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Vanuatu

The relative political calm during the early weeks of 2011 was deceiving, given the controversy surrounding the change of government that had taken place the previous December (see Van Trease 2011). Having survived in office since the last national election in September 2008, a period that included several changes to coalition partners, the Vanua’aku Pati (VP)–led government under Prime Minister Edward Natapei was ousted in a vote of no confidence and replaced by his deputy, Alliance Group leader Sato Kilman on the afternoon of 2 December 2010, shortly after Natapei left the country, having received assurances from Kilman that the pending no-confidence motion was under control. That afternoon, however, once Parliament had convened, the Speaker took the unusual step of banning all media and the public from the chamber. At that point, Kilman and his Alliance Group crossed the floor to join the Opposition. The vote of no confidence was carried with 30 votes in favor, 15 against, and 7 abstentions.

On first impression, Kilman appeared to have misled Natapei on his departure from Vila into believing that he could be trusted to defend their existing partnership in the face of the ouster motion. Several months later, however, Kilman revealed to the press that the turn of events in early December had not simply happened out of the blue but was the result of Natapei’s failure to live up to an early promise to redistribute ministerial portfolios within the coalition more equitably. Several letters sent to the prime minister requesting action had been ignored. Kilman was obviously under pressure from his own people to act, and Natapei’s intended absence at the moment a vote of no confidence had been tabled obviously provided the opportunity to resolve the problem (VDP, 28 April 2011). The events that followed would seem to indicate that there had been prior planning, and it is therefore understandable that Natapei and the VP leadership felt betrayed and deceived by Kilman’s final words to Natapei on his departure that December morning. Political betrayal is not uncommon in Vanuatu politics, but the fact that this had occurred on such a personal level created an obvious desire for revenge that would lead to an unprecedented period of political instability in the months that followed.

Rumors began to surface in January that moves were afoot to table a motion of no confidence against the new Kilman government, but the Opposition did not have the numbers to act, and the Union of Moderate Parties (UMP) dismissed the rumor that it would be leaving the government (VDP, 15 Jan 2011). However, the decision by the Council of Ministers...
to postpone the first sitting of Parliament, which was to take place on 21 January, indicated growing concern that certain backbenchers could be looking for new opportunities and might be susceptible to offers from the Opposition (VDP, 20 Jan 2011).

This was indeed the case. On 12 February, the two UMP ministers in the government, Serge Vohor and Charlot Salwai, resigned to join the Opposition, taking their members with them and complaining that the sharing of the thirteen ministerial portfolios permitted under the Vanuatu Constitution had not been done fairly. The UMP, with eight members of Parliament, the single biggest party in government, had been given only two ministries. The Alliance, the largest bloc (made up of Kilman’s People’s Progressive Party [PPP] with three members of Parliament and various other small parties and independents) had ten members in total and five portfolios. Ham Lini’s National United Party (NUP), with only three members of Parliament, had two ministries—the same number as the UMP—and the Vanuatu Republican Party (VRP) had one ministry plus the position of Speaker. The Harry Iauko faction of the VP, with only three members of Parliament, had two ministries, and a group of independents had one (VDP, 12 Feb 2011). Kilman responded by hinting that he might seek a dissolution of Parliament rather than allow a new round of political instability (VDP, 14 Feb 2011). In anticipation of a successful challenge, Serge Vohor (UMP), Edward Natapei (VP), and Maxime Carlot Korman (VRP) signed an agreement that would see Vohor take over as prime minister, and Natapei got assurances from the president, Iolu Abbil, that he would not dissolve Parliament unless the situation became serious (VDP, 15 Feb 2011). The prime minister’s public relations officer, Richard Kalstromga, protested that the visit by the leader of the Opposition to the president was inappropriate at this time, as the Constitution of the Republic of Vanuatu states clearly, “The President of the Republic may, on the advice of the Council of Ministers, dissolve Parliament” (article 28[3])—not on the advice of the Leader of the Opposition (VDP, 17 Feb 2011). In the meantime, Kilman sought to salvage the situation by quickly filling the two vacant ministerial positions: one went to a VRP member, Marcellino Pipite, who was not prepared to follow Korman into the Opposition, thereby revealing a split in the VRP that had been brewing for some time (VDP, 19 Feb 2011). With the return of several other supporters to the government camp, Kilman was able to secure the requisite numbers, and the Opposition withdrew the motion of no confidence (VDP, 22 Feb 2011).

Kilman’s struggle to maintain his majority in Parliament was made even more difficult by an incident involving Harry Iauko, minister of public works and leader of the VP breakaway faction. On 4 March, Iauko led a group of men to the office of the Vanuatu Daily Post, assaulted the publisher, Marc Neil-Jones, and threatened the editor and other staff over articles published in the newspaper. The articles were critical of Iauko’s handling of land issues while he was minister of lands and of his
suspending the board of Air Vanuatu while he was minister of public works and infrastructure. The Daily Post had also published critical articles by Transparency Vanuatu as well as anti-Iauko letters to the editor (vdp, 5 March 2011). Indeed, on the day of the assault, Transparency Vanuatu specifically mentioned Iauko’s alleged “corrupt land dealings” and a recommendation by the Ombudsman that the “Public Prosecutor investigate criminal proceedings” against him (vdp, 4 March 2011).

Response to the assault was immediate. Neil-Jones vowed to pursue the assault case in court, stating that “Iauko should be sacked” and that the case was an obvious “criminal offense” and a “serious breach of the leadership code” (vdp, 7 March 2011). In a letter to the prime minister, printed in the Daily Post, the chairman of the Pasifika Media Association (pma), Savea Sano Malifa, expressed how “deeply disturbed and saddened” the pma was about the “unjustified acts of violence” perpetrated by a minister of the Vanuatu government and others against the Daily Post publisher and urged him to allow “justice to prevail” (vdp, 9 March 2011). The response from the prime minister’s office was that the government was aware of concerns about the assault from media organizations in the region, but it was up to the publisher to take the case to court. The prime minister’s public relations officer also cautioned that “the public have their right and freedom to write or say what they want but they also must be prepared to answer their critics or face any consequences that may arise from those they upset” (vdp, 11 March 2011). This was a shocking response, to say the least.

Criticism of the government’s failure to deal with Iauko continued to appear in the paper until late June when the case was brought before a senior magistrate. Iauko and his supporters were found guilty of assault and received fines ranging between 15,000 and 85,000 vatu—roughly US$175 to $900. Iauko was fined 5,000 vatu (US$60) for aiding and abetting damage to property and 10,000 vatu (US$110) for aiding and abetting intentional assault. Neil-Jones expressed his disappointment at the result, noting that the fines were small given the gravity of the offenses and that he would likely appeal the sentences (vdp, 30 June 2011). Neil-Jones’s disgust with the outcome of the case is understandable, as he had also suffered an assault in 2009 by members of the Correctional Services over articles published in the Daily Post that revealed their alleged poor performance. To this day, the courts have not dealt with that case (Van Trease 2009, 474).

Attacks on the media are an ongoing issue in Vanuatu, and the decision by Prime Minister Kilman not to discipline a minister involved in an alleged criminal act—not uncommon in the country’s political history—demonstrates the damage done by years of political instability and coalition governments. When it came to taking a clear stand in support of media freedom by disciplining a member of his coalition, the prime minister could at least have suspended him pending an investigation and court action, but he chose not to risk his majority. While this move secured political power in
the short term, it has the clear potential of undermining one of the key pillars of Vanuatu’s democracy.

In the midst of the controversy over the attack on Neil-Jones, the prime minister moved to shore up his majority by replacing the Labor Party in his coalition with the VRP. Kilman removed Labor Party Minister for Justice and Community Services Ioan Simon (from Epi); moved Ralph Regenvanu, president of the Graon mo Jastis Party (GMJ) from the Ministry of Lands to the Ministry of Justice; and installed the VRP member from Efate, Alfred Carlot (nephew of the party’s president, Maxime Carlot Korman) in Regenvanu’s place at the lands ministry. The reason given for dropping Labor from the coalition—there were two additional members of Parliament associated with Simon—was that they had signed the recent failed motion of no confidence. The Daily Post reported, however, that three sacked members of Parliament, including the party president, Joshua Kalsakau, were dissatisfied with an attempt by Regenvanu as minister of lands to put in place various land reforms. On 18 February, he had imposed a temporary hold on the registration of all land dealings to allow for the introduction of new administrative procedures. Three weeks later he was reshuffled out of the Ministry of Lands, at which point the temporary hold he had instituted was lifted (VDP, 12 March 2011).

A few days later, Kalsakau announced that he had placed his signature on an Opposition-sponsored motion of no confidence (VDP, 16 March 2011), and on the afternoon of 14 April, the Speaker of Parliament, Maxime Carlot Korman, declared in order a motion of no confidence in Prime Minister Sato Kilman signed by twenty-seven members of Parliament. The parties behind the motion included the VRP, UMP, National Community Association, Peoples Action Party, and Labor Party, but it appeared that some government supporters might have crossed the floor as well (VDP, 15 April 2011). Indeed, the VRP was in disarray, with several members of Parliament moving to the Opposition side, including Minister of Lands Carlot, who resigned from the Kilman coalition to sign the motion and then rejoined the government on the following day. The rumor going around was that he had been summoned by his uncle, the Speaker, to sign the motion but then rebelled and subsequently withdrew his signature. Indeed, Carlot filed a case in the Supreme Court on Saturday, 23 April 2011, claiming that he did not sign the motion as stated by Natapé. The Supreme Court, however, decided that the motion of no confidence in Prime Minister Kilman was in order (VDP, 25 April 2011).

With the tussle for numbers intensifying, the Opposition gathered its members at a local tourist resort in Port Vila to reduce the chance of their being enticed into joining the government side. The reason given by the Opposition for depositing the motion was that Kilman should not hold the office of prime minister because he had stabbed his predecessor Natapé in the back when he was out of the country, resulting in the successful vote of no confidence on 2 December 2010 (VDP, 16 April 2011).

Significantly, there was no men-
tion from the Opposition of Kilman’s recent controversial decision to side with Fiji’s strongman, Frank Bainimarama, in support of Indonesian observer status in the Melanesian Spearhead Group (MSG). It was reported in the Daily Post that the granting of observer status to Indonesia and Timor-Leste had been agreed to in an “out of session meeting” by foreign affairs officials from MSG countries two weeks earlier in Nadi, following the MSG meeting in Fiji on 30 March. Kilman’s decision received significant criticism from the Vanuatu public and politicians on both sides, who saw it as undermining the West Papua position. The Daily Post asked why Prime Minister Kilman had not told his government colleagues earlier about the decision before the Council of Ministers voted to purposely instruct him to vote against any MSG decision to invite Indonesia to join (VDP, 1 April 2011). The fact that this was not given as a reason for the motion of no confidence is evidence of the dominance of the struggle for power over issues in Vanuatu politics.

Kilman expressed his concern about the continued political instability and claimed again that he might seek a dissolution of Parliament and an early election if the situation continued. When Parliament convened on Thursday, 21 April, the government members of Parliament were not present—an indication that they did not have the necessary twenty-seven votes to block passage of the motion. According to the Vanuatu Constitution (paragraph 21[4]), a quorum of two-thirds of the members of Parliament is required at the first sitting in any session, and, lacking a quorum, Parliament will reconvene three days later, at which time a simple majority of members would then constitute a quorum. The Speaker, therefore, scheduled the next meeting for 24 April, which was Easter Sunday. By that time, it was confirmed that the VRP had split, with four members remaining on the government side and two others—MPs Dominique Morin and Jossie Masmas— siding with the Opposition. In addition, the Opposition at the time was comprised of 10 UMP members, 9 VP, 3 Labor, 1 People’s Alliance Party, and 2 National Community Association (VDP, 1 April 2011). Speaker Korman was also a member of the VRP and, as evidenced by his effort to get his nephew to sign the motion of no confidence, also supported the Opposition.

When Parliament convened on Easter Sunday, all 52 members of Parliament were present including the Speaker. The vote in favor of the motion of no confidence was 26 in favor and 25 against, with the Speaker declaring that Kilman had been deposed. (Note that the Speaker did not vote.) Parliament then broke and returned some time later to elect a new prime minister. Kilman and his cabinet and government backbenchers, however, boycotted the second session, and Speaker Korman and the remaining 26 members of Parliament proceeded to elect Serge Vohor (UMP) as the new prime minister. The vote was 27 in favor, including the Speaker, and none against (VDP, 25 April 2011).

On Monday, former Prime Minister Kilman announced that he did not accept that he had been defeated in the vote of no confidence because the motion had only been supported
by 26 members of Parliament, a
simple majority, instead of an absolute
majority of 27 in the 52-seat Parlia-
ment. Kilman claimed that according
to the constitution (article 43 [2]), if
a motion of no confidence is “sup-
ported by an absolute majority of the
members of Parliament, the Prime
Minister and other Ministers shall
cease to hold office.” As it turned
out, the Speaker’s decision not to vote
meant that the Natatepe motion against
Kilman only had the support of 26
members of Parliament—a simple
majority. It was this fact that had
led the Kilman group to boycott the
second session of Parliament when a
new prime minister was to be selected.
As a result, the Kilman group lodged
a constitutional case in the Supreme
Court to seek clarification from the
court as to the definition of “absolute
majority” in the ousting of a prime
minister as provided under the con-
stitution (VDP, 26 April 2011). Chief
Justice Vincent Lunabek declared the
24 April 2011 motion of no confi-
dence against Kilman to be “valid”
and “legally effective” (Supreme Court
2011a; VDP, 2 May 2011).

Kilman appealed the decision, and
nineteen days later, on 13 May 2011,
the Court of Appeal overturned the
judgment of the chief justice, ruling
that the vote of no confidence against
Kilman on 24 April 2011 was invalid,
as 26 votes did not constitute an
absolute majority of the members
of Parliament. Likewise, the ruling
declared, “The Kilman government is
to be considered as if it remained in
office [including all ministers] and the
Vohor government as if it never came
to office.” The judgment explained its
decision by making specific reference
to the two different voting regimes
spelled out in the constitution, which
include both “simple” and “absolute”
majorities. The court also clarified the
position of the Speaker in its ruling,
rejecting what had become the tradi-
tional practice in Vanuatu’s Parliament
that, in order to maintain his neutral-
ity, the Speaker hardly ever votes. The
judgment noted that, “We cannot find
anything in the Constitution, Stand-
ing Order No. 10 or elsewhere that
prevents the Speaker from voting
on any motion or general resolution
before Parliament.” In other words,
the Speaker counts as one of the 52
members of Parliament, so 27 votes,
an “absolute” majority, are required
to remove a prime minister (Court of
Appeal 2011a; VDP, 14 May 2011).

Serge Vohor’s response to the
Court of Appeal’s declaration that his
election as prime minister was invalid
reflects a positive aspect of politics
in Vanuatu—the usual unequivocal
acceptance by most political leaders
of judgments handed down through
the court system. On his return to
Port Vila (he had been overseas on
official business when the decision
had been received), Vohor accepted
that an error in procedure had been
made and declared, “Vanuatu must be
appreciative that our judicial system is
alive and well” (VDP, 17 May 2011).
Indeed, when Kilman indicated in
late April that he would be challeng-
ing the vote of no confidence that
had unseated him, Prime Minister
Vohor announced then, perhaps in
anticipation of a negative outcome,
that his government was considering
the possibility of asking the court to
rule on whether or not Kilman had, in
fact, been elected in December 2010.
according to the requirements of the constitution. He noted that then-Speaker George Wells had blocked the media from live coverage of the vote of no confidence against Nataphei, in violation of the constitution (article 24), which requires that proceedings of Parliament be held in public. Likewise, he claimed that Kilman’s actual election as prime minister also violated the constitution (article 41), since it had been conducted by show of hands instead, as required, “by secret ballot.” The public was not aware of what had happened, due to the absence of the media, until those present subsequently related the chain of events (VDP, 29 April 2011).

Following the Court of Appeal decision (2011a), there was some confusion as to how to proceed. As part of the ruling, the court stated that Parliament should meet as soon as possible, and Kilman disclosed that he had written to the Speaker to convene Parliament on 23 May 2011 but had not received a reply. Speaker Korman subsequently sent out a notice calling for Parliament to meet on 20 May 2011 to review the ruling of the Court of Appeal and determine whether the government had a majority. To the surprise of many, the Speaker circulated another Opposition motion of no confidence in Prime Minister Kilman, which allegedly had been signed on 13 May 2011 after the Court of Appeal handed down its ruling. Meanwhile, the position of the Kilman government began to strengthen with the movement of several members of Parliament to its side and the reallocation of portfolios. By 18 May, the government looked to have secured the necessary 27 members of Parliament to retain power. Nevertheless, Prime Minister Kilman indicated his desire for an early vote in order to end the political instability. He noted that when the Opposition had lodged the motion of no confidence the previous month, he had requested a dissolution of Parliament, which the president had declined to do (VDP, 18 May 2011).

On the morning of 20 May, amid continued controversy and confusion, Parliament met again to deal with the issue of its leadership. Following the Court of Appeal decision (2011a), the Speaker convened Parliament to ascertain whether the prime minister had the numbers to govern. A motion of no confidence had, in fact, been tabled by the Opposition. Kilman produced 27 members of Parliament at the start of the session, but that number was reduced to 26 when Speaker Korman evicted Port Vila MP Ralph Regenvanu over “degrading” comments leveled against him, allegedly circulated by Regenvanu on the Internet. Regenvanu insisted on his right to reply in Parliament, which Korman allowed him to do. He vehemently denied the accusation before being escorted out of the chamber (VDP, 21 May 2011).

As a result of his eviction that day, Kilman’s numbers were reduced to 26 (VDP, 25 May 2011). Realizing that he no longer had an absolute majority of 27, Kilman and the remaining government members of Parliament left Parliament before the vote of no confidence could take place. The Speaker wanted to proceed with the business at hand, but the Opposition asked for a break, during which a meeting took place between the Speaker, Prime Minister Kilman, and Opposition
Leader Natapei. It was agreed that Parliament would continue, allowing the return of the Kilman government with a 26 to 25 majority. The Speaker then ruled that Kilman did, indeed, have the numbers to govern, presumably because this was not an election of a new prime minister, which would have required an absolute majority of 27 (Independent, 21–27 May 2011).

The Kilman government therefore continued in office, but Natapei immediately lodged a constitutional case related to Prime Minister Kilman’s original election as prime minister on 2 December 2010. Natapei’s lawyers argued that the election was unconstitutional due to the Speaker’s failure to follow procedures in Kilman’s election after he had deposed him (VDP, 25 May 2011). Leader of the Opposition Natapei was listed as the first applicant in the case, and nineteen Opposition members of Parliament as the second applicants. Speaker Korman was designated first respondent, Prime Minister Kilman as the second respondent, and the Republic of Vanuatu as the third respondent (VDP, 15 June 2011).

Chief Justice Lunabek was scheduled to deliver his judgment on 15 June 2011 but postponed it until the next day—to be revealed just prior to the opening of the year’s first ordinary session of Parliament. The fact that the opening had been delayed for four months demonstrates how disruptive the political wrangling had been to the process of governing Vanuatu (VDP, 16 June 2011). Expressing his “pain” in making the decision, Lunabek ruled in favor of the Opposition—that is, that the VP president, Edward Natapei, was to become “acting prime minister” and that the election of a substantive prime minister should take place as soon as possible (Supreme Court 2011b). What concerned Lunabek was that it had taken six months for the case to go before the courts, and he blamed Speaker Korman for not having properly conducted the election of Kilman as prime minister (VDP, 17 June 2011).

Natapei made his position clear, assuring the people of Vanuatu that he would facilitate the election of a new prime minister as soon as possible and that he would withdraw a tabled motion of no confidence against Kilman. He also announced that Serge Vohor (UMP) would be his coalition’s candidate for prime minister, reflecting a renewed alliance between the VP and the UMP (VDP, 17 June 2011). However, the political crisis was not yet over. Natapei was still facing the problem of numbers, since Kilman had had a majority before he was removed as prime minister by the 16 June court ruling. Kilman realized that it was to his advantage for the election of the new prime minister to proceed quickly in order to keep his numbers intact. Now acting as the leader of the Opposition, Kilman lodged an urgent application in the Supreme Court requesting Parliament to meet as soon as possible. The court quashed the application on procedural grounds and because there was no evidence of any breach of the Supreme Court Orders dated 16 June 2011 (Supreme Court 2011b; VDP, 18 June 2011).

The new, Kilman-led Opposition then lodged another urgent application in the Supreme Court to prevent Natapei from replacing the Kilman-appointed state ministers, the argu-
ment being that the appointment of the ministers had not been at issue or ruled on by the Court. Indeed, it was argued that, based on the 13 May 2011 Court of Appeal judgment (2011a), which had seen Vohor removed and Kilman returned as prime minister, “all ministers holding office on 24 April 2011 as part of the Kilman government remain in office” (VDP, 21 June 2011). Chief Justice Lunabek, however, ruled against the Opposition, arguing that their appointments could not be considered valid because “they were appointed by a prime minister who was unconstitutionally elected.” Moreover, he confirmed that Natapei’s ministers who did not resign before the motion of no confidence on 2 December 2010 should “continue to exercise their functions until a new prime minister is elected” (Supreme Court 2011c; VDP, 23 June 2011).

On the morning of 23 June, Speaker Korman convened Parliament with the intention of electing a substantive prime minister. It had now been 204 days (since 2 December 2010) that Vanuatu had been without a legitimate government. Korman realized, however, that Kilman, as current Opposition leader, had 27 members of Parliament—an absolute majority—and therefore the government side decided to boycott the sitting (VDP, 24 June 2011).

In the meantime, Natapei began to try other tactics to deal with his weak position. He alleged, for example, that bribery had been used to persuade certain of his supporters to switch sides—not an unusual accusation during coalition formation in Vanuatu. Also, hoping perhaps to force several members out of Parliament, Natapei accused four ministers in the former Kilman government (Kilman, Carcasses, Iauko, and Regenvanu) of having lied before the Supreme Court in the recent court case relating to the 2 December 2010 vote that had unseated him. He applied to the police to have the matter investigated—to find out if the four ministers had falsified their statements when asked whether the vote had occurred by secret ballot or show of hands (VDP, 20 June, 24 June 2011). Natapei pressed the police to take action, even though the constitution stipulates that “no member may, during a session of Parliament or of one of its committees, be arrested or prosecuted for any offence, except with the authorization of Parliament in exceptional circumstances” (article 27[2]), so the move would not seem to have benefited Natapei in the current situation. He also ordered the ministers who had served under Kilman and their political staff to immediately “refund to the Government treasury . . . the illegal salaries that they were paid from 2 December 2010 to 16 June 2011” (VDP, 25 June 2012).

Regenvanu issued a statement clarifying how the confusion in his earlier statement referring to the 2 December 2010 vote occurred. He noted that, in addition to the fact that he was being asked to account for something that had occurred six months earlier, there had been two votes taken at the time—one to remove Natapei as prime minister and another to elect Korman as Speaker. Given that the media had been prevented from broadcasting the session, Regenvanu stated that he realized that there was reasonable doubt
that he was voting to elect the prime minister, and that the vote might also have been either to support the motion against Natapei or to elect Korman as Speaker (VDP, 21 June 2011). The police investigation of the case has proved inconclusive to date.

On Friday morning, 24 June, the fourth extraordinary session of Parliament convened to elect the new prime minister. Kilman comfortably secured the position with 29 votes to 23 for Natapei. Most of the ministers who had served in his government prior to the court decision that declared his election in December 2010 unconstitutional returned to their same positions (VDP, 27 June 2011).

The final legal action related to the ill-fated 2 December 2010 vote of no confidence, which settled without doubt the legitimacy of Kilman’s tenure as prime minister, was revealed in a judgment of the Court of Appeal handed down in late July. It noted that in the appeal by the then-Opposition to Kilman’s election as prime minister, the chief justice unfortunately referred to the first respondent (Natapei) as “Acting Prime Minister at a time when he had ceased to hold office and [Prime Minister] Sato Kilman was fulfilling that role on a de facto basis.” The judgment noted that the chief justice’s ruling failed to take into account the principle of “de facto office,” which would “retrospectively validate the acts and decisions of Prime Minister Kilman and his council of ministers between December 2, 2010 and June 16, 2011.” This rule of the common law recognizes the powers and functions of public office of a person who has exercised them in the public interest, even when “there has been a defect or irregularity in the due manner of the appointment of that person such that the appointment was not a valid one.” In other words, despite the irregularity in voting (show of hands instead of secret ballot), Kilman rightfully held the office of prime minister, making the subsequent appeals irrelevant (Court of Appeal 2011b; VDP, 28 July 2011). It is remarkable that this final judgment was reached without incident, given the political chaos of the previous eight months, and it demonstrates the underlying strength of Vanuatu’s legal system.

Having had his position as prime minister confirmed by the court, Kilman turned to the issue of the position of the Speaker. Rumor had it that the Kilman coalition was planning to replace Korman (VRP), the longest-serving member (having been elected in 1979) and Vanuatu’s first Speaker of Parliament (VDP, 5 Aug 2011). A showdown was expected during the Parliament’s fifth extraordinary session, which was scheduled to meet on 8 August to deal with several government motions, including one to remove the Speaker. Despite its large majority, the government boycotted the first meeting because it was rumored that Speaker Korman had added his own motion to discipline certain members of Parliament, which he had scheduled to be debated prior to the motion to remove him. Kilman’s group was uncertain about what Korman was planning, especially as he would also be taking on the position of acting head of state with the departure of the president for medical treatment overseas (VDP, 6 Aug 2011).

Using Parliamentary Standing
Orders as a tool, the Speaker was indeed able to avoid dealing with the motion to replace him by simply closing the session. The government, in response, requested another parliamentary session to deal with their motion to remove the Speaker as well as with other bills (VDP, 16 Aug 2011). When the sixth extraordinary session convened, the Speaker ruled that the government bills, including the motion to remove him, were not in order. He made the point that the parliamentary budget only allowed for two extraordinary sessions—a veiled threat that further sessions would be difficult to finance—and again proceeded to close the session (VDP, 20 Aug, 22 Aug 2011). Kilman filed an urgent constitutional application challenging the Speaker’s decision. The chief justice ruled in Kilman’s favor, noting that the closing of the sixth extraordinary session while there was still business to be conducted was an infringement of the constitution, and ordered that Parliament resume immediately (Supreme Court 2011d; VDP, 22 Aug, 25 Aug 2011).

Convening Parliament on 26 August, the Speaker found his official chair and those of all members of Parliament covered with oil. He told members that he feared it was the work of nakaemas (witchcraft), but later discovered that one of the members of Parliament had brought a group from his church to Parliament to pray and sprinkle holy oil in the parliamentary chamber to ward off evil (VDP, 29 Aug 2011). Parliament went ahead, but the Kilman government was finding their effort to remove the Speaker far more difficult than they had expected. A crafty politician, Korman would not give up his position without a fight. On 30 August, he again used Standing Orders to dismiss three different motions to remove him, which had been submitted by different members of the government, claiming that they were out of order, and demanded that all three be withdrawn and a new consolidated motion be tabled (VDP, 31 Aug 2011). Kilman successfully appealed to the Supreme Court regarding the Speaker’s rulings. Chief Justice Lunabek ruled that two of the motions were not in order but that Parliament should meet forthwith and debate the one lodged by Moana Carcasses Kalosil and George Andre Wells, dated 25 August 2011 (Supreme Court 2011e).

When Parliament finally met on the evening that the chief justice gave his ruling, Speaker Korman was removed from office with 27 votes in favor and 14 against. As expected, he was replaced with MP Danstan Hilton (PPP), who represented the Banks and Torres islands in the north of the group (VDP, 7 Sept 2011). Two days later, the government passed a motion in Parliament that had the effect of punishing Korman for having allegedly made illegal decisions in Parliament that were overruled by the Supreme Court. Korman was suspended from Parliament and not permitted to hold any parliamentary posts for the remainder of the term of the ninth legislature—the next election is expected in late 2012. In addition, he was ordered to pay all the legal costs incurred by the State in five constitutional cases. The money was to be deducted by the Ministry of Finance from his salary and other financial entitlements until the total amount
had been recouped. It was estimated that the total legal costs amounted to around 60 million vatu (more than US $600,000). The Opposition claimed in Parliament that this move by the government was not correct and walked out in protest (VDP, 10 Sept 2011).

Korman appealed the motion and received partial satisfaction. The chief justice ruled that Parliament was within its rights to suspend Korman for the remainder of the ninth legislature, but he disallowed the deduction of legal costs and ordered that Korman’s salary and other entitlements—except for sitting allowances—be reinstated (Supreme Court 2011f). In a second judgment, the chief justice made clear that Korman’s election as a member of Parliament had not been canceled; rather, he had only been suspended from attending Parliament (Supreme Court 2011g). In other words, Korman continued as an elected member of Parliament representing Port Vila, but he was not allowed to attend parliamentary sittings.

What followed next was classic Vanuatu politics. On 13 December, during the closing session of the long-delayed second ordinary session of Parliament, Deputy Leader of the Opposition Natapei took the floor and appealed to the government to "forgive and review the measures dealt on MP Korman." By this time, most of what was left of Korman’s party, the VRP, had deserted the Opposition and returned to the government side. Following his suspension, Korman himself also officially left the Opposition, though he could not join his fellow party members in Parliament. This made the VRP the largest political party in the government coalition, since the Alliance was a group of smaller parties and independents (VDP, 17 Dec 2011). Did he think the government would embrace the prodigal son? Only time and circumstances will tell.

Not surprisingly, the political haggling did not go down well with the public. Vanuatu had not had a real government for months, and the newspapers were full of articles and letters condemning the actions of the politicians and urging them to reconcile their differences for the good of the country. In addition, calls for constitutional reform to deal with the political instability grew louder with the revival of an idea for replacing Vanuatu’s Westminster Parliament with a presidential system (VDP, 24 June, 25 June, 30 June 2011). The previous president, Kalkot Matas-Kelekele, had raised the issue on a number of occasions during his term, but there had been little support at the time (Van Trease 2009, 6).

In early June, before the short period during which Kilman was replaced by Natapei, new controversies developed—this time over foreign affairs, but with a local political perspective. The Daily Post reprinted a short New York Times article in which officials from the Black Sea region of Abkhazia, which considers itself to be independent but is claimed by Georgia, announced that it had been recognized by Vanuatu (VDP, 3 June 2011). Only four other countries had recognized the Abkhazia claim—Russia, Nicaragua, Venezuela, and Nauru—and thus the announcement of Vanuatu’s new position seemed
rather peculiar. Three days later, it was reported that Vanuatu’s ambassador at the United Nations in New York, Donald Kalpokas, said that he had been in touch with Foreign Affairs in Vanuatu where officials had “emphatically” denied that this was true (VDP, 6 June 2012). It was subsequently reported that negotiations between Vanuatu and Abkhazia had been going on quietly and had been finalized without informing Ambassador Kalpokas. Foreign Affairs Minister Carlot apologized for the confusion and reported that one of Vanuatu’s roving ambassadors would be visiting Abkhazia soon, and it was expected that trade links would be established (VDP, 10 June 2011).

In a letter to the editor of the Daily Post in the same issue, former Vanuatu Secretary for Foreign Affairs and Roving Ambassador Nikenike Vurobaravu (VP) questioned the decision. He pointed out that the breakaway territory had little foreign recognition and that Vanuatu was therefore in danger of losing its credibility internationally (VDP, 10 June 2011). Minister Carlot’s announcement the following day, confirming Vanuatu’s recognition of Abkhazia, was received in New York by Ambassador Kalpokas with less than enthusiasm. At the same time, the Opposition urged Kilman to withdraw recognition (VDP, 11 June 2011). A week later—Kilman having been replaced temporarily by Natapei—it was announced that Vanuatu had now withdrawn recognition of Abkhazia (VDP, 18 June 2011). However, several weeks later, with Kilman back in power, it was reported that the prime minister had made it clear that while full recognition had not yet been negotiated, it would be in the future (VDP, 15 July 2011).

In the meantime, it was first learned in Vanuatu through a Radio New Zealand report that the minister of foreign affairs had decided to recall Kalpokas as Vanuatu’s ambassador to the United Nations due to his age and alleged poor performance. The ambassador reported that he had received nothing from the Ministry of Foreign Affairs notifying him of his recall or appraising his performance (VDP, 9 July 2012). It would seem that this move was linked to the rift that had developed over the Abkhazia affair and perhaps from the fact that the ambassador and the foreign affairs minister came from opposing political camps. In addition, it was suggested that there may have been a bit of “petty revenge” at play—Carlot had been a previous UN ambassador and was recalled during the time when Kalpokas headed the VP-led government (VDP, 29 July 2011). A number of letters to the editor appeared over the next few days, all criticizing the decision to remove Kalpokas and condemning the way in which it had been handled (VDP, 13, 16, 18, 19 July 2011). Kalpokas had been one of Vanuatu’s leaders during the struggle for independence and a former VP prime minister. In any case, he was not in fact recalled and remains in office in New York to this day.

While the Abkhazia affair seemed to lack any real seriousness, the announcement by the minister of foreign affairs that Vanuatu intended to establish ties with Taiwan came as a shock to many. Minister Carlot explained that he planned to travel to Taiwan to negotiate the establishment
of a Vanuatu trade mission in Taipei with the possibility in the long term of establishing “full diplomatic relations” (VDP, 16 July 2011). Vanuatu had established diplomatic relations with the People’s Republic of China in 1982, just after independence, and had remained a staunch supporter of the One China Policy over the years, despite many changes of government. The single deviation from this position occurred in November 2004, when the UMP prime minister at the time, Serge Vohor, made an unannounced visit to Taiwan, where he secretly negotiated to shift Vanuatu’s recognition from the People’s Republic of China to the Republic of China. He did this without consulting any of his ministers, and politicians in both the Opposition and his own coalition were outraged. As a result he was ousted in a vote of no confidence in December (VDP, 4 Dec, 5 Dec 2004). Minister Carlot’s announcement, therefore, appeared to mark a significant shift in Vanuatu’s foreign policy.

The motivation for this abrupt change of policy can only be explained in one way—monetary blackmail. Three days after the announcement, Carlot issued a demand to the Chinese government for budgetary assistance amounting to three billion vatu—over US$30 million (VDP, 19 July 2011). It was no secret that the government’s financial situation had deteriorated significantly compared to recent years, with reports that the shortfall in the budget for 2011 was expected to be two billion vatu—over US$20 million (VDP, 28 June 2011). Sharing the front page of the Daily Post with the announcement of the change of policy was an article reporting that the Chinese ambassador expected the Government of Vanuatu to remain loyal to the One China Policy and that China would oppose any minister going to Taiwan (VDP, 19 July 2011).

The next day, Prime Minister Kilman announced that Vanuatu would maintain its One China Policy (VDP, 20 July 2011), and the following day, the Chinese ambassador announced that the Government of China would pay part of the request but could not contribute the full three billion vatu due to China’s current financial situation (VDP, 21 July 2011). An appeal by Deputy Prime Minister Ham Lini (NUP) for the Vanuatu government to stick to its One China Policy (VDP, 22 July 2011) revealed the broad opposition to the move. In addition, it demonstrated an ongoing weakness in Vanuatu’s system of government policy formation, whereby individual ministers are able to push their own agendas without full cabinet discussion or agreement.

It was rumored that Kilman was not happy with Minister Carlot’s “China policy,” and at the same time there was disagreement over Internal Affairs Minister George Wells’s suspension of the Port Vila Municipality (discussed below). Rather than deal with the matters internally, which would logically contribute to the continued stability of the coalition, it was reported that Kilman had begun to negotiate with VP leaders about the possibility of their joining the government (VDP, 9 Aug 2011). The change did not happen, but the potential for further instability continued.

Indeed, it may not be mere coincidence that Minister Carlot decided to deviate significantly from the estab-
lished policy of successive Vanuatu governments with regard to China and to play a game on the international scene by recognizing Abkhazia. In both cases, he received quite significant media coverage just when he had decided to promote his own personal political agenda by announcing that he was reviving, and making his own, an old political party that had been around at the time of independence in the 1970s and 1980s—the Natatok Party. On 25 July 2011, he organized a celebration in his village of Erakor, located close to Port Vila, where he launched the party by unveiling a constitution and a flag (VDP, 19 July, 27 July 2011). It is clear that this was part of a process that had begun in April when he split with the Vanuatu Republican Party and with his uncle, Speaker Korman, and allied himself with Kilman.

One of the most hotly debated issues in 2011 concerned the Kilman government’s decision to pursue membership for Vanuatu in the World Trade Organization (WTO). The Vanuatu government had first applied for membership in July 1995. An accession package was finalized in 2001, but the government sought more time to consider the terms and conditions. Work began again in 2008 but with no final agreement. In April 2011, another working group was convened, which included Deputy Prime Minister (NUP) and Minister for Trade, Industry and Tourism Ham Lini (VDP, 1 April 2011). Final agreement on an accession package sparked significant debate in Parliament and in the community at large over a number of issues: land, protection for local industry, the possibility for withdrawal, and the need for further consultation to achieve better conditions (VDP, 3 Dec 2011)

The government faced a coalition of voices in opposition, including all the major bodies representing civil society: most nongovernmental organizations, the Malvatumauri (National Council of Chiefs), Chamber of Commerce, Vanuatu Christian Council, and Vanuatu National Workers Union. Those against saw joining the WTO “as a surrender to powerful global interests . . . [while supporters saw it] as a mature policy of engagement” (Pacific Institute of Public Policy 2011). The bill for the Protocol of Ratification on Vanuatu’s accession to the WTO was carried by 25 votes in favor from the government, with one abstention and 20 votes against. Included among those who voted against was Minister of Justice Ralph Regenvanu. He explained his unprecedented vote against his own government as indicating not a lack of confidence in the prime minister but his concern that better conditions needed to be negotiated (VDP, 2 Dec 2011). Victory for the government, however, was not yet complete; as the New Year arrived, the president had yet to affix his signature to the bill.

Early in 2011, Kilman committed his government to tackling corruption (VDP, 1 Feb 2011), and several cases of fraud and mismanagement were investigated. However, as noted in this review, political conditions made dealing with alleged corrupt politicians very difficult. Due to political wrangling delays in the opening of both regular sessions of Parliament meant that legislation was delayed, in need of further consideration, or not dealt
with at all, and the country’s growing culture of corruption continued unabated.

Allegations were made that the Citizenship Commission was prone to bribery, as evidenced by the awarding of citizenship to two Asian businessmen who had not lived in Vanuatu the required ten years but had made financial contributions to the refurbishment of Parliament (VDP, 8 July, 9 July 2011). Likewise, an amendment to the Public Service Act changed the procedure and removed control of the appointment and dismissal of director generals, as guaranteed under the constitution, from the Public Service Commission (psc). Leader of the Opposition, Serge Vohor, expressed his concern, and VP Secretary-General Sela Molisa labeled the Bill “unconstitutional.” The amendment allows the appointment of director generals by the prime minister on recommendation from the psc on a four-year contract, renewable one time only. The concern by opponents was that the change introduced the possibility of political interference to the appointment process (VDP, 9 Aug 2011).

One of the most worrisome issues during the year was highlighted in a report to Prime Minister Kilman by former Director General of Lands Joe Ligo, who alleged widespread corruption in the Ministry and Department of Lands going back years and implicating former ministers and senior lands officials. Ligo warned that, in particular, tension was high among Ni-Vanuatu over land deals that had gone through without the proper consent of custom owners and warned of “civil unrest and conflict that could destroy our country” because of the loss of land by some Ni-Vanuatu due to corrupt dealings. The Ligo report created a significant stir within the community, with articles touching on various issues appearing over the next several days in the newspaper (VDP, 20 Jan, 21 Jan, 23 Jan 2011). The response from some in the Lands Department was that the report was unbalanced, but Ligo backed up his allegations of massive corruption by detailing a number of cases. Moreover, throughout the year, the media published a continuous stream of reports of shady deals. The report, however, did not lead to any changes to regulations, except for an attempt by Ralph Regenvanu, during his short time as minister of lands, to put a hold on land dealings to allow for the introduction of new administrative procedures. His reward for trying to deal with the issue, as mentioned earlier, was to be shifted out of Lands to Justice.

After many complaints, Minister of Finance Moana Carcasses Kalosil finally moved to deal with another alleged case of corruption and mismanagement. He appointed a team to investigate the Northern Islands Stevedoring Company Limited (niscol), which is a company owned jointly by the four northern provinces (Sanma, Torba, Penama, and Malampa) and handles port operations at Luganville in the northern part of Vanuatu. There had been numerous complaints that niscol had not been paying its bills nor auditing its operations (VDP, 3 March 2011). In September, a report by a Commission of Inquiry authorized by the minister of finance revealed its results and alleged the misuse of 87 million
vatu (over US$900,000) and that the company had debts of over 440 million vatu (nearly US$5 million) (VDP, 7 Sept 2011). Resolution of the alleged fraud was still before the courts as the year ended.

In July, Minister of Internal Affairs George Wells suspended the Port Vila Municipal Council (PVMC) over alleged misuse of funds and general mismanagement (VDP, 21 July 2011) and threatened also to suspend provincial councils due to maladministration (VDP, 4 Aug 2011). Criticism among the citizenry of Port Vila has been continuous over the years that the services provided by the PVMC have been inadequate, and there was a widespread feeling that their taxes were not being properly spent. A Commission of Inquiry reported in December that the PVMC faced debts of over 1 billion vatu (over US$10 million) due to poor decision making and mismanagement stretching back over the previous ten years (VDP, 24 Dec 2011).

Despite the year’s troubles, Vanuatu ended 2011 with some optimism due to the fact that 2012 would be an election year. For many, the national elections are seen as an opportunity to bring fresh faces into Parliament and move on from the recent disastrous period of political instability. The prognosis, however, may not be that positive, as the conditions that underlie Vanuatu’s political culture and feed the instability do not appear to have changed but may indeed be getting worse. Political disunity overall, leading to an increasing number of political parties and independents who contest the election and split the vote, appears to be increasing.

The problem that divides the major parties and, indeed, makes it difficult for independents to unite into single, stronger entities, is the continuing reemergence since independence of traditional bigman politics. What divides the parties is not disagreement over issues, but raw competition for power—a striking contrast from the period of Vanuatu’s struggle for independence. Since the 1990s, no single party has ever been able to form a majority in Parliament, with the result that coalition governments and political instability have become the norm. Because parliamentary majorities are usually weak, prime ministers find it difficult to sustain solid policy programs, as individual ministers too often focus on their own personal agendas. Attempts to rein in rogue political partners run the risk of alienating individual ministers and their followers, leading to the collapse of the coalition altogether.

Several important political issues have emerged recently, which seem to have led to a coalescing of sizeable sections of the public—for example, the right to independence of West Papuans and Kanaks, Vanuatu membership in the WTO, and the call for a presidential system to replace Vanuatu’s Westminster system of government. In the 2008 election, the victory of Ralph Regenvanu—who won a seat in Port Vila as an independent with the largest vote total ever received in the history of Vanuatu and who campaigned on the issues of political reform and an end to corruption in government—may indicate that the voting public is ready for change. It remains to be seen, however, whether broad public interest can be sustained in such issues and trans-
lated into platforms that can unite individual citizens and politicians into viable parties. It will be interesting to observe how politicians frame their campaigns in the lead-up to national elections, scheduled for 30 October 2012.

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References


