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Friday July 17, 2015

Dear sir/madam,

Ref: Rotuma Bill (6 of 2015) and Rotuma Lands Bill (7 of 2015)

Please be advised that this letter is a **formal representation** of my **informed** and **complete support** pertaining to the **objectives** and **intentions** contained in the circulated (also attached) **Rotuma Petition (RP)** that is **opposed** to the two **Rotuma Bills** of **2015**. Detailed below are my reasons for supporting the RP and our collective opposition to the Bills.

I am strongly opposed to the drafted provisions in the Bills that:

- discriminates against the maternal side of our core and existing family structure in terms of land tenure,
- advocates a legal process for removing elected individuals into a chiefly role at the district level by the respective clans by discontented individuals,
- attenuates or remove the administrative authority that was once accorded to the Rotuma Island Council,
- advocates for the removal of the original definition and recognition of Rotuma; and
- all other discriminatory provisions that will adversely impact on the current and future Rotuman peoples' lives pertaining to sibling and family conflicts over land, the serious concern that affairs relating to the Rotuman people might be governed without any significant input or participation from the Rotuman populace. Moreover, I am also concerned that the Rotuman populace would be dictated to by the central government or be subjected to detrimental policies of assimilation, with the possibility of losing our identity, cultural practices, and traditions (in this context). There is also the added possibility that the Rotuman populace would be faced with the prospective loss of integral revenue from potential natural resource extraction from both land and subterranean wells/deposits.

It is my conviction and submission that should these provisions become legally binding laws, than they will literally lead to the gradual eradication of our Rotuman customary practices, cultural values, as well as the loss of any meaningful and sentimental connection to our lands, traditions, rituals and artefacts, as well as our way of life and unique ethnic identity. It is also my submission that this is in direct contravention of the Rotuman people's human, civil, political, cultural and economic rights under international law, as well as rights protected by the 2013 Fiji Constitution.

Moreover, I am further inclined to question the admitted consultative process undertaken prior to and during the drafting of the Bills pertaining to the subsequent process and principles:

1. Consultative process

Based on the information that I have congregated from diverse and credible sources, as well as the accepted general view of 'not being consulted nor aware of any consultations' by many Rotumans, I can safely conclude that the consultative process was either very exclusive and discreet, or did not adequately engage with the grass-roots people residing either in the villages in Rotuma or in rural and urban areas in mainland Fiji. The consultative process's concluded results therefore, cannot be solemnly relied upon as a profound representation of the full participation and detailed understanding of the entire Rotuman populace in Fiji and Rotuma (as well as abroad), nor would it satisfactorily reflect their full and informed consent. As a consequence, I cannot accept on a prima facie basis, the claim that the Rotuman populace on the island of Rotuma and in mainland Fiji were exhaustively consulted, and have given their informed consent and full support for the Bills.

2. Free, prior and informed consent (FPIC) principle

The 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP), although may not be legally binding under Fiji's domestic jurisdiction if it has not been ratified, nonetheless explicitly affirms and requires that the free, prior and informed consent of indigenous peoples must be obtained in matters that are both spiritually imperative and of fundamental significance to them in terms of their human rights, survival, dignity, and general well-being. Article 19 of the UNDRIP is of particular pertinence under the current impasse, as it guides the State (Fiji government as well as consultative team and think tank) to *"...consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them..."*. In other words, FPIC is not merely about getting the indigenous peoples (Rotuman populace) consent, but it is more about the consultative and decision-making process involved, in particular, the full, effective and meaningful participation of indigenous peoples at every level (from the commoner and the chiefs in the villages in Rotuma or in rural and suburban areas in mainland Fiji, to those in parliament and employed by the government).

FPIC is also about the collective negotiation power of indigenous people to make informed decisions over their lands, and having some level of concurred control over their own future and the future of their people and their customary practices. These clearly obligates the State to adopt a more compliant, transparent, accountable, exhaustive and dignified approach when undertaking all consultative and administrative measures while dealing with matters that will significantly transform and adversely impact on the lives of the Rotuman populace, irrespective of where they are currently domiciled in, as they still collectively maintain that fiscal, spiritual and sentimental connection to their families, home land, traditions and customary practices as dignified and concerned Rotumans.

UNDRIP further elucidates that obtaining FPIC from indigenous people cannot be made under duress or other illegitimate means. This raises the question of whether there was any manipulation or undermining tactic undertaken during the consultative process. Moreover, it should be noted that consent must be freely given by the people, and it must be accepted only if it can be satisfactorily concluded that the people have been fully informed and fully aware of the impact and ramifications to their lives, land tenure, and customary practices, as well as the lives of their future generations, when they agree to freely give their full consent. If it cannot be satisfactorily determined or concluded in this context, than it cannot be legally accepted as a true representation of the peoples' views, thoughts and understanding of the issues that can significantly transform (and may adversely impact) their lives and livelihood, at present and in the future. In declaring that the people have freely given their informed consent whilst there is still perceptible

confusion and opposition amongst the people, contravenes the moral, civil and legal objectives of the FPIC principle, as well as clearly demonstrates the desperation and lack of professional maturity of the 'very discreet' consultative team, the 'silent think tank', and those who support the Bills.

3. Divide and conquer (or divide and rule in a political context)

My interest and concern in this tactical principle is based on its very effective application when there is a strategic need to win (at all costs, I may add). Its origins has been attributed to Julius Caesar, who we know was able to build an empire and successfully ruled over it for many years before his assassination.

To date, it is widely used in many diverse circumstances, industries, professions, and also as a politically endorsed and strategic manipulative tool. As the title infers and within a political context, the core aim of this principle, is to create divisions and confusion amongst the people. Once this is achieved and any form of opposition (whether individuals, collective entities, or political parties) is weakened or eradicated, the government of the day can then 'have a field day' with enacting legislation, regulations and policies that legally favours their political agenda. Such enacted instruments do not necessarily have to be morally compliant, in the best interest of the entire populace, or for the collective good of the people affected, as the sole and intended purpose is to have total control over everything, with limited or no avenue of redress available.

In the context of our current impasse pertaining to the two Bills, I can safely infer that this tactic has created an atmosphere of confusion and division that is similar to what I have explained above, to the extent that people who were once 'silent' over the matter or been 'sitting on the fence' has either voiced their individual/collective opposition or support. Whether people's decisions to support/oppose is politically and career-based or morally influenced will clearly indicate their level of understanding of how the Bills will affect their lives and livelihood in terms of what has been alluded to throughout this submission.

My connection to the island of Rotuma and a brief biography

I am a Rotuman of Samoan (paternal) and Uvean (maternal) descent who was born and educated in Rotuma before going over to Ovalau to complete my secondary education at Saint John's College and Levuka Public School. Although I currently reside in Brisbane and have taken up Australian citizenship, I still refer to myself as an ethnic Rotuman from Fiji, and still maintain consistent close ties with family members in Rotuma and Fiji.

Whilst working fulltime, I also undertook a fulltime dual B. Justice (Public Policy/Governance)/Bachelor of Laws degree at the Queensland University of Technology. I was invited to undertake higher degree research in my second year, as well as invited and inducted into the Golden Key International Honour Society for outstanding academic achievement. I was also awarded a law scholarship from the university's law faculty as recognition of my achievements. I nevertheless decided to graduate with a single degree (B. Justice) in my third year so I deferred and later discontinued the LLB component as I was pursuing postgraduate studies in business management. I enrolled into the masters of business (human resource management) program and after one semester, I decided to defer it and did a masters degree in human services with a dual major (management & policy) which I have completed. I re-enrolled again into the masters of business program which I will complete in November this year (2015).

I intent to also re-enrol into the LLB program in the near future and will seek admission to practice in the Queensland and interstate bars as a barrister, once I complete it either at the end of next year (2016) or November of the following year (2017), depending on the study load that I wish to undertake. The areas of law

that I am particularly interested in are in the arenas of public, administrative and constitutional law, torts, mediation, as well as international private and public law.

I sincerely appreciate and acknowledge your attentive deliberation pertaining to the substance and critical issues of concern to me that I have presented in this submission. Should you wish to contact me pertaining to any of my conjectures, or if the tone is belligerent in your opinion, then please contact me by email or telephone, and I will be happy and obliged to elucidate you on your raised concern.

Thank you.

Yours faithfully,

T.A. Kamea

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