



GOVERNMENT OF TONGA

MEDIA RELEASE

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“Hon. Prime Minister’s Letter to Acting Attorney General.”

PRIME MINISTER

Nuku’alofa

Kingdom of Tonga

Ref: LO 3/2

13 February 2015

The Acting Attorney General,
Taumoepeau Building
Fatafehi Road
NUKU’ALOFA

Dear ‘AminiasiKefu,

I write to voice my grave concerns over your involvements or lack of, in the criminal case of Lord Tu’ilakepa, regarding firearms and ammunitions found in his places at Longolongo&Ofu, and the resultant sentences based on available evidences put before, and imposed by Supreme Justice Cato.

My concerns are listed below:

- The prolonged and unnecessary delay in bringing the case of Lord Tu’ilakepa to court baffles me. You will recall that three prosecutions against three different accused were laid by the police for illegal possession of firearms and weapons at around the same time, viz Lords Lasike, Tu’ilakepa and Tu’iha’ateiho, respectively. It is now more than four years since Lord Lasike’s case was heard and Lord Tu’iha’ateiho is yet to be heard. How long will this go on for?
- I raised this point in the last Parliamentary session of 2014 because of public concern over lack of transparency and accountability with the decision to keep deferring the remaining cases of Lord Tu’ilakepa and Lord Tu’iha’ateiho.
- These cases were similar in most aspects yet the “Lasike’s case” was rushed through to be heard first. It is no coincidence that the rushed hearing coincided with the “Vote of No confidence” in the last government. The other case of Lord Tu’iha’ateiho will be heard shortly, a time span of over four years for the three cases.

●I question the selective hearing of these important cases because seemingly, they reflect sinister interests of other parties!! Should not these cases be heard at the same time because of their similarities?

●I find your involvement as Solicitor General at the time, and now acting Attorney General in Lord Tu'ilakepa's criminal case to be very disturbing because in my view, you have ignored public empathy, impartiality, independence and fairness to the people, in pleading a lesser severe sentence for the defendant. Did you make a similar plea to reduce the penalty imposed in Lord Lasike's case? If not, why not?

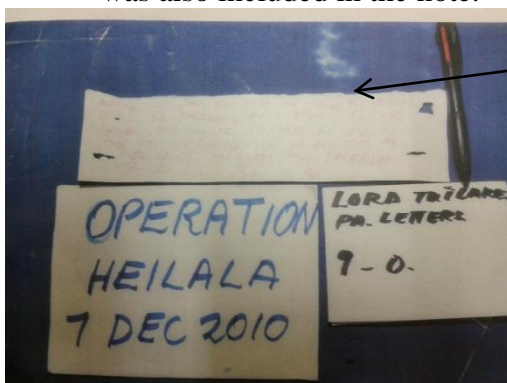
●Is it normal for a Crown Barrister like the Solicitor and acting Attorney General and now acting Attorney General, to be directly involved in seeking a lesser severe penalty for the defendant with the presiding judge of a case? This may have been the norm with past administrations but this practice has no place in my government. In case you have not understood me, I will remind you again, we are accountable and transparent to the public and this case highlights exactly the opposite.

●By doing the above, you have deliberately interfered and diminished the integrity, experience and intellect of Supreme Justice Cato, who should have been left alone to pass sentence independently on what he thought was the ideal sentence based on all evidences put before him, that 'time should fit the crime'.

●I want to see independence, impartiality and fairness of decisions from presiding judges based on all evidences associated with any case, so that an equitable and a judicious outcome is reached without undue interferences from outside sources.

●Returning to Lord Tu'ilakepa's case, you went on air to allay public fears of corruption and biasedness with the case. Your whole radio broadcast focused only on evidences found in the defendant's home in Longolongo which Lord Tu'ilakepa denied ownership of. You also failed to discuss the weapons and ammunitions found in the Lord's residence in Ofu. Why were these weapons and ammunitions not presented as evidences during your radio session so that the public were informed of all the facts? Aren't they entitled to the truth? Who are we serving, the public or a selective few?

●I am attaching another piece of incriminating evidence that was written by the defendant to his wife when he was in prison. *The evidence is enclosed as Exhibit A.* It gave clear instructions to his wife to dump the weapons and ammunitions from his residence at Ofu at sea. Instruction to remove money left in the government vehicle was also included in the note.



Translation is as follows: KATAKI FETUUTAKI KIA FANE KE TALA KI HOKU MALI KE FAKAAUHA AE MEATAU I OFU MOE MAHAFU OKU IAI AE PEKENENE AI LAKU KI TAHI KOE KII TAAHINE LUSI KE ALU O AI AE MEA KO ENI MOE VEENI FOOU FALEALEA TO'O 'AE SILINI KOIA O AVE

●My concern with "Exhibit A" is whether it was passed to Supreme Justice Cato during the final court session so that this evidence was included in his final summation and consequently, passing of the sentence?

●I strongly feel that your attempt to reduce the severity of the case is morally wrong and interferes with the independence and impartiality of a pending decision by a Supreme Judge of His Majesty's Judiciary, over a criminal case.

●Your untimely intervention in this case, for whatever reasons, further downgrades the sanctimony of the Solicitor General and the Attorney General's Offices and the lack of application of a fair Judicial System in the Kingdom. Why didn't you plead clemency for a lesser severe penalty for both Lords Lasike and Tu'ilakepa respectively? Your failure to do so showed discrimination against one and not the other.

●Considering the two cases and the severity of the sentences, I found the sentences to be discriminating and excessive; one bullet case was found in Lord Lasike's residence against two caches of ammunitions and weapons found in Lord Tu'ilakepa's two separate residences, in Longolongo and Ofu!!

●Four weapons and ammunitions translated into five counts of conviction against Lord Tu'ilakepa, with a total monetary fine of \$10,000. The conviction could only be monetary or imprisonment but not both. Had Lord Tu'ilakepa been convicted to serve more than two years in prison, apparently he would have lost all his noble entitlements. Is this law the norm with the people of Tonga, that monetary fines are not applied simultaneously with terms of imprisonment?

●The comparison is very significant when Lord Lasike's penalties are stacked against Lord Tu'ilakepa. One bullet case found against four weapons and several rounds of ammunitions. Lord Lasike lost all his noble entitlements. It is relatively easy to see the huge disparity in the two cases. Is this the one law for all Tongans as prescribed by the constitution, I doubt it, yeah? It seems to me that there is one law for the nobles and the Lords and one for the masses. Why is this?

●During the late George V's reign, the Lord Tu'ivakano's Cabinet passed a "Firearm and Ammunition Bill" to reduce the penalty for illegal possession of weapons and ammunitions which the King refused 'royal assent' to because King George V feared inimical public hostility". The reductions proposed were to reduce imprisonment from 7 years to 1 year and monetary fine from \$5000 to \$1000 for the nobles.

●Not satisfied with the first refusal, the Cabinet of Hon. Tu'ivakano passed an amendment to the Weapons and Ammunition bill to reduce penalty and severity of possessing weapons and ammunitions illegally, in anticipation of Lords Tu'ilakepa and Tu'iha'ateiho's cases. Did the Solicitor General or the acting Attorney General make any submission or offer relevant advice on the discriminating aspects of this penalty reductions?

●The construction and passing of this privileged law was totally deliberate to protect a privileged few. Dare I repeat it again!

●Was this act by the previous Cabinet reflective of public empathy and their feelings? I thought this was your responsibility, as Solicitor General or acting Attorney General, to pursue a fairer and a more equitable outcome for the public and not just for the nobles.

●I also raised the long, unnecessary delay in addressing Lord Tu'ilakepa's case during the last parliamentary session in 2014. The incident is very fresh in my mind because as I read out "*Exhibit A*" in the House, the defendant became rowdy, angry and aggressive towards me. He also lambasted the Speaker of the House, Lord

Fakafanuaas young and inexperienced, in allowing me to read his note to his wife from prison (Exhibit A). Your input was needed to push the case through. How was this different to Lord Lasike's case?

●Please recall the session I had with you, as acting Attorney General with the Solicitor General, Sione Sisifa and 'Aholotu Palu, acting Chief Secretary and Secretary to Cabinet at the PMO during January of this year. I specifically voiced my concern about the adequacy of Lord Tu'ilakepa's pending sentence, and that it should fit the crime. You clearly chose to ignore my concern, deliberately went against my advice and pleaded clemency with Supreme Justice Cato, to reduce severity of sentence in Lord Tu'ilakepa's criminal case, the consequences of which will only be manifested over time.

●Cabinet will deal with your case imminently and will pass the final decision to which you will be informed of the outcome.

I want to reiterate the stance taken by my government on this issue.

●We are serving the public, our stakeholders and our focus should be on helping the people to improve their standards of living. All people of Tonga are equal per the constitution and my government will work to uphold that principle of equality.

●My new government stands on a platform of equity, impartiality and independence to bring about transparency and accountability to the people, at large. The law of the land must apply unilaterally to all citizens of Tonga with no discrimination. Our work must be fair, transparent and accountable because we are serving the interests and wellbeing of our stakeholders.

Finally, Cabinet will find it difficult to work with people like Lord Tu'ilakepa in the future because of his poor integrity, the legal protection afforded by the previous Cabinet, including yourself, and lack of dedicated commitment by the defendant to the people. The inequalities and gross injustices in this case and those who worked to free Lord Tu'ilakepa sacrilegiously in Parliament have tarnished and reduced the sacredness and holiness of this much revered office

The evidences were overwhelming against Lord Tu'ilakepa and the handling of the case baffling, and your involvements, sad and intriguing, why?

The public demand to be informed of the case and other issues that affect their interests and welfare. My government will do its role to ensure that factual information is disseminated publicly and timely on any issue that is relevant and of immense interest to the public.

ENDS

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