURSIVE FRAMING OF US COLONIALISM AND THE AMERICAN EMPIRE

American Samoa's colonial status is strongly dependent on an American practice of imperial denial and colonial disbelief, as well as on a process of selective memory, particularly with regard to the political acquisition of the territory. The Deed of Cession of Tutuila of 1900 and the Deed of Cession of Manu'a of 1904 are frequently referred to as a voluntary transfer of power from local rule to the US government, which ostensibly proves the benign colonial rulership of the US accepted freely by Samoans. However, as Uperesa and Garriga-López argue, "the deeds themselves were a response to the threat of colonial powers in the islands, the partition of the archipelago and imposition of U.S. dominion through the Treaty of Berlin, and the ensuing establishment of the authority of the naval governor, constituting, therefore, what could be called a coerced consensus" (59).<sup>1</sup> The selective amnesia regarding this coerced consensus has facilitated a discourse of American imperial

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1 "The partition of the archipelago" refers to the split of the Samoan islands by the 1898 Treaty of Berlin, which designated the western islands a German colony and the eastern islands an American one. Today, the former German colony is a sovereign nation-state called the Independent State of Samoa.

ambitions for the territory as nonexistent, which has rendered the designation of American Samoa as a colonial subject as irrelevant. This reflects the larger tendency of the US to deny imperial ambitions or the possession of colonial territories in the mold of its European counterparts as well as a long-standing practice in scholarship to draw focus away from direct colonialism to (metaphorical) derivatives.

Particularly, before the emergence of American studies as a discipline in the 1950s, the term ‘colonialism’ was used by scholars as “a neutral descriptor for Anglo-America’s cultural dependency on Great Britain” (Brooks 620). This usage served to distinguish “‘continental’ expansion across North America from empire, understood as the possession of colonies and settlements overseas” (Streeby 96). Colonialism understood in this sense disconnected it from conquest or the acquisition of territories overseas. Rather, it augmented a narrative of ostensibly innocent settler colonialism of early Americans (Kazanjian 48). Only later, under the influence of post- and decolonial theorists, did the term ‘colonialism’ acquire the more widely used meaning of “an international system of economic and political exploitation of one sovereign people by another” (Brooks 620).<sup>2</sup>

Other commonly studied derivations that divert attention from the direct subjugation of American Samoans and other indigenous people of American insular territories are neocolonialism (the economic exploitation or coercive political domination of one sovereign state by another, particularly former dependencies) and internal colonialism (the domestic subjugation of nonwhites by whites) (Jackson 162). Although both forms constitute a part of colonialism worthy of study in relation to American Samoa, they also depend partially on the metaphorical use of the term. Internal colonialism, for instance, is used by Eduardo Bonilla-Silva as a representative model for contemporary American racism. Although his adaption of a colonial approach, which focuses on “a racial order” in which “white privilege is considered a constant systemic fact,” offers invaluable insight into how racial minorities are subjugated in less directly visible ways, he acknowledges that such a metaphorical use also makes possible a set of evasions that ignores the complexity of specific forms of subjugation (28). Most notably, by focusing on white supremacy as opposed to the specificity of subjugated groups, colonized people are homogenized under a single label of ‘oppressed.’ In the case of American Samoa, this translates to

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2 Brooks draws further attention to the conflicting uses of the term ‘colonialism’ by noting that African American publications such as *The Crisis*, which was founded by W.E.B. DuBois in 1910, had been using the term to refer to the oppression of African countries as well as to the economic and political oppression of African Americans domestically for decades.

a homogenization of American Samoans as part of a larger insular territory, which disregards the exclusive status of American Samoa as the only unincorporated, unorganized territory.

Ambiguous uses also plague the term 'empire,' particularly in relation to the subjugation of indigenous people. Although such metaphorical uses provide important insights into "invisible spheres of influence" that might qualify as "informal empire," they also eliminate from view "the specificity of the violent displacement of indigenous people as the origin story for the nation" (Streeby 98), diminishing and disregarding "indigenous nations' prior claims to sovereignty and self-determination" (Hopkins 23). More so, ambiguous uses of 'empire' have served to further controversial political claims of superiority, firstly in terms of white supremacy over indigenous peoples—most notably through the concept of Manifest Destiny—and secondly, over other sovereign nations.

Ideas of American superiority are not only present in American discourse but are also encouraged by non-Americans. Indeed, both Rudyard Kipling's popular poem "The White Man's Burden" and more recent writings such as those by Niall Ferguson do recognize a form of American imperialism but do so only to further controversial political claims of superiority. Kipling's 1899 poem urged the United States to annex the Philippines, which it obtained after the defeat of Spain in the Spanish-American War. In line with the ideology of Manifest Destiny, it engaged imperialism as a noble undertaking of civilization. Ferguson, writing a full century later, described the US as "an empire in denial" and through his reference to Kipling calls for the US to embrace its rightful heritage (370). Both writers employ a racist ideology in their advocating for empire by encouraging the US to accept its 'burden' to civilize supposedly backwards people who are not accustomed to Anglo-Saxon culture and way of life (Kaplan 3).

Indeed, empire depended on keeping in place what Michelle Alexander—albeit in a different context but no less applicable here—has defined as an American "racial caste system" of white supremacy and dominance of Anglo-Saxon norms, which is propelled today by a "colorblind public consensus" (11). A popular folktale of US racism holds that ignorance about nonwhite people led to hate, which in turn led to racist ideas and discrimination. However, as Ibram X. Kendi shows in his seminal study on the history of racist ideas, "this causal relationship is largely ahistorical. It has actually been the inverse relationship—racial discrimination led to racist ideas which led to ignorance and hate. [...] Racially discriminatory policies

have usually sprung from economic, political, and cultural self-interests, self-interests that are constantly changing” (9). To keep colonial subjects at the receiving end of racial discrimination, race had to be something that ‘is,’ a biological determinant that would explain as well as justify the subjugation and dehumanization of ostensibly inferior people. It is not until the past few decades that race has largely been understood as “something that *does* something,” a social construct instead of a biological determinant (Lentin 2). Yet a changed understanding of race does not necessarily bring forth a changed attitude towards race.

To draw attention to a political oppression of American Samoans that finds its roots in racial, cultural, and economic discrimination, I use A. G. Hopkins’s understanding of ‘empire’ as “a collection of possessions united by command rather than community” (22). In concurrence with this use of ‘empire,’ and because of a long history of denying the existence of an American colonial empire altogether, I use Ypi’s definition of ‘colonialism’ as “a practice that involves both the subjugation of one people to another and the political and economic control of a dependent territory (or parts of it)” (162). Although this definition does draw attention to nationalist and territorial rights arguments, its focus is on the moral wrongs of colonialism that take shape in the denial of equal political relations and mutual decision-making processes that characterize contemporary US colonialism, particularly in relation to American Samoa. How these political relations took shape within a legal framework is discussed in the next section.

#### **INSULAR EMPIRE: THE LEGAL FOUNDATIONS FOR AMERICAN SAMOA’S LIMINAL STATUS**

The US empire currently consists of four unincorporated, organized territories, which are all inhabited by a permanent, nonmilitary population (Puerto Rico, Guam, the Northern Mariana Islands, and the US Virgin Islands), eleven unincorporated, unorganized territories, of which only American Samoa is inhabited permanently, and one uninhabited incorporated, unorganized territory (Palmyra Atoll). Together, the territories are home to some 4.1 million people who nearly all are racial or ethnic minorities (US Census 2010). In the case of American Samoa, which I focus on because of its exclusive status among the permanently inhabited territories as unorganized, the relatively small population predominantly

consists of Samoans, a Polynesian ethnic group native to the Samoan islands. American Samoa has remained under the plenary powers of the American government, first under the administration of the US Navy and then, since 1951, under the direct control of the US Department of the Interior. Although American Samoa ratified its (revised) Constitution in 1967 and has held popular elections for the position of governor since 1976, the final authority over American Samoa continues to lie with the US Secretary of the Interior.

American Samoa's legal status, as well as that of the other insular territories, was decided in a number of court cases, the first dating back to 1901, in which the metaphorical question "[Does] the Constitution follow the flag?" acquired renewed urgency (Raustiala 79). These cases became known as the Insular Cases and laid out the future legal framework for control over the colonial territories in the Pacific Ocean and Caribbean Sea, referred to by Uperesa and Garriga-López as the "doctrine of territorial unincorporation" (40). The culminated outcome of these cases was the Supreme Court's decision that the Constitution did not apply fully to unincorporated territories. The 1901 *Downes v. Bidwell* decision is the most significant in this regard. It resolved a legal issue of import duties over goods shipped from Puerto Rico to New York. Plaintiffs held that the Uniformity Clause of the Constitution requires that "all Duties, Imposts and Excises shall be uniform throughout the United States" and that goods shipped from Puerto Rico would thus be exempt from import duties (US Const. art. I, sec. 8). A narrow majority of the Supreme Court (5-4), however, upheld the import tax but also upheld the Uniformity Clause, arguing that constitutional provisions to congressional legislation may not apply to unincorporated territories.

Three things are significant to note about the *Downes v. Bidwell* case. Firstly, Justice Henry Billings Brown, the justice who also wrote the concurring 'separate but equal' doctrine in the infamous 1896 *Plessy v. Ferguson* case, writing for the majority, described territorial residents as "alien races, differing from us in religion, customs, laws, methods of taxation and modes of thought" (*Downes v. Bidwell*). Justice Brown was of the opinion that indigenous peoples may not have the capability of understanding and adjusting to Anglo-Saxon principles and law, in effect arguing that the Constitution does not apply to them because they are inferior races. The inhabitants of the territory were treated as colonial subjects, separate and *unequal*. Secondly, and surprisingly, the majority decision as laid out by Justice Brown has never been changed. This is surprising because even then, Justice

Brown wrote that these exceptions to the Constitution should only be accepted “for a time,” implying this was to be regarded as a temporary arrangement (*Downes v. Bidwell*). However, 117 years later, no changes have been made to this ruling despite legal challenges.

Thirdly, what was meant precisely by the term ‘unincorporated territory’ in the *Downes v. Bidwell* case was not resolved until 1922, when the Supreme Court explicitly linked incorporation with the prospect of statehood in *Balzac v. People of Porto Rico*. It argued that the incorporated territory of “Alaska was a very different case from that of Porto Rico. It was an enormous territory, very sparsely settled and offering opportunity for immigration and settlement by American citizens. It was on the American Continent and within easy reach of the then United States. It involved none of the difficulties which incorporation of the Philippines and Porto Rico presents” (*Balzac v. People of Porto Rico*). This led Stanley Laughlin to interpret that “incorporated territories were those which the Court presumed eventually would be settled in their majorities by the Caucasian peoples” of the original thirteen states, giving “those territories which in likelihood would remain primarily populated by nonwhite indigenous peoples [...] a separate status” to which only fundamental constitutional rights apply (354). In other words, the Constitution does not follow the flag to territory where predominantly people of color reside.

The ‘unincorporation doctrine’ that followed the Insular Cases has had profound effects on the rights of indigenous peoples, who find themselves in an unequal political relationship with the US government. Under these rulings, the people of the insular territories have been subjected to a restricted application of the Constitution, including its Amendments. For instance, according to the Fifteenth Amendment, the federal and state governments are prohibited from denying a citizen the right to vote based on that citizen’s “race, color, or previous condition of servitude” (US Const. amend. XV, sec. 1). Because Amendments do not necessarily apply to the territories, residents of the territories may not participate in federal elections, nor are they entitled to electoral votes for president.<sup>3</sup> Moreover, none of the residents of the five inhabited territories enjoy congressional representation in

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<sup>3</sup> Congressional Research Service Report number RL30527 of April 17, 2000, entitled “Presidential Elections in the United States: A Primer,” concludes that citizens born in Puerto Rico, Guam, and the US Virgin Islands are legally defined as natural born citizens and are, therefore, eligible to be elected president. This Congressional Report, however, is not legally binding, so until the Supreme Court makes a decision on this, the matter is open to dispute.

the Senate and only restricted representation in the House of Representatives, where their local representatives, called delegates, have a limited voice and may not cast their vote on proposed legislation.<sup>4</sup> Although all the residents of the territories, with the exception of American Samoans, are US citizens, their constitutional rights are to this day restricted by an outdated Supreme Court decision from over a century ago.

Because of their status as US nationals as opposed to US citizens, American Samoans are even further restricted and cannot, for instance, hold any civil servant jobs, such as that of a public school teacher or police officer, nor can they serve on a jury outside of their territory. They may apply for citizenship but have to go through lengthy and costly procedures that are not dissimilar to those of applicants who are born outside of the United States (Yeung 27). In 2012, Leneutoi Tuaua and four other American Samoan plaintiffs attempted to challenge their “subordinate and inferior” status as “non-citizen national” in the courts after Tuaua was denied a job as civil servant (*Tuaua v. United States*). Their argument was quite plain: American Samoans had by then been living on American territory for over a century, and according to the Birthright Clause of the Fourteenth Amendment, “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside” (US Const. amend. XIV, sec. 1).<sup>5</sup> The US District Court for the District of Columbia dismissed the lawsuit, and a three-judge panel of the Court of Appeals for the District of Columbia Circuit upheld the 1901 *Downes v. Bidwell* ruling that designated unincorporated territories as exception to the Constitution and its Amendments. Justice Janice Brown reasoned that “the Citizenship Clause is textually ambiguous as to whether ‘in the United States’ encompasses America’s unincorporated territories” and concluded that birthright citizenship through the Fourteenth Amendment does not apply to American Samoans (*Tuaua v. United*

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4 Puerto Rico is the exception: It does not have a delegate but a Resident Commissioner. Although his or her status is the same as those of delegates, the difference is that he or she is elected to the House for a four-year term, whereas delegates only serve two-year terms.

5 Inhabitants of the other four unincorporated territories have all obtained citizenship through Organic Acts, not through the Fourteenth Amendment. The Fourteenth Amendment, which applies to all other Americans, follows the principle of *jus soli*, which “allots citizenship to people born within the geographical territory” of the fifty states (Berlant 41). Most other liberal democracies award citizenship based on the principle of *jus sanguinis*, meaning through parental inheritance. Children born to American citizens in American Samoa may obtain citizenship through the principle of *jus sanguinis*.

*States*). In 2016, the Supreme Court denied to take the case under review, and thus, American Samoans remain with limited rights, but no citizenship.

What makes these practices of colonialism over American Samoan people particularly hypocritical is the violation of the American ideals of equality and democracy for all. The denial to set up equal and reciprocal political relations with American Samoans shows how the US continues to depart from its foundational ideals as expressed in the Declaration of Independence. Denying “certain unalienable Rights” to a minority group of Americans collides with the almost sacred values of “Life, Liberty, and the pursuit of Happiness” (Declaration of Independence). As Ypi argues, quoting Kant, such a violation is “all the more despicable when excised by ‘powers that make much ado of their piety and, while they drink wrongfulness like water, want to be known as the elect in orthodoxy’” (174). Moreover, it nullifies the idea that government derives “their just powers from the consent of the governed” (Declaration of Independence). Consent becomes a particularly far-fetched term to describe the relation between the United States government and American Samoans when one takes into consideration that most of the Samoan Chiefs who ceded their land willingly to the US with the Deeds of Cession were under the impression that they would receive citizenship in return (Yeung 7). However, whereas Samoan Chiefs saw the Deeds of Cession as official treaties, the US did not view them as such. The Deeds were not ratified by US Congress until 1929 and marked the beginning of the unequal political relationship between American Samoa and the US. How this relationship has evolved today is discussed in the following section.

#### **A PARADOX OF LIMINALITY: PRESERVING THE FA‘A SĀMOA**

Questions of colonialism and the dissolution of American empire are more complicated than the sum of colonial practices and institutionalized racism that American Samoans have had to face. To begin with, the beliefs that determined their inferior political status as colonial subjects, prominently present in the Insular Cases, are no longer the dominant ideology of the twenty-first century. This is reflected in a more accommodating attitude towards the cultural practices of the American Samoan people in deciding the issue of constitutional citizenship. The three-judge panel of the *Tuaua v. United States* case believed that granting American Samoans citizenship would “override the democratic prerogatives of the

American Samoan people themselves” (*Tuaua v. United States*). This argument reflects the strongly prevailing sentiment among American Samoans that the prerogative to decide the matter of American citizenship should lie with them and not with a foreign institution such as the US courts (Sagapolutele, “UN Decolonization Committee”).

More so, while colonial practices and institutionalized racism exist in all US territories (albeit in configurations or combinations that are themselves unique), the attitudes of American Samoans themselves are vital in understanding the dilemmas of decolonization that they are faced with. Practices of colonialism are not only a function of the agency of the colonizer but also of the colonized. American Samoan agency can be found, for instance, in the strong sentiment towards self-determination regarding the matter of citizenship. On this matter, the American Samoan people are strongly divided, despite “public statements of officials that denounce U.S. citizenship” (Yeung 25).<sup>6</sup> Dividedness among American Samoans is largely caused by a difference in opinion on what the effects will be of being subjected to the full rights of the US Constitution. In particular, those who are opposed to obtaining US citizenship fear that being subjected to the full rights of the constitution will be detrimental to the *Fa’a Sāmoa*.

The protection of the *Fa’a Sāmoa* is a second and crucial element of agency for American Samoans. *Fa’a Sāmoa* refers to traditional Samoan culture, often translated as ‘the Samoan way,’ which is based on the idea of mutual respect and sharing among the *āigapotopoto*, or extended families. The *Fa’a Sāmoa* “influences every aspect of the socioeconomic fabric of the Territory” (United Nations II). *Fa’amatai* refers to the chiefly system of the *matai*, or ruling chiefs, a traditional system of governance in which family and village titles are linked to *pule* (authority) over land and resource distribution. A family member is invested “with the responsibility of representing the dignity and honor of the family as well as managing and distributing family resources” (Uperesa and Garriga-López 51). Uperesa and Garriga-López also stress the importance of individual actions, which within the chiefly system “ideally adhere to the basic principles of the *fa’asāmoa* and reflect a strong communal and family focus” (51).

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6 The difference of American Samoans’ opinions is reflected in many online discussion forums, such as the opinion section of the *Samoan News* web page. Some American Samoans express desire for citizenship, whereas others want to resist imposed citizenship. See, for instance, Soliai’s “Lamentations of a Third-Class American Samoan Citizen” or Nafanua’s “Deed of Cession up for Grabs: Judicial Fiat Style.”

The *Fa'a Sāmoa* differs fundamentally from the American liberal democratic system. Whereas the US system is built on the notion of private property, the American Samoan system is built on communal ownership of land and resources, for which American Samoan blood quantum serves as qualification.<sup>7</sup> The American Samoan Constitution reads:

It shall be the policy of the Government of American Samoa to protect persons of Samoan ancestry against alienation of their lands and the destruction of the Samoan way of life and language, contrary to their best interests. Such legislation as may be necessary may be enacted to protect the lands, customs, culture, and traditional Samoan family organization of persons of Samoan ancestry, and to encourage business enterprises by such persons. (American Samoan Const. art. 1, sec. 3)

If American Samoans were to become US citizens, the Equal Protection clause of the Fourteenth Amendment would prohibit birthright qualifications for *matai* and private property rights would find prevalence over communal rights (Yeung 9). Uperesa and Garriga-López stress that such changes would “hasten alienation of land from the indigenous population” (55). Accordingly, Yeung draws upon the example of Hawai’i, which became vulnerable to land appropriation by foreign entities since it gained statehood in 1959. She argues that American Samoans are “cognizant not to repeat this [...] because changes to Hawai’i’s land rights altered the landscape of Hawai’i” (Yeung 30). Displacement from native land was followed by cultural loss for native Hawaiians.

This brings along a paradox for the American Samoan people: The liminal position that they occupy in American society is what protects their traditional way of life, in a way that full legal integration would not do. This paradox of liminality requires a rethinking of how to approach decolonization and the dissolution of the current US empire. Emancipating American Samoans by simply handing them US citizenship will not be a satisfactory solution: Many American Samoans would lose specific rights that they currently enjoy because of their liminal status. Property rights and political procedures may change in ways that would be detrimental rather than beneficial to the current social system.

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7 Approximately ninety percent of American Samoa’s land is property of the collective, not of an individual.

However, to focus solely on the fundamental differences and the irreconcilability of the US and American Samoan constitutions would certainly not offer any satisfactory solution. bell hooks has written on matters that divide American society that “[e]ither/or thinking is crucial to the maintenance of racism and other forms of group oppression. Whenever we think in terms of both/and we are better situated to do the work of community building” (37). The binary thinking in the form of either/or that has informed arguments on full rights as Americans is precisely why American Samoans find themselves torn between the *Fa’a Sāmoa* and the benefits that full rights as Americans would hold for them. Indeed, the protection of the *Fa’a Sāmoa* should not be used as an argument against nor limit the discussion on obtaining full and equal rights as Americans as well. Rights as American Samoans should not prevent American Samoans from being able to fully participate in American society. The elimination of this kind of thinking demands a reconsideration of how American Samoa should be decolonized.

### DECOLONIZATION? THE LIMITS OF BINARY THINKING ON RIGHTS AND SOVEREIGNTY

The beneficial consequences of the liminal status of American Samoans calls into question the limits of decolonization as it has historically happened. According to international law, decolonization is limited to three options (Hillebrink 53): full integration (e.g., US statehood as for Hawai’i and Alaska); sovereignty in free association (e.g., the Compact of Free Association with the Federated States of Micronesia, the Marshall Islands, and Palau); and full sovereignty with political independence (e.g., the Philippines and Cuba). Free association exists in a slightly modified form as well, namely Commonwealth status, which describes the political relation of the US with Puerto Rico and the Northern Mariana Islands. Commonwealth status is obtained through organic acts, which may also establish US birthright citizenship for these territories’ residents. However, whereas states in free association have political autonomy, commonwealths remain under the plenary power of the US Congress, which has the power to revoke a Commonwealth’s constitution (if it has one) as well as citizenship.<sup>8</sup> In this sense, organic acts provide a

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8 According to Uperesa and Garriga-López, Puerto Rico is in fact a Free Associated State as opposed to a Commonwealth, which they argue is a mistranslation. However, they stress the attenuated sovereignty of Puerto Rico, whose Constitution and whose residents’ citizenship may be revoked at the discretion of the US government (44).

temporary solution to decolonization that can be altered by US Congress but not by the territories.

All these options, however, are essentially reducible to two choices: closer association with the US, which inevitably leads to the erosion of local cultures, or independence, which leads away from the geopolitical, economic, and (to a certain degree) cultural benefits that come with being a part of the US. To move beyond either/or thinking, Moritz Pöllath forwards the notion of “hybrid government,” which “exists between two intertwined entities with constitutional links or shared jurisdiction” that interlace traditional forms of rule and authority with Western political frameworks (239). Although far from offering a definitive solution, the adoption of this practice encourages elimination of binary thinking when it comes to American Samoa’s future.

Nonbinary thinking is necessary because while the political, economic, and cultural influence of the US stays strong in American Samoa, as it does in its other insular territories, its influence is at the same time different from the influence Europeans had in Asia and Africa. The recent address of Attorney General Talauega Eleasalo Ale to the 2018 United Nations Decolonization seminar is telling of this difference: “We, the people of American Samoa, do not consider ourselves a colonized people” (qtd. in Sagapolutele, “American Samoa”). Whereas former European colonies had been fighting for independence and sovereignty since before Woodrow Wilson popularized the ideals of ‘self-determination’ and ‘consent of the governed,’ American Samoans recognize the geopolitical and economic benefits of their dependency on the US. In the same address, Attorney General Ale emphasized that “as a U.S territory, we enjoy the protection of the most powerful country in the world” (qtd. in Sagapolutele, “American Samoa”). Moreover, as Pöllath adds, “the comparison to West Samoa (today, the Independent State of Samoa), which became independent in 1962, is telling: American Samoa’s neighbors in Savai’i and Upolu have a lower per capita income and lower educational standards” (243). Dependency on the US brings forth many benefits for American Samoans that sovereignty does not.

However, that American Samoa will walk a path of decolonization is unquestionable. That this path will be different from others is also beyond doubt. Despite the fact that it declares itself not to be a colonial subject of the US, American Samoa recognizes that its “current form of government is not ideal, and certainly cannot be the final word” (Sagapolutele, “American Samoa”). Although

American Samoa is substantially self-governing, Attorney General Ale held that the “territory’s current government exists largely at the pleasure of the U.S. Congress through the Executive Branch,” implying that the current form of political dependency, one that denies American Samoans equality and reciprocity in decision making within American society, needs to change (qtd. in Sagapolutele, “American Samoa”).<sup>9</sup> Moreover, the fact that American Samoa chooses to remain on the United Nations list of Non-Self-Governing Territories is telling of their ambiguous attitude towards political control by the US. Even though the Governor of American Samoa emphasized that the relationship between American Samoa and the US is based on consent, referring to the Deeds of Cession as voluntary transfer of sovereignty in opposition to military conquest,<sup>10</sup> they choose to let its decolonial process and progress be monitored by the UN Special Committee on Decolonization (United Nations 6). This ambiguous stance taken by American Samoa reflects the complexity of the decision it stands before.

Indeed, the American Samoan government recognizes the complexity of its current political position. On the one hand, American Samoa is self-governing in the sense that it pursues its own political objectives (internally and to a certain degree regionally), is in control of the immigration process, and has established its own Constitution, which was ratified and became effective in 1960 and was modified in 1967. On the other hand, the ratification and the modification of the Constitution required approval by the Secretary of the Interior, who since 1983 also holds the power to appoint the Attorney General independent of the elected Governor and thus holds a considerable amount of control over the political proceedings of American Samoa. Moreover, American Samoa has expressed the desire for greater political autonomy when it comes to regional matters; it currently holds observer status in the Pacific Islands Forum but has the intention of becoming a full member (Pöllath 244).

In an attempt to untangle the complexity of the situation and to investigate possible options for the future of American Samoa, the Governor’s Office established the Office of Political Status, Constitutional Review and Federal Relations in 2016, which aims to research the “pros and cons of further integration with the United States,” including a reassessment of issues of US citizenship,

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<sup>9</sup> American Samoa is officially administered by the Office of Insular Affairs of the United States Department of the Interior.

<sup>10</sup> Although public officials regard the Deeds of Cession as voluntary treaties, I have already emphasized the coercive nature of this consensus.

representation in Congress, self-determination, and constitutional protection of land and culture (Sagapolutele, “American Samoa”).<sup>11</sup> To this list should be added research on the possibilities of forming a hybrid government, one that reasserts economic, legal, and political ties with the US while at the same time consolidating cultural autonomy and self-governance. If such a suggestion is not on the agenda, decolonization may continue to operate within a limiting binary framework that regards sovereignty as an either/or matter.

Such a hybrid form of government would certainly not be out of place in the Pacific, in which decolonization has proven to be a process rather than a final stage. Indeed, as Otto Heim has noted, “the diversity of constitutional arrangements and political situations in the contemporary Pacific” serves as “a reminder that decolonization cannot be reduced to a moment of constitutional transition when one flag is lowered and another is raised” (917). Instead, the successful pragmatic mixtures of traditional systems with the Western system in the Pacific island polities invites a reconsideration of conventional dichotomies that oppose custom and tradition to Western law and institutions. Recognizing hybrid solutions that move beyond dichotomies might eventually move decolonization of American Samoa beyond the “western-style institutional framework” that Heim recognizes as dominant for processes of ongoing negotiation (917). Neighboring islands of Melanesia, for instance, have managed, although certainly not without issue, to establish forms of ‘legal pluralism’ in which traditional forms of judicial procedures operate concurrently with Western-style regulatory systems (Evans et al. 2). Such hybrid systems, although unique to each of the islands, offer comparative perspectives in terms of pros and cons for implementing hybrid forms of legal and political institutions in American Samoa. Investigating such options should certainly be on the agenda for the Office of Political Status, Constitutional Review and Federal Relations, regardless of the sensitivity it may provoke for US–American Samoan relations.

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<sup>11</sup> The Office will also engage in public education on these issues, because, in the words of the executive director Tapaau Dr. Daniel Aga, the territory’s form of government going forward must be “firmly vested in the authority of the people of American Samoa” (qtd. in Sagapolutele, “UN Decolonization Committee”).

### CONCLUSION

American Samoa's paradox of liminality, which denies American Samoans full and equal participation in American society on the one hand but protects the traditional way of life and local governance on the other hand, invites a rethinking of the process and progress of the dissolution of American empire. Decolonization is a complex process that cannot be reduced to binary thinking of dependence/independence. In a globalizing world where "boundaries between autonomy and sovereignty are fluid" and where traditional and Western regulatory practices interlace, concepts such as 'hybrid government' and 'legal pluralism' that facilitate 'both/and' solutions should be on the agenda of politicians and scholars alike (Pöllath 239). Such concepts offer invaluable contributions towards a satisfactory solution for the decolonization of the twenty-first-century insular empire that the US governs. Approaches to the study of empire need to take into account solutions that not only highlight the political and economic aspects of decolonization but also carefully consider the cultural and social values of the subaltern—for a solution is necessary. In a society where we have not yet entirely lost sight of what equality and democracy mean, these notions may still offer a solution for those of us who envision a fairer and more just world.

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