Three men jailed over Tongan ferry disaster

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Tonga's Supreme Court sentenced three people to prison last month after finding them guilty of manslaughter by negligence and other charges relating to the sinking of the ferry MV Princess Ashika on August 5, 2009. Seventy-four people, mostly women and children, died when the old and severely rust-damaged ship sank while travelling from the capital Nuku'alofa to Ha'afeva, in the Nomuka Islands group. Tonga, an archipelago of 169 small islands about 2,000 kilometres north east of New Zealand, has a population of just over 100,000.

The sinking provoked widespread anger in the impoverished country. Relatives of the victims camped for weeks outside the offices of the government-owned Shipping Corporation of Polynesia (SCP), which operated the ferry. (See: "Grief turns to anger over Tongan ferry tragedy" http://www.wsws.org/articles/2009/aug2009/tong-a10.shtml). The vast majority of people in Tonga and throughout the Pacific are forced to rely on dangerously run-down and overcrowded ferries as the only affordable means of transport between islands.

The two-month trial of four men and the SCP was a blatant exercise in scapegoating. None of the government ministers who approved the purchase of the Princess Ashika and allowed it to sail in its rotten condition has been brought to justice. Last November, the *Taimi o Tonga* newspaper reported that the government had paid out $T80,000 ($US45,480) to "almost all" the families of those who drowned "in exchange for not pursuing any civil lawsuits against the government".

Former SCP chief executive John Jonesse received the longest sentence of five years in prison for manslaughter, sending an unseaworthy ship to sea, and forging documents to pass the ship off as seaworthy. The Ashika's captain, Maka Tuputupu, and first mate Semisi Pomale, were both convicted of manslaughter and will spend six months and 18 months in prison respectively. Viliami Tu'ipulotu, former Director of the Ministry of Transport's Marine and Ports Division, was also convicted of manslaughter and sending an unseaworthy ship to sea, but was given a three-year suspended sentence and will serve no jail time.

The SCP was fined $T2.2 million. Other high-ranking figures in the SCP's board who approved the purchase of the ferry—including Company Secretary Lord Ramsay Dalgety, a former Supreme Court Judge and chairman of the Tonga Electricity Commission—were not charged.

According to Radio New Zealand, "within minutes of the verdict being delivered [on April 1], people began complaining that the men convicted are minnows, and that more senior people in Tonga's government and administration should be charged". Tasha Sulaki, whose sister died when the ferry sank, along with her sister's husband and two of their children, said the tragedy was "the government's fault because they knew that the boat [was] not good enough to bring here to Tonga". She said former Prime Minister Feleti Sevele and former Transport Minister Paul Karalus should be prosecuted.

Tonga's Police Commissioner Chris Kelley has ruled out taking any further action, telling Matangi Tonga: "One can't lay charges without evidence."

In fact there is more than enough evidence of the government's negligence. A Royal Commission of Inquiry into the sinking, which held extensive hearings between October 2009 and March 2010, identified "systemic and individual failures" which caused the "easily preventable" tragedy. Its 630-page report condemned the SCP board and senior government officials and ministers—including then-Prime Minister Sevele and then-Transport Minister Karalus—for purchasing the Princess Ashika and allowing it to sail even though it was "unquestionably unseaworthy and in an appalling condition".

A report by a Fijian maritime official in December 2008 had warned that the 37-year-old Ashika would "cause a maritime disaster" if allowed to operate, because it was "beyond repair and... no longer fit for sea services of any

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nature." Yet on May 7, 2009, Transport Minister Karalus told ministers that he was "satisfied that the vessel meets our seaworthiness and mechanical requirements". The next day the government purchased the ship from Fijian company Patterson Brothers for $F600,000 ($US280,000).

When the Ashika arrived in Tonga, the Commission found, "the Acting Director of Marine and Ports, Mr. Tu'ipulotu, and several surveyors from the Division inspected the [ferry]. They all realised that it was in a deplorable condition and was unseaworthy... Mr. Tu'ipulotu [later told the Commission] that not only was the vessel unseaworthy, but it was in such a condition that he would not have allowed members of his immediate family to travel on the vessel. Notwithstanding this, Mr. Tu'ipulotu signed a certificate... that the vessel was seaworthy".

The Commission condemned then-Prime Minister Sevele's failure to ensure due diligence on the Ashika purchase. It also condemned the decision by Sevele and other ministers to allow another ferry, the 25-year-old MV Pulupaki, to operate despite repeated warnings that it was poorly maintained and unsafe. The Pulupaki is owned by Uliti Uata, who is currently Minister of Health. For several months following the sinking of the Ashika, it was the country's only remaining passenger ferry. In December 2009, cabinet rejected out of hand a public warning from the Ports Authority that the Pulupaki was not unsafe. Sevele ordered the warning be withdrawn and suspended Ports Authority General Manager Lupeti Vi for three months.

The Commission found it "most disconcerting that the safety of the passengers was not of paramount consideration to cabinet". It concluded that the government's decision to let the Pulupaki sail, even after a surveyor's inspection in January 2010 confirmed that it was beyond repair, "gives one no confidence that [another] maritime disaster will not inevitably happen in Tonga in the future". Following the criticism, the Pulupaki was taken out of service but it resumed operations in late 2010.

After the release of the Royal Commission's report in April 2010, the government moved swiftly to ensure that no ministers would be held accountable. Sevele claimed that the report's recommendations would be "addressed", while denouncing the Commission for "permitting the introduction of politically-motivated irrelevances in its proceedings".

Later that month, Attorney-General John Cauchi resigned after the government refused to support his appointment of prosecutors from Australia and New Zealand to investigate criminal matters arising from the Commission's inquiry. Cauchi told the Australian Broadcasting Corporation that the Government was "attempting to control [the] prosecution... to ensure that members of the cabinet and other people, who might be regarded as close friends or cronies, are not prosecuted".

Cauchi also said that Justice Robert Shuster—who presided over the Ashika trial—had been appointed to the Supreme Court without his recommendation. According to Cauchi, the government wanted to "control members of the judiciary, to dispose of them or to hire them as they see fit."

The response of Australia and New Zealand to this blatant manipulation was muted. According to 3 News, New Zealand Foreign Minister Murray McCully dismissed "such problems [as] inevitable in a country attempting a transition to a functional democracy". Tonga remains a semi-feudal monarchy in which a handful of noble lords control a third of the seats in parliament, while the remainder are elected in a popular vote. The current Prime Minister is the unelected Lord Siale'ataongo Tu'ivakano.

Neither Wellington nor Canberra has commented on the outcome of the Ashika trial, as both are undoubtedly just as anxious as the Tongan government to bring the matter to a close. Far from being uninvolved in Tonga's affairs, New Zealand and Australia provide millions of dollars in aid to Tonga's police and judicial system. Police Commissioner Kelley is himself a New Zealander and was seconded to Tonga in 2007 under an agreement between the Tongan government, New Zealand and Australia to boost the "capacity" of the police.

The "Police Development Program" has nothing to do with promoting democracy in the island nation. Rather, it is aimed at boosting the Tongan government's ability to suppress opposition, which could threaten Australia's and New Zealand's neo-colonial interests in the Pacific.

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