

IN THE MATTER OF

The Maintenance of Illegitimate  
Children Act Cap. 30

AND

IN THE MATTER OF

an application by 'Emile 'Etuete Longani  
and 'Ahea Patelisia Longani.

AND

IN THE MATTER OF

Melaia Tamo'ua, a female child born on  
11 January, 2006.

BEFORE THE HON. JUSTICE CATO

**J U D G E M E N T**

1. I adjourned this application for adoption to enable the Crown to make submissions on what I considered to be an important threshold question arising out of section 16(2) of the Maintenance of Illegitimate Children's Act.
2. Section 16(2) provides that the Court may refuse to grant letters of adoption to any person whom it may consider not fit or proper.
3. In this application brought by the male Applicant and his wife, it has been disclosed that the applicant has convictions for possession of Indian hemp for which he received 3 years imprisonment in 2003. More seriously, he was sentenced to abetment to armed robbery for which he received 5 years with the two final years of imprisonment suspended. I have read his file and I was responsible for sentencing

the principal to this offending after the Applicant because he had absconded. I am satisfied that the Applicant was not a principal offender but an accessory. I am concerned, however, at reading his probation report that alcohol had become a problem in his life at that time. The Guardian ad litem however, confirmed that the male Applicant no longer drinks.

4. The Female Applicant and mother of the child during his first period of imprisonment had the child by another man who has not supported or shown any interest in the child. The female Applicant together with the male applicant have four other children, two females and a boy aged between 15 and 3 years old. The child in question has been supported for most of her life by the female Applicant and, when able, the male Applicant since the child's birth in 2006 and has been treated a child of the family. The child is aged 12. For most of the time, the child has lived with the female Applicant as I have said and the male Applicant after he was released from prison in it would seem about 2014. The natural mother and indeed both Applicants have looked after the child for now a considerable period without incident.
5. The Guardian ad litem supports the application pointing out that although the male Applicant has serious convictions these are not convictions which imperil the child such as would obvious be the case if he had been convicted of a sexual abuse or one involving violence. The applications are supported by the Town Clerk of Fatai and the Bishop of the Fatai Ward. I am particularly impressed with the affidavit of the Bishop who writes;

"They are exemplary in their loyalty to their children, family, friends and acquaintances. They dedicate time to serve and mentor both their family and the people that they associate with. They are hardworking and loving.

They value their faith and education. They go out of their way to make sure that their children are clothed, fed, and are able to receive the best education that they can offer. They perform their duties to the best of their abilities and teach their children to do the same.”

6. The Applicants want to make the child of this application in law as far as they can stand on the same footing as the other children of their marriage. That is a laudable reason. The fact of the matter is that the child has been living with her natural mother and has been living in a marital relationship with the male Applicant and other children for a considerable period. The application is a sensible application from the aspect of the welfare of the child that is consolidating her position as part of her family and her being accepted as an integral member of the family on the same footing as her siblings and is supported by the Guardian ad litem from the Crown. Although a marriage which has plainly suffered some discord, it seems the parties have got over that, had another child and I have heard no evidence that the relationship is unstable. Indeed, it is of some importance that it is the female Applicant and the mother of the child who supports her husband in their joint application.
7. Section 16(2) is discretionary. I accept the Crown submission. Although the male applicant has had serious convictions which concerned me he has been out of prison now for several years with no reoffending. His wife is supportive of his application and, in these circumstances, I am not going to stand in the way of their wishes by exercising my discretion against the grant of the joint application under section 16(2). Accordingly the application is approved.
8. The child’s name will be changed to Meleia Tamo’ua Longani.

DATED: 15<sup>th</sup> AUGUST 2018



A handwritten signature in black ink, appearing to read "Cato".

C. B. Cato  
**JUDGE**