



KINGDOM OF TONGA
PILON COUNTRY REPORT

37th Pacific Islands Law Officers' Network Meeting

(PILON)

8 – 11 October 2018

Rarotonga, Cook Islands

Attorney General's Office

Kingdom of Tonga

I INTRODUCTION

Malo e lelei and Kia Orana,

- 1 On behalf of the Attorney General's Office of the Kingdom of Tonga, I have the pleasure of presenting the Kingdom of Tonga's Country Report for 2018 to distinguished colleagues attending the 37th Pacific Islands Law Officers' Network Meeting in Rarotonga, Cook Islands.
- 2 At the outset I would like to thank our host, the Solicitor General and the staff of the Crown Law Office of the Cook Islands, and the Government and people of the Cook Islands for their wonderful and generous hospitality. I congratulate them for the excellent organisation of the 2018 annual meeting. For a small office, you have all gone far and beyond our expectations, however the task is half done when you have the natural beauty of Rarotonga and the warmth of the Cook Islands people provide a fantastic foundation for your hosting. Metaki Ma'ata!!!
- 3 At the outset I want to inform Members that earlier in 2018 Tonga suffered a great loss when the Chief Executive Officer for Justice, Ms Susana Faletau, unexpectedly passed away. She was serving her second term as head of the Ministry of Justice. She was a dedicated and highly skilled diplomat and law practitioner, and had served Government for more than 30 years. Her loss leaves a current vacuum at the top position of the Ministry of Justice, which remains vacant up to today after two efforts to recruit a replacement.
- 4 The main highlights from the legal and justice sector for Tonga in 2018 was the continued efforts by Government to review the Constitutional and political reforms of 2010, especially in relation to the offices of the Attorney General, the Ombudsman and the Director of Public prosecutions. Furthermore, illicit drugs and the confiscation of proceeds from illicit drugs trade has leapt to the forefront of Government law and order priorities, along with cybercrime law reform and technical assistance and training. Tonga is also pleased to announce the completion of the 2017 Revised Laws of Tonga which will be made available on-line in November during the celebration of the 143rd anniversary of the granting of the Tonga Constitution on 4 November 2018. Tonga is also pleased that it has produced the

Government's Legislative Drafting Manual with the assistance of the Pacific Islands Forum Secretariat, and the completion of Tonga's third Universal Periodic Review.

- 5 Overall, Tonga is grateful for all the support provided by the development partners, especially Australia and New Zealand, the European Union and Council of Europe, and the Pacific Islands Forum Secretariat, and also PILON members. Tonga hopes that this regional cooperation continues, and it results on positive changes and developments for the legal and justice sectors of PILON Members.
- 6 Tonga also hopes that in this annual meeting, PILON Members and Observers consider sparking a rejuvenation of PILON with the proposed amendments to the PILON Charter, and that it remains active and relevant to our work as Law Officers in service to our political leaders and peoples of the Pacific, and also to be active in engaging with other regional and international organisations.
- 7 Finally, I take this opportunity to wish all Distinguished Delegates a successful and fruitful annual meeting, and wish PILON Members success in 2019.

Malo 'aupito and kia manuia,



'Aminiasi Kefu

Acting Attorney General and Director of Public Prosecutions

10 October 2018

II MAJOR LAW AND JUSTICE ACHIEVEMENTS

8 The major law and justice achievements in 2018 were:

(1) Completion of Law Revision Project

In October 2018 the Office will submit to printers the 2017 Revised Laws of Tonga for publication. The revision and consolidation of the English version was completed in 2017, and the Tongan version was completed in September 2018. The intention will be that the Revised Laws will be printed only in hard copies for His Majesty the King, the Prime Minister, the Speaker of the Legislative Assembly and the Lord Chief Justice, and the Attorney General's Office, and the rest will be able to access the laws on the Office's website. The last Revised Laws were revised up to 1988 and published in 1990. The new Revised Laws will be in 15 volumes each for the Tongan and the English versions, reflecting the many laws enacted since 1988. Those who would want to print their own set of laws can select the laws that they want printed and then have them printed in their own set of law books.

(2) Establishment of Illicit Drugs Steering Committee

On 18 July 2018, the Government established the Illicit Drugs Steering Committee to provide a unified and effective response to the production, supply and consumption of illicit drugs. The Committee includes membership from law enforcement, customs, finance, health, education and internal affairs. This was the result of the Government declaring war on illicit drugs, after increasing investigation and prosecution of methamphetamine use, school children being used to sell illicit drugs, increase in violent armed robberies and culminated in the discovery of more than 50 kilograms of cocaine that washed up in the outer islands.

(3) Establishment of Legal Aid Centre for Survivors of Domestic Violence

On 12 March 2018 Tonga officially opened its very first Legal Aid Centre with the sole purpose of assisting survivors of domestic violence. This was made possible by the tireless efforts of the Ministry of Justice in collaboration with the South Pacific Community's Regional Rights Resource Team (RRRT).

This is a one year pilot project funded by the RRRT and also the Tongan Government. It is hoped that funding will be provided by interested donors and the Tongan Government beyond the one year period.

The mandate of the Centre is to increase access to justice for men, women and children who are victims of domestic violence by providing free legal assistance, including drafting application for protection orders, Court appearances, and referrals to other systems.

To date the Centre has provided legal assistance to 224 survivors.¹The Centre has also extended its services to the outer islands of Tonga. The Centre has also conducted community advocacy, including to schools. It is widely accepted by stakeholders that the Centre is working effectively and that the community needs these services.

(4) Completion of Third Universal Periodic Review

Tonga completed its Third Universal Periodic Review before the United National Human Rights Council. The main achievements were on work on sexual and gender based violence, gender equality, female members of parliament and recognising rights of persons with disabilities. The main challenges continue to be the ratification of all the core international human rights conventions, establishing a national human rights institution, removing the death sentence, removing criminal prohibitions on same sex conduct, and allowing women access to land.

(5) G7 24/7 Cybercrime Network of Contact Points

In August 2018 Tonga was admitted as a member of the G7 24/7 Cybercrime Network of Contact Points. This network has a current membership of 84 countries, and is overseen by the United States Department of Justice. The network allows members to seek data preservation orders on an expedited basis in other member countries. There is no application fee nor a subscription fee. The only requirements are for members to have a contact point(s) who is available on a 24/7 basis, is able to communicate in

¹ This number does not reflect or include those persons who went to the Centre seeking legal advice, court appearances, or other applications.

English, is knowledgeable about cybercrime, and also knowledgeable about domestic law and international cooperation.

(6) Tonga Law Reports Online

The Office has provided all volumes of the Tonga Law Reports from 1908 to 2016 free online for anyone to download. The 2017 Tonga Law Reports is expected to be published by the end of 2018. The 2018 Tonga Law Reports is expected to be published in the first quarter of 2019.

(7) Government Legislative Drafting Manual

Tonga has submitted the Government Legislative Drafting Manual to Cabinet for approval. It is anticipated that this will be brought into force on 1 February 2019, after one final round of consultation with Government Ministries, Departments and Agencies to ensure that they understand the Manual. The Manual introduces process for development of legal policy, and the issuing of written detailed drafting instructions.

(8) New Judicial Officers

In 2018, two new judicial officers were appointed by His Majesty the King on the advice of the Judicial Appointments and Discipline Panel.

Mr Laki Niu SC, a former Crown prosecutor, private lawyer and long-time President of the Tonga Law Society, was appointed the first Tongan to be a full-time Judge of the Supreme Court of Tonga. He was appointed for a five year term.

Mrs 'Elisapeti Lavakei'aho Langi, former Assistant Senior Crown Counsel at the Attorney General's Office, was appointed the second female to be a Magistrate of the Magistrates Court.

III SIGNIFICANT COURT DECISIONS

9 The following are some of the significant Court decisions for the year 2018:

(1) Selemana Fonua v Rex, AM

The Appellant appealed against her conviction for one count of theft of \$21,299.00, and one count of falsification of accounts. The Appellant was a clerk at the Tanoa International Dateline Hotel, and was responsible for preparing the payroll and paying staff. The Supreme Court held that the Appellant had added false names on the payroll, and then processed the payment of salaries for those false names, then collected the salaries for herself. During the prosecution the original payroll spreadsheets, the time register and cheque butts confirming the payments were lost by the Police investigator, and so the Crown relied on photo-copies. The Supreme Court accepted and relied on those photo-copies in convicting the Appellant. The Appellant was then sentenced to 2 years imprisonment, with six months suspended on conditions.

The Appellant appealed to the Court of Appeal only against her conviction. She challenged the reliance of the Supreme Court on the photo-copies. The Court of Appeal dismissed the appeal. It held that based on evidence led on the documents, the Trial Judge was entitled to conclude that the originals had been lost or destroyed and that, pursuant to section 67 of the Evidence Act, secondary evidence could be given of the existence and contents of the documents. The Court also held that the computer generated copies of the missing spreadsheets was admissible, because the original was contained in the computer. The Court also held that the copies of the time sheets were not required for proof because they were only used to show that they were to source of the data used to prepare the payroll spreadsheets. The Court also held that the Appellant's complaints about inconsistencies of the evidence were isolated, and could not disturb the Trial Judge's findings of credibility of Crown witnesses who gave evidence that they saw the Appellant take amounts of cash from the payroll, and that the Appellant added the false names to the spreadsheets created by the Crown witnesses.

(2) Police v Sila Ki Vai Talamai AM 7 of 2018

This was an appeal by the Crown from the Magistrates Court to the Supreme Court against the decision of the Principal Magistrate who dismissed armed robbery charges at the committal stage due to lack of evidence.

The charges were initially dismissed by the Principal Magistrate because the Crown had failed to present committal papers on the date of committal. The Crown then re-filed the charges and prepared the committal papers. The Magistrate again dismissed the charges because the same charges were already dismissed before. The Respondent had argued that the re-filing of the charges was a breach of clause 12 of the Constitution that provides “no one shall be tried again for any offence of which he has already been tried whether he was acquitted or convicted”.

On appeal, the Supreme Court distinguished that dismissal of information which has not involved a trial on the merits, but was only a discharge pursuant to a preliminary inquiry does not constitute a bar to prosecution commencing afresh so long as there is no time limitation on prosecution. The Court also stated that the issue of estoppel does not arise from such discharge, and there was no violation of the Constitution as there was no acquittal.

The Supreme Court set out the test for sufficiency of evidence as he discussed in Police v Hala'ufia & ors was whether the evidence called by the prosecution reached the threshold of; as its highest, would allow a properly directed jury to convict. If the evidence is of that quality, then the case should be committed. He also emphasized in citing Galbraith (1981) 73 Cr App R 124, that a Magistrate should not attempt to evaluate the evidence, and cannot do so in the absence of witnesses being called to give their evidence with their reliability assessed after cross-examination and considered together with all other evidence adduced.

The appeal was allowed, and the matter was committed to the Supreme Court for arraignment and to fix a trial date.

(3) Rex v Taufa Fevaleaki CR 101 of 2017

The Accused was charged in the Supreme Court with six counts of forgery related offences. Two of the counts related to the offence of forgery, where the Accused signed an application for a Tongan passport with the name Siosaia Taufa Finau, to obtain a passport and also a national identity card. Counts 1 to 5 were in relation to the Accused knowingly dealing with forged documents where he used the passport to travel to Fiji. Count 6 against the Accused alleged that he did make a false statement in a declaration when he applied for a Tongan passport under the name of Sosaia Taufa Finau.

Evidence was given by an officer from the Ministry of Justice authenticating two existing birth certificates for Siosaia Taufa Finau and Taufa Fevaleaki. The first birth certificate for the name Siosaia Taufa Finau records his birth was registered on the 1 October 1965 by his father Siosiu Finau and Ane Finau of Tofoa, and that the date of birth on this certificate showed the Accused was born on 26 September 1965.

The birth certificate for the name Taufa Fevaleaki was not registered until the 4 March 1981 by his father Siosiu Fevaleaki and Ane Fevaleaki of Lotofoa, Ha'apai, and showed that the Accused was born on 18 September 1962.

The Accused gave evidence that his family had provided him with two names which he used growing up, although the name he had used and was mostly known by was Taufa Fevaleaki.

Evidence throughout the trial reveal that the Accused was issued an earlier passport in the name of Taufa Fevaleaki, however a no fly order had been placed as an alert because of a Court hearing he had relating to the payment of marital maintenance. The Accused then applied for a passport using the name Siosaia Taufa Finau. There was no other evidence produced by the Crown. The Crown's case was that the passports related to two different people because the names were different.

The Supreme Court acquitted the accused in relation to counts 1 to 5 of forgery. He stated in his ruling, that there was no other evidence that rebutted the Accused's

evidence that he was indeed provided with two names. The birth certificates suggest a common relationship; both show a child was born in Tofoa, the parents have common first names and also the same place of where the parents come from. The Crown could not prove beyond reasonable doubt that the accused had lied that he had two names and had two birth certificates, and consequently could not prove the essential element that the Accused had knowingly made a false statement when he represented that he was Sosaia Taufua Finau for a passport and Tongan national identity card.

In relation to count 6 however, the Supreme Court convicted the Accused. The Court stated that the charge encapsulated the overall criminality involved in this case. The Accused understood that he could not fly out of Tonga on the passport name of Taufua Fevaleaki, and so he signed the application for a Tongan passport in the name of Sosaia Taufua Finau giving all appropriate details aside from filling in the section whether he was known by any other name. The Supreme Court found that the Accused knew and had admitted to Police that he would not have obtained a passport if he had informed immigration that he had a passport in the name of Taufua Fevaleaki.

The Accused was sentenced to 1 year 9 months imprisonment, with the last 9 months suspended on conditions.

(4) Rex v Paame He Lotu Vailea CR 75 of 2017

This was the first criminal prosecution before the Supreme Court involving the application of section 148 of the Tonga Police Act which discussed the importance and mandatory requirement for police to caution suspects of crime.

The case involved a female accused who was charged together with her father with 2 counts of incest and domestic violence.

The Crown's case against the female accused depended entirely on 2 statements. These statements were recorded in statement form, but not under caution as required by section 148 of the Police Act. This was done by Police in hope that the female accused would be a witness against the male accused, however when she was reluctant to do so, charges were laid against her, and her record of interview was taken.

Justice Cato in his ruling emphasized the importance of section 148 as an aspect of the Tongan criminal procedure. He emphasized the obligation to caution signifies to a person being interviewed the serious consequences that may result if the person proceeds to co-operate and engage with the interviewing officer.

The female accused was acquitted.

(5) Saia Naufahu v Rex AC 9 of 2018

This was an appeal from the Supreme Court of Tonga to the Court of Appeal seeking leave to appeal out of time.

The Appellant was sentenced on 23 May 2016 after pleading guilty to one count of causing grievous bodily harm and one count of domestic violence. The Court of Appeal stated that this case was a most serious case of premeditated violence by a husband upon his wife by pouring hot water on her causing burns to 35% to 40% of her body resulting in permanent scars and damage to her hands and eye.

The Appellant was sentenced for the count of grievous bodily harm to 5½ years imprisonment, with the last 18 months suspended on conditions. For the offence of domestic violence, the appellant was convicted and sentenced to a concurrent term of 10 months imprisonment.

The Appellant sought to extend his time to apply for leave to appeal and also leave to appeal against the sentence.

The Appellant was represented by Counsel when sentenced and is represented by Counsel in this application. The appellant had filed an affidavit but did not explain the delay of over two years in applying for leave to appeal.

Counsel for the appellant submitted 3 grounds of appeal, namely; the judge had failed to take into account that the victim was alleged to have committed adultery which was extreme provocation recognised at section 89(c) of the Criminal Offences Act, the judge failed to take into account his family and personal circumstances, and that the appellant was entitled to 1/3rd discount for his guilty plea. The Court of Appeal held

that the appellant's reliance of section 89 (c) was entirely misconceived, and that it applies in cases of culpable homicide. That Justice Cato had taken into consideration the circumstances of the appellant as he was provided with a probation report, a victim impact assessment and other documentation of all which were considered. The Court of Appeal also stated that Justice Cato had already discounted the appellant's sentence by 2 and a half years from a starting point of 8 years imprisonment taking into consideration all the mitigating factors.

The Court of Appeal held that the grounds advanced by the appellant in support of his proposed appeal were hopeless and served no purpose in granting leave. They found there was no error on the part of Justice Cato on any of the grounds advanced by the appellant and the sentence was clearly not excessive.

The appeal was dismissed.

- (6) (1) Public Service Association Incorporation (2) Samuela 'Akilisi Pohiva v (1) Kingdom of Tonga (2) Friendly Islands Satellite Communications CV 48 of 2014.

This action arose out of tranche payments made by a Chinese state agency (known as China Electronic System Engineering Company 'CESEC) to the Second Defendant for placing one of its satellites in one of the Kingdom of Tonga's orbital positions.

The Second Defendant is a privately owned Company which was appointed as the exclusive agent of the Kingdom of Tonga (KOT) to enter into contracts with third parties for the launching or operating of satellites in the orbital positions registered with the International Telecommunications Union (ITU).

In 2006, it was discovered that CESEC had placed a satellite in one of the KOT's orbital positions. After negotiations involving representatives from Second Defendant, the KOT, and the People's Republic of China (PRC) and CESEC, the KOT agreed to its priority in the orbital positions in favour of the PRC.

After negotiations, the PRC agreed to provide the KOT with a grant aid totalling to USD \$49.9million in two tranche payments. In July 2008 and June 2011, PRC made payments to the KOT of USD\$24,450,000 and USD\$25,450,00 respectively. Upon

receipt by the KOT, these tranche payments were, almost entirely paid to the Second Defendant or applied to the satisfaction of the Second Defendant's debts owed to the KOT.

The Plaintiffs subsequently advanced a public law claim alleging that the tranche payments were public money and that their expenditure to or for the benefit of the Second Defendant was unlawful and breached the Public Finance Management Act. In response to the public law claims, the KOT and Second Defendant raised three defences. The first was that the Plaintiffs had no legal standing to bring about the claim, secondly, the tranche payments were not public money but trust money as defined in the Public Finance Management Act, paid by PRC to KOT specifically for the Second Defendant and that their expenditure to or for the benefit of the Second Defendant was therefore lawful. The third defence was that the payments were the Second Defendant's entitlement under its agency agreement or under other agreements between the Second Defendant and the KOT in respect of the disbursement of the tranche payments.

The Plaintiffs also raised a private law claim challenging the expenditure of the tranche payments to or for the benefit of the Second Defendant. They alleged that the Second Defendants breached a fiduciary duty and unjust enrichment and sought relief requiring the Second Defendant to repay the sums it received or benefited from to the KOT. The Defendants in response argued that the Plaintiffs have no legal standing. The Honourable Chief Justice found in favour of the Plaintiffs in respect to their public law claim and the Plaintiffs were entitled to a declaratory relief.

The Supreme Court held that the tranche payments were not trust money as it was not consistent with a trust relationship, and so it ruled that the tranche payments were 'public money' and within the meaning of the Public Finance Management Act and could not be expended except in accordance with the Public Finance Management Act. He further ruled that the Plaintiffs do have legal standing as the issues raised are important and involve a very substantial sum of public money, the matters in issue are of great public interest and are legitimately with the public area, the plaintiffs have a substantial and genuine interest in the outcome of the action.

In respect to the Plaintiffs private law claims, the Supreme Court dismissed their claim as they have no standing to make this claim.

IV PILON STRATEGIC PRIORITIES

A Cybercrime

- 8 On 12 to 15 June 2018, the Office hosted the Second Annual PILON Cybercrime Workshop, which focused on combatting online child abuse in the Pacific. PILON Members were well represented with representatives provided by all Members except Pitcairn Island. Funding was graciously provided by the Australian Government, the Council of Europe, and the Government of the Kingdom of Tonga. Details of the workshop is provided by the PILON Working Group on Cybercrime.
- 9 On 27 to 30 August 2018 the Ministry of Justice hosted an advanced training course on cybercrime and electronic evidence for judges, prosecutors and other Judicial Officers. This is a follow-up workshop on the introductory training workshop that was hosted by Tonga in 2017. The workshop was kindly funded by the Council of Europe. Facilitators were provided by the Council of Europe from Portugal and the Philippines. Members of the Judiciary attended from Cook Islands, Fiji, Kiribati, Samoa, Solomon Islands, Tonga and Vanuatu.
- 10 Tonga has finalised the draft of the new Computer Crimes Bill and consequential amendments, and they are now with the Minister for Information and Communications to be submitted to Cabinet for policy approval. The bill was drafted with the kind assistance of the Australian Attorney General's Department and the Council of Europe. It is anticipated that the Bills would be enacted by the end of 2018, and brought into force by 1 July 2019.
- 11 A consultant provided by the Australian Government has also drafted an implementation plan in anticipation of the enactment of these laws, mainly for the benefit of the Office, Tonga Police, the Judiciary and service providers, to ensure the readiness of all stakeholders to effectively implement the new cybercrime laws. The main priorities for Tonga is to set up a cybercrime unit within Tonga Police, and to establish a cybercrime law enforcement taskforce to include prosecutors, law enforcement and private ICT experts and also liaison officers from the service providers.

- 12 Tonga continues to benefit from being a Party to the Budapest Convention and also being a priority country under the Council of Europe's GLACY+ Project, as a recipient of technical training. Tonga is in discussion with the Council of Europe to be provided in the Pacific to be shared with other PILON Members, such as training for prosecutors, judiciary and law enforcement.
- 13 Tonga is a member of the Protocol Drafting Group under the Budapest Convention Technical Committee, drafting a second Protocol to the Budapest Convention to improve procedural powers and international cooperation. Australia is also a member of that drafting group. The areas covered include special investigations, expedited mutual legal assistance requests for subscriber information, international production orders, direct cooperation between judicial authorities in mutual legal assistance requests, joint investigations and joint investigations teams, emergency mutual legal assistance procedures, language of requests, audio and video hearings of witnesses, victims and experts, direction cooperation with service providers across jurisdictions, and trans border access to data, jurisdiction and conditions and safeguards. The drafting process is expected to be completed by 2020.
- 14 Tonga is continuing to encourage Members to consider accession to the Budapest Convention, and is excited that Vanuatu and Samoa may be acceding to the Budapest Convention soon.

B Environmental Crime and Corruption

- 11 Tonga has produced a first draft of its National Risk Assessment on Money Laundering, and Financing of Terrorism and Proliferation, in preparation for its second Mutual Evaluation by the Asia-Pacific Group on Money Laundering in 2019/2020. Corruption was identified as one of its highest risks, albeit there has not been many investigations and prosecutions on corruption.
- 12 For the year 2018, Tonga has prosecuted 11 cases dealing with corruption and also retrieving proceeds of crime, mainly from illicit drugs, amounting to TOP\$230,000.00, which has been

deposited into the Confiscated and Forfeited Assets Fund, maintained and managed by the Minister of Finance under the Money Laundering and Proceeds of Crime Act.

- 13 There have however been a few prosecutions in the past relating to illegal fishing involving bechdemer and sea cucumbers, but at a minor level.
- 14 There has been no investigation or prosecutions where corruption arises from environmental crimes.

C Sexual and Gender-Based Violence

- 15 Tonga is currently reviewing the Family Protection Act since it came into force in July 2014. The purpose of this review is to examine whether the Act has effectively achieved its objectives for the protection of victims of domestic violence.
- 16 Eight proposed amendments have been made relating to the Act in relation to the types of Orders issued by Magistrates, the definition and application of economic abuse, the definition of ‘domestic violence’ and ‘person at risk’, who may apply for protection orders, the standard conditions, rules of evidence and civil proceedings for a protection order, errors in form 6, and grammatical errors within the Act. These proposed amendments have been sent to relevant stakeholders and lawyers to obtain their comments.
- 17 There have been a number of convictions and sentencings for domestic violence arising from violent and sexual offending, and alarmingly this involves young girls, and the abuse by their own parents.

V LAW REFORM: LEGISLATIVE PROGRAMME

- 18 The year 2018 was again not a busy legislative year due to the Government’s legislative programme. However, there are a few major laws now before the Legislative Assembly in October 2018, involving Constitutional amendments, law revision legislation, foreign investment, public service reform and cybercrime. It is anticipated that these laws would be enacted at the end of 2018 and will be reported on in 2019.

19 **Annex 1** sets out the laws that the Office processed for enactment on behalf of Government.

20 The legislation enacted in 2017 are summarised as follows:

- The Legislative Assembly passed only 6 Acts;
- All the 5 Acts have been granted Royal Assent, gazetted and have been enforced;
- Certain executive authorities made 4 subsidiary legislation.

VI LEGAL SECTOR ISSUES

21 The challenges faced by the Tongan legal sector are as follows:

The Judiciary

(1) The main challenges for the Judiciary include the following:

- (a) State of Court facilities;
- (b) Judicial training to develop Magistrates;
- (c) Remuneration for Magistrates;
- (d) Backlog of cases in the Magistrates Court.

Ministry of Justice

(2) The main challenges for the Ministry of Justice are:

- (a) a lack of specifically skilled practitioners and technical expertise;
- (b) lack of information sharing within the legal and justice sector.

Attorney General's Office

(3) The main challenges for the Office include the following:

- (a) Interference with independence;
- (b) Maintenance of confidence from Government;
- (c) Retaining legal staff;
- (d) Continued legal education for Crown counsel and Crown prosecutors;

Tonga Police

(4) The main challenges for Tonga Police are as follows:

- (a) Investigation skills, ethics and resources;

- (b) Prosecution skills;
- (c) Tonga Police discipline; and
- (d) Interference with Tonga Police operational independence.

Legal Aid Centre

- (5) The main challenges for the Centre are as follows:
- (a) Lack/Limited resources;
 - (b) Transportation of Victims to safe houses;
 - (c) Delays in Court proceedings;
 - (d) Interpretation of the law by Magistrate judges;
 - (e) Limited staff.

VII LEGAL SECTOR INITIATIVE/PROJECTS

A Law Week 2018

22 The Attorney General’s Office will deliver Law Week on 4 to 9 November 2018 with this year’s theme of ‘LAW AND CYBER-SPACE’. Radio talk shows, an open day, and school visits have been scheduled to take place throughout the week in order to create and promote public awareness in relation to the theme for 2018.

B Mutual Evaluation of Tonga

23 Tonga is preparing for the mutual evaluation that will be conducted by the Asia Pacific Group on money laundering in 2019. This assessment will examine the legal framework, Tonga’s banking system, law enforcement agencies in order to examine the mechanisms in place to reduce risks of receiving illegal money.

C Review of Adoption Laws

24 With the assistance and support from UNICEF, they will be providing technical assistance to review the adoption laws in Tonga. There is a high number of applications by people of different backgrounds and circumstances to adopt or gain legal guardianship of children in Tonga, especially overseas based Tongans and non-Tongans. The main challenge is when

those overseas applicants seek approval from overseas immigration authorities to take their adopted children overseas, especially to Australia, New Zealand and the United States.

D Amnesty Programme for Late Birth Registration

25 The Ministry of Justice will be providing amnesty for parents who failed to register the births of the children within the statutory registration period. UNICEF will be assisting in this programme in order to capture more birth registration as there has been a drop in birth registration.

E Justice Sector Review Project

26 The Ministry of Justice was involved in the project in assisting consultants (funded by the NZ Government) who came to Tonga to conduct a scoping mission for the justice section. The aim of the mission was to identify the priority areas within the justice sector for New Zealand's support. As a result, the Ministry received a Grant from the NZ Government to address the gaps that were identified.

VIII TECHNICAL LEGAL ASSISTANCE

27 **Annex 2** sets out the training and international meetings that the Office attended.

IX CONTACT INFORMATION FOR KEY LAW AND JUSTICE AGENCIES

28 **Annex 3** contains contact details for officers in the Ministry of Justice, the Attorney General's Office and the Director of Public Prosecutions.

ANNEX 1
2018 LEGISLATION

2018 ACTS	
(1)	2017-2018 Appropriation Act 2018
(2)	Appropriation (Amendment) Act 2018
(3)	Foreign Exchange Control Act 2018
(4)	Microfinance Institutions Act 2018
(5)	Money Lenders Act 2018
(6)	Pacific Games 2019 Taxation Incentives (Repeal) Act 2018

2018 SUBSIDIARY LEGISLATION	
(1)	His Majesty's Armed Forces (Amendment) Regulations 2013
(2)	Customs Duty (Amendment) Order 2018
(3)	Income Tax (Amendment) Order 2018
(4)	Excise Tax (Amendment) Order 2018

ANNEX 2

NATIONAL, REGIONAL AND INTERNATIONAL MEETINGS

	DATE	MEETING	VENUE	AGO PARTICIPANT
1	10-20 January 2018	29th Session of the University Periodic Review Working Group (UPR)	Geneva, Switzerland	Sione F. Sisifa, Solicitor General 'Akanesi Katoa, Assistant Crown Counsel
2	12-14 April 2018	APG Regional Pre-Mutual Evaluation Workshop	Brunei- Darussalam	'Aminiasi Kefu, Acting Attorney General and Director of Public Prosecutions
3	12-13 February 23018	Inaugural Regional International Arbitration Conference	Nadi, Fiji	'Akanesi Katoa, Assistant Crown Counsel
4	7-8 March 2018	International Conference on Judicial Cooperation in Cybercrime Matters	The Hague, Netherlands	'Inoke Finau, Assistant Crown Counsel
5	March 2018	First Part of the 24 th Session of the Council of the International Seabed Authority to develop the exploitation regulations.	Kingston, Jamaica	Rose Kautoke, Assistant Crown Counsel
6	4 – 6 April 2018	Australasian/PCC and CALC (Pacific) Drafting Conference	Canberra, Australia	'Akanesi Katoa, Assistant Crown Counsel

7	April 2018	Organizational Meeting of the Intergovernmental Conference to Negotiate an International Legally Binding Instrument under UNCLOS and sustainable use of biodiversity of areas beyond national jurisdiction pursuant to general assembly resolution 69/292.	UN Head Quarter, New York, USA	Rose Kautoke, Assistant Crown Counsel Assistant Crown Counsel
8	9 April 2018	Drafting Workshop	Canberra, Australia	‘Akanesi Taufu, Assistant Crown Counsel
9	22-26 April 2018	International Military Operations and Law Conference (MILOPS)	Singapore	‘Aminiasi Kefu, Acting Attorney General and Director of Public Prosecutions
10	20-21 June 2018	Workshop – Professional Diploma in Legislative Drafting	Suva, Fiji	‘Elisiva ‘Akau’ola, Assistant Crown Counsel Joycelyn Sikalu, Assistant Crown Counsel
11	July 2018	Second Part of the 24 th Session of the International Seabed Authority	New York, USA	Rose Kautoke, Assistant Crown Counsel
12	July 2018	Pacific Preparatory Meeting or the 24 th Session of the International Seabed Authority.	New York, USA	Rose Kautoke, Assistant Crown Counsel

13	21-27 July 2018	Asia Pacific Group on Money Laundering Annual Meeting and Technical Assistance and Training Forum	Kathmandu, Nepal	'Aminiasi Kefu, Acting Attorney General and Director of Public Prosecutions,
14	31 July – 3 August 2018	G7 24/7 Cybercrime Network Workshop	Melaka, Malaysia	'Aminiasi Kefu, Acting Attorney General and Director of Public Prosecutions, Leotrina Macomber, Crown Counsel
15	13-16 August 2018	Asian Pacific Region Internet Forum	Port Vila, Vanuatu	Leotrina Macomber, Crown Counsel
16	27-30 August 2018	Pacific Preparatory Meeting for the Intergovernmental Conference to Negotiate an International Legally Binding Instrument under UNCLOS on the conservation and sustainable use of biodiversity of areas beyond national jurisdiction pursuant to general assembly resolution 69/292	UN Head Quarters, New York, USA	Rose Kautoke, Assistant Crown Counsel
17	27-31 August 2018	Joint International Workshop on Cybercrime Investigation Units and MLA Central Authorities.	Singapore	Tupou Kafa, Assistant Crown Counsel

18	3-17 September 2018	First session for the Intergovernmental Conference to Negotiate an International Legally Binding Instrument under UNCLOS on the conservation and sustainable use of biodiversity of areas beyond national jurisdiction pursuant to general assembly resolution 69/292	UN Head Quarters, New York, USA	Rose Kautoke, Assistant Crown Counsel
19	4-7 September 2018	UNODC – Pacific Cybercrime Roundtable Discussion (PCRD)	Nadi, Fiji	‘Inoke Finau, Assistant Crown Counsel
20	18-20 September 2018	6 th INTERPOL-EUROPOL Cybercrime Conference	Singapore	‘Aminiasi Kefu, Acting Attorney General and Director of Public Prosecutions
21	1-3 October 2018	Meeting of Senior Officials of Commonwealth Law Ministries (SOLM)	London, England, United Kingdom	Sione Sisifa, Solicitor General
22	4-5 October 2018	Meeting of Law Ministers of Commonwealth Small Jurisdictions	London, England, United Kingdom	Sione Sisifa, Solicitor General
23	8-11 October 2018	37 th Pacific Islands Law Officers Network Meeting (PILON)	Rarotonga, Cook Islands	‘Aminiasi Kefu, Acting Attorney General and Director of Public Prosecutions Halaevalu Aleamotu’a, Assistant Crown Counsel

				'Ana Laulaupea'alu, Legal Officer, Ministry of Justice
24	24-25 October 2018	Pacific Islands Roundtable on International Humanitarian Law Meeting	Nadi, Fiji	

ANNEX 3
CONTACT INFORMATION

JUSTICE AGENCY	CONTACT PERSON AND POSITION	CONTACT DETAILS
Ministry of Justice and Registrar General's Office	Ms Manakovi Pahulu Acting Chief Executive Officer PO Box 11, Ministry of Justice, Nuku'alofa, Kingdom of Tonga	(676) 25 618
Supreme Court of Tonga	Ms Fatima Fonua, Registrar of the Supreme Court, Land Court and Court of Appeal of Tonga PO Box 11, Ministry of Justice, Nuku'alofa, Kingdom of Tonga	(676) 23 599 (Ext 202) Direct Line: (676) 22 380 Mobile: (676) 7753749 Email: ffonua@justice.gov.to / ffonua@icloud.com
Attorney General's Office	Mr 'Aminiasi Kefu, Acting Attorney General, PO Box 85, Attorney General's Office, First Floor, Taumoepeau Building, Fatafehi Road, Nuku'alofa, Kingdom of Tonga	(676) 24055/24007 (676) 25347 (Direct) (676) 7815314 (Mobile) dpp@crownlaw.gov.to / aakefu@gmail.com
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<p>Director of Public Prosecutions</p>	<p>Mr ‘Aminiasi Kefu, Director of Public Prosecutions, PO Box 85, Attorney General’s Office, Second Floor, Taumoepeau Building, Fatafehi Road, Nuku’alofa, Kingdom of Tonga</p>	<p>(676) 24055/24007 (676) 25347 (Direct) (676) 7815314 (Mobile) dpp@crownlaw.gov.to / aakefu@gmail.com</p>
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