## Taimi 'o Tonga

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Dear Davio:

Occurings from Tongal I want to make this initial contact with you on behalf of myself, File 'Agai'cle. and 'Axiliat Pohiva, to thank you and the Centre for Independent Journalism for your treatess offerts in

We were not aware of what was going on until we were released. In pail we were not allowed raths of protesting our jailing. any other reading material other than a Bible, so we were out of speck for 26 days. The preson wanters would now and then pass on but and pieces of information, but they were mostly tocal news. The street of us were very moved when we came out of just to find out that your organization as well

## A letter from Taimi 'o Tonga over the international support.

The latest furore erupted after outspoken weekly newspaper Taimi 'o Tonga (Tongan Times) published a Tongan-language story on September 4 under the headline PARLIAMENT IMPEACHES MINISTER FOR JUSTICE about an untabled impeachment notice alleging abuse of office against Justice Minister Tevita Tupou.

As the Tongan Government has tried in the past to silence Pohiva and journalists who have tried to shed light on the maladministration of cabinet and Parliament, it moved quickly to stifle dissent over the jailings by suspending the Legislative Assembly on October 4 until the middle of next year.

King Taufa'ahau Tupou IV used his powers as absolute monarch to close the House after it had voted to impeach Justice Minister Tupou. Tonga's 30member Legislative Assembly is dominated by 21 unelected representatives of the kingdom's noble families (cabinet ministers are appointed by the King) plus nine elected people's representatives.

Shocked Tongans interpreted the closing of Parliament as a way for the monarch to 'buy time' for the nobles to regroup as the House faces growing democratic demands. The decision to close the Legislative Assembly, which normally sits until mid-November, was announced in a radio broadcast but the palace would not comment further.

According to New Zealand Herald Pacific affairs reporter John Manukia, 12 PACIFIC JOURNALISM REVIEW 3:2 1996

## 'We didn't get a fair trial'

## COMMENTARY: Kalafi Moala

DESPITE the fact that we were given an opportunity to address the Parliament and our (Moula and Akau'ola) legal representative was permitted to pose questions relating to the legality of the proceeding. I already felt that we would be found guilty, based on the statements and arguments made by the members of Parliament.

One of the major questions I raised was: How could I and my colleagues expect a fair trial/hearing from a group, the majority of whom I have evidence to prove, hate the Taimi 'o Tonga, newspaper, and especially me as its editor.

If Parliament felt that it had the legal authority to pass judgement on this issue then it was absolutely necessary for Parliament to then separate itself from the witness, the prosecutors and especially those members of Parliament who had already publicly declared that we were guilty.

In any case this historical 'trial' conducted by the Tongan Parliament proves the following:

- 1. It is possible for Parliament convert itself into a court of law despite the fact that the majority of its members are not equipped or educated to deal with legal issues and matters to be able to guarantee a fair trial.
- 2. It is possible for Parliament to haul by force any member of the public before it, put the person on 'trial' and send the person to jail.
- 3. No one who questions the Government can expect to get a fair 'trial' in Parliament because 21 of its 30 members are most likely to vote on the side of the Government because their allegiance is with the Government.
- 4. The vote in Parliament on whether one is guilty or not is not guided by some superior legal principles but is based on personal inclinations e.g. how one felt at that time; how one regarded the persons charged; how the Crown Prince or other senior members of Parliament voted and its effect on other members of Parliament and various other reasons.
- 5. It is not appropriate/correct for Parliament to put on trial a person who is not one of its members.
- 6. 'Akilisi Pohiva was not permitted to be in Parliament when the debate and vote was being conducted yet the Minister for Justice who instigated the case against us was allowed to participate in the debate and even in the vote. Where is the fair trial?

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One cannot appeal a decision of Parliament in a parliamentary trial even if one is dissatisfied with the outcome of the process.

It is a great pity that events have taken this turn, taking up a lot of Parliament time, but the editor, deputy editor and the Member of Parliament firmly believe they did not do anything wrong in publishing what was published.

What was published was factual and truthful. It is true that the People's Representative had already signed a petition calling for the impeachment of the Minister for Justice because he travelled to the Olympics even though his request for leave was refused.

It is true that this petition was taken to the Parliament Office and was duly registered and was placed in the Deputy Speaker's files. So the petition had been put into the machinery that is called the Parliament of Tonga. As to where in the machinery the petition ended up in depends on how that machinery usually functions.

This newspaper only reported that the petition had been submitted and the contents of that petition was published indicating those that had signed it. This newspaper has never received any directive from Parliament then or now not to publish these. Yet they now say that we acted inappropriately, put us on trial and put us in prison.

□ Kalafi Moala is publisher and editor of the Taimi 'o Tonga. This commentary was published on 25 September 1996 and translated by Lopeti Senituli.

himself a Tongan, leaders from the Tongan community did not wish to be identified because they feared that they might be looked upon as questioning the King's authority'.

Kalafi Moala challenged Parliament over the 'historical trial', claiming the three had been given a prejudiced hearing. In an article in the Taimi 'o Tonga headlined 'WE DIDN'T GET' A FAIR TRIAL', Moala defended his paper's action in publishing an untabled motion seeking the impeachment of Justice Minister Tevita Tupou for allegedly going to the Atlanta Olympics and being paid full parliamentary allowances.

'We firmly believe we didn't do anything wrong,' wrote Moala. 'What we published was factual and truthful. It is true that the people's representatives had already signed a petition calling for the impeachment of the Justice Minister because he travelled to the Olympics even though his request for leave was refused.'

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Moala said it was also true that the motion had been registered and placed in the deputy speaker's files so had been already in the parliamentary process. 'This newspaper only reported that the petition had been submitted, the allegations of the petition, and who were the MPs who had signed it.'

Amnesty International declared the three prisoners of conscience — a term the organisation uses to describe people who are in any form of detention because of their political, religious or other conscientiously held beliefs — provided that they have not used or advocated violence. In a letter on September 23 to the King, Amnesty International urged the Tongan head of state to exercise his powers to lift the detention orders 'immediately and unconditionally'.

Amnesty said it believed the three men had been imprisoned as a result of their peaceful exercise of the right to freedom of expression, guaranteed by Article 19 of the Universal Declaration of Human Rights and protected by Article 19 of the International Covenant on Civil and Political Rights.

The organisation noted that Clause 7 of the Tongan Constitution of 1875 states: 'It shall be lawful for all people to speak write and print their own opinions and no law shall ever be enacted to restrict this liberty. There shall be freedom of speech and of the press forever but nothing in this clause shall be held to outweigh the law of slander or the laws for the protection of the King and the royal family.' But the Tongan government reacted bitterly over the flood of international criticism about the jailings, claiming that the men had set themselves up to be 'martyrs' and accusing press freedom and other organisations of waging a campaign of 'media terrorism' against the kingdom.

Acting Chief Secretary 'Eseta Fusitu' a said the government had received a series of 'incorrect, unjust, biased and malicious' press condemnation following the jailings and called on protesting media organisations to publish the 'facts'. In a 'background' statement defending government actions faxed to several protesting media organisations on September 26, including Pacific Journalism Review and the Australian Centre for Independent Journalism, Fusitu' a claimed the issue was not one of 'freedom of the press, nor the right of the public to be informed about matters of public interest'. She said the issues were 'the right of the House and the Minister for Justice to be reported truthfully, and the right of the people to correct information' in a newspaper.

Both of these are fundamental human rights, and are the elementary demands of the principles of natural justice. Both rights, however, were violated by Moala, 'Akau'ola and Pohiva, and are still being violated by many overseas organisations and media services.

Despite this most regrettable reality, of media terrorism against Tonga, we are still hopeful that reputable media services will one day ask for the facts, and will one day publish them.