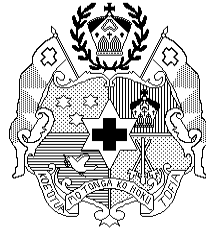


Correspondences to
Acting Attorney General and Director of
Public Prosecutions
Attorney General's Office
First Floor, Taumoepeau Building
Corner of Fatafehi and Salote Roads
Nuku'alofa
KINGDOM OF TONGA



Contact Details
Postal Address PO Box 85, Nuku'alofa,
Kingdom of Tonga
Telephone (676) 24 055 / 24 007
Fax (676) 24 005
Office Hours 8 30 am-4 30 pm, Mon - Fri
Email dpp@crownlaw.gov.to
Website www.crownlaw.gov.to/cms

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MEDIA RELEASE

ACTING ATTORNEY GENERAL RESPONDS TO THE HON PRIME MINISTER REGARDING LORD TU'ILAKEPA CRIMINAL CASE

25 February 2015

After returning from official duties overseas yesterday, the Acting Attorney General and Director of Public Prosecutions, Mr .Aminiasi Kefu, has written today to the Hon Prime Minister, in response to the Hon Prime Minister's letter to the Acting Attorney General, dated 13 February 2015.

The Acting Attorney General explained that he was responding in defence of the office of the Attorney General, in protection of the independence of the judiciary, and also in the interest of maintaining the relationship of the Hon Prime Minister with the Acting Attorney General, in his role as the First Law Officer of the Crown, and as the principal legal advisor to Government. Furthermore, he was responding in order to assist the public to understand his role as Acting Attorney General, and the actions that he took in the criminal prosecution of Lord Tu'ilakepa.

The Acting Attorney General assured the Hon Prime Minister that he was in office to serve the Government of the day, and that he had had no social, political, economic or personal agenda in performing his duties. He was fully committed to serving the Government, and His Majesty and the people of the Kingdom.

Despite being disappointed with not being first given an opportunity to respond to the Hon Prime Minister's concerns regarding the criminal prosecution of Lord Tu'ilakepa, before such concerns were made public, the Acting Attorney General assured the Hon Prime Minister that he was always prepared for public ridicule in his role, and also to justify his actions.

The Acting Attorney General also expressed his concerns about the inaccuracies contained in the Hon Prime Minister's letter regarding the judicial process, and his role as Attorney General, and most of all,

the indirect criticisms made in the letter against the sentence received by Lord Tu'ilakepa, and the influence on the independence of the Supreme Court. The Acting Attorney General accepted that it may have been drafted by someone else, who had no legal qualification or expertise, and that the Hon Prime Minister may have issued it in haste.

The Acting Attorney General however respectfully reminded the Hon Prime Minister the importance of his Government respecting and complying with clause 31 of the Constitution. This provision creates the three branches of the Tongan Government, based on the Constitutional doctrine of separation of powers of Government, between the Cabinet, the Legislative Assembly and the Judiciary, and also clause 83A of the Constitution, which requires that the constitutional principles underlying the rule of law and judicial independence shall always be maintained in the Kingdom. The indirect criticism of the sentence imposed on Lord Tu'ilakepa, and also the view that the Supreme Court judge was influenced by the Acting Attorney General, were public comments that were highlighted as likely to impact negatively on judicial independence.

The Acting Attorney General also respectfully reminded the Hon Prime Minister the importance of his Government respecting and complying with clause 31A of the Constitution, which gives the Attorney General "complete discretion" in exercising his powers and duties, and that the Attorney General exercises these powers and duties "independently, without any interference whatsoever from any person or authority".

However the Acting Attorney General accepted that, as a senior public officer, he is still bound to the principles of good governance, particularly being accountable and transparent.

He accepted that as Attorney General, he was accountable to: first, the King in Privy Council, who holds the legal power to dismiss the Attorney General; secondly, the judiciary, as an officer of the Court; thirdly, the Prime Minister and Government, at a lawyer-client relationship; and finally, the public, as a senior public officer, responsible for protecting the public from non-adherence to the principles of the rule of law in the Kingdom.

The Acting Attorney General then provided a detailed response in a separate memorandum to the questions raised by the Hon Prime Minister to explain the process and results of the prosecution of Lord Tu'ilakepa, which included a timeline of the prosecution, the indictment, and the summary of facts. The sentencing submissions of the Acting Attorney General and Lord Tu'ilakepa's legal counsel, Mr William Clive Edwards SC, along with the transcript of the sentencing hearing, were currently being withheld by the Supreme Court until the Court heard from both legal counsel.

In summary, the Acting Attorney General explained all the allegation's levelled at him, including the delays of the prosecution, the Crown's involvement in sentencing processes, the reasons for the sentencing submissions provided by the Crown to the Supreme Court, and an explanation of the sentence imposed.

The Acting Attorney General also explained his role, when he was still Solicitor General, in the processing of the enactment of the Act of Constitution (Amendment) Act 2013 and the Land (Amendment) Act 23013, and how he had advised the previous Government on the negative consequences with the law being changed for a noble to lose his title and estate only if he is convicted and sentenced to serve imprisonment for 2 years or more. The Acting Attorney General also reminded the Hon Prime Minister that he and the Solicitor General, can only advise the Government, and it is the Government and the legislature who decide what laws are passed.

The Acting Attorney General then concluded by inviting the Hon Prime Minister to convene a meeting with him, if the Hon Prime Minister required further information or clarification regarding Lord Tu'ilakepa's prosecution.

----- MEDIA RELEASE ENDS -----

For further information or clarification, please contact:

Mr 'Aminiasi Kefu

Acting Attorney General and Director of Public Prosecutions

Telephone Numbers: (676) 25347 (Direct), (676) 7715314

Facsimile: (676) 24005

Email: dpp@crownlaw.gov.to, aakefu@gmail.com