

**LAUNCH OF THE OFFICE OF THE OMBUDSMAN**

**TANOA INTERNATIONAL DATELINE HOTEL**

**15 MARCH 2017, 11AM**

**(Welcome by Ombudsman 'Aisea Taumoepeau)**

**FAKATAPU**

- (i) 'Oku ou kole ke tau tuku pe 'a e Kololia ki he Otua Mafimafi, ko ho tau Fakatapu mo e Fakalaloa, 'o hange ko e lotu lelei kuo fai e he Faifekau, Rev Dr Taliai Niumeitolu;
- (ii) Speaker of the Legislative Assembly, Lord Tu'ivakano;
- (iii) Deputy Prime Minister, the Right Hon Siaosi Sovaleni, and Cabinet Ministers;
- (i) The Honourable Chief Justice and members of the Judiciary;
- (ii) Nobles of the Realm, Law Lords, and Members of the Legislative Assembly;
- (iii) Members of the Diplomatic Corps;
- (iv) Representatives of Global and Regional bodies;
- (v) Members of the Clergy;
- (vi) The Attorney General & The Auditor General & Police Commander
- (vii) Former Commissioners for Public Relations, staff and their families;
- (viii) CEO's and members of ministries/departments, statutory bodies and public enterprises; & Visitors;
- (ix) Distinguished Guests, Ladies and Gentlemen.

Pea 'oku ou kole keu hufanga atu he ngaahi fakatapu kuo aofaki ka e 'ata ke fakahoko atu ha lea talitali kiate kimoutolu he pongipongi ni.

Ko e ngaue ae Omipatimeni 'oku 'ikai faka-politikale,

'Oku 'ikai ko ha faka-kikihi mafai;

Ka 'oku fakatefito pe 'i he faifatongia lelei moe fakapotopoto,

Pea mo e fakapapau'i koe tangata'i fonua Tonga,

'Oku ma'u 'a e tu'utu'uni taau

Pea ke tu'uloa 'a e Pule 'a e Lao

Ke patoloaki 'a e nofo fekoekoe'i

Mo e melino 'a e kakai 'o e fonua

'I ha founa 'oku taau mo maau.

## INTRODUCTION

The international concept known as the “Ombudsman” started in Sweden. The Swedish Parliamentary Ombudsman was instituted by an Instrument of Government in 1809, to safeguard the rights of citizens. It was a supervisory agency independent of the Executive. The word “Ombudsman” is derived from the Swedish equivalent of “Protector of the People”. The concept of the Ombudsman has now spread to all corners of the world.

The function of the Ombudsman is to investigate complaints against decisions or actions of public authorities, and make recommendations as to the appropriate action to be taken.

Upon investigation of a complaint, the Ombudsman may find that there was nothing wrong with the action or decision of the public authority, in which case the public authority will be happy as it is being reassured that it is doing its job well. On the other hand, the complainant is also happy because he had been given the opportunity of a review by an independent body, the Ombudsman.

Conversely, if the result of the Ombudsman investigation finds that the complainant is right, it means that there was something wrong with the administrative processes, and there is a need to address or improve the performance of the public authority. The public authority is happy because a weakness in their administration has been identified which needs to be put right. On the other hand the complainant is happy that the issue he was concerned with, is corrected.

The Ombudsman process is always a win/win situation, both for the complainant and the public authority.

In Tonga, prior to 2001, the only legal form of complaint mechanism available was/is in Clause 8 of the Constitution:

*“All people shall be free to send letters or petition to the King or the Legislative Assembly and to meet and consult concerning matters about which they think it right to petition the King or Legislative Assembly to pass or repeal enactments provided that they meet peacefully without arms and without disorder.”*

Over time, since the granting of the Constitution in 1875, people had resorted to that right, and petition either the King or Legislative Assembly (or both) regarding wide range of subject matters, not necessarily related only to passing or repealing enactments.

With the advent of the passing of what is now known as the Ombudsman Act in 2001, an administrative complaint mechanism was specifically put in place. The amendments to the legislation in 2016, meant that its scope was significantly broaden.

## **WELCOME**

**It is my pleasant duty to welcome you all today, to mark the establishment of the Office of the Ombudsman.**

**The “Ombudsman” in Tonga was formerly known as The “Commissioner for Public Relations” which was established under the Commissioner for Public Relations Act 2001. The Commissioner for Public Relations (Amendment) Act 2016, came into operation on 2 December 2016. From then onwards, the Commissioner for Public Relations becomes the Ombudsman, hence, we are here today to mark the occasion.**

**That change in the legislation was not just a change of name. It also marked the coming of age, and recognition by the legislators of this country of the critical role played by the Office of the Ombudsman. Greater independence is achieved, by shifting the appointment, and accountability, from the Cabinet to the Speaker and the Legislative Assembly. That move is most significant because actions of individual Ministers come within the investigative jurisdiction of the Ombudsman, while the Speaker and the Legislative Assembly are not.**

**A former Chief Justice of the High Court of Australia, Chief justice Sir Gerard Brennan said that independence means: *“Independence of popular acclaim, of power or patronage, of wealth, of improper influence by state or church, by family or friends. It is a lonely virtue. It is a virtue which, if it is not to be transformed into stubborn arrogance, requires humility of mind, devotion to learning and breadth of experience.”* People who endure such situation include the Ombudsman and his staff.**

**A preliminary process is created by the new law to enable a better assessment of whether an investigation is warranted. More public organisations, especially the newer statutory bodies and public enterprises, are brought within the jurisdiction of the Ombudsman. The Ombudsman now has discretion to publish reports that he considers to be in the public interest. Another significant change is the moving out of the Ombudsman staff from the public service. The staff now operates under the Ombudsman, and not the Public Service Commission.**

**Honourable Speaker, Lord Tu’ivakano, we are particularly happy that you are here with us today, to share this milestone. We look forward to working with you in carrying out the Ombudsman’s mandate.**

**Deputy Prime Minister, The Right honourable Siaso Sovaleni, and Cabinet Ministers, we also look forward to continuing our journey in our respective roles as “watchdogs” of public authorities and government officers. We look forward to your assistance and co-operation in ensuring that, together, we provide efficient, fair and good governance for the people of Tonga.**

The Honourable Chief Justice and members of the Judiciary, we acknowledge the importance of the judiciary's guidance, as in the recent judgment of the Supreme Court in *Jurangpathy v CPR*, the first court case to be brought against the Ombudsman ( which I am sure it will not be the last). That was an unsuccessful challenge of the statutory powers of the Ombudsman, and from which an appeal was subsequently withdrawn from the current session of the Court of Appeal.

Members of the Diplomatic Corps, and representatives of global and regional bodies, thank you for your presence here today, and your continued support.

To our stakeholders, CEO's of ministries, statutory bodies and public enterprises, we count on your help and co-operation in implementing our recommendations.

To the general public, who are potential complainants, we look forward to serving you. We will not be advocates for you, but we will work together to ensure fairness is achieved. That is, fairness to you as well as the public authority concerned.

## **CONCLUSION**

In conclusion, I repeat what I said in Tongan at the beginning -

**“The Ombudsman IS NOT about politics;**

**It IS NOT about power;**

**It IS about efficient service and Good Governance,**

**It IS about making sure that all Tongans,**

**Is accorded fairness in their dealings with public authorities,**

**That the Rule of Law is maintained,**

**This shall ensure that Tongans live in harmony. “**

I welcome you all, not only as friends and practitioners in Good Governance, but also as supporters of the Office of the Ombudsman.

**MALO 'AUPITO**