



OMBUDSMAN STATEMENT

Apia, 5-6 Nov 2019 – *Ombudsman’s Statement for Vanuatu Parliamentary Conference*

I have been asked to speak about the Office of the Ombudsman and its relationship as the National Human Rights Institution of Samoa with the Parliament and the Parliamentarians of Samoa.

As background, we had existed for some time as a conventional Ombudsman Office until 2013 when Parliament approved the re-constitution of our office to be also the NHRI of Samoa.

We work so closely with all elements of the Government of Samoa that we appear to be just another office of the Government. But as you will know we are not part of the Executive Government.

The Ombudsman is a constitutional Officer of Parliament. In a very real way he is an extension of Parliament in the fulfillment of that august body’s responsibilities to the people of Samoa. The Ombudsman Act states that “a report made by the Ombudsman is taken to be an official report made by a person holding an inquiry **under the authority of the Legislative Assembly**”.

We are independent of the Government. We do have a Minister (the Prime Minister) who in the same way as other ministers do for agencies within their portfolios, secures for us Cabinet approvals that we may need administratively speaking. The Minister also channels our Reports to Parliament and sponsors their processing in that body. He does not direct the work of the Office in any way.

We are totally independent of the Government in the carrying out of the mandates given to us by law. Indeed this is a core requirement of the Paris Principles approved by the United Nations to be fulfilled by entities seeking accreditation as NHRIs. The NHRI of Samoa was granted **A status** accreditation in 2016. Among other things, **A status** accreditation entitles Samoa to speak at sessions of the Human Rights Council.

Our office must report annually to Parliament as is required of all public entities. **In addition**, as an NHRI we are required to report each year to Parliament on the status of human rights in Samoa. The Act requires that a Parliamentary Committee must scrutinize such reports/ and may require the Government or other persons to make formal responses to the report. The

Parliamentary committee must table its report including any formal response in Parliament for debate.

The requirement to report annually on the status of human rights in Samoa motivates the NHRI to look critically, continuously at the situation of the people and how they are living their lives/and to report what it sees/ and what might be done about it/ to the parliament of the people. Taking stock of the circumstances in which people are living their lives/ is a very important task which the people of any country deserve to have done for them. In the case of Samoa, it is the pleasant duty of the National Institution of Samoa to work closely with the Parliament in this high endeavor.

We have submitted a number of State of Human Rights Reports (SHRRs) including the first ever comprehensive survey of Human Rights in Samoa in 2015. A recent SHRR is the Report on a national inquiry my office carried out on Family Violence. In that case we saw in 2013 when we became the NHRI for Samoa that violence in the Samoan home was scary.

We saw that while the Courts, Government ministries and certain NGOs were expanding their efforts to deal with the problem, the general community by contrast appeared unconcerned and unmotivated to act against domestic violence. We were well aware of the potential usefulness of institutions within the community were they to weigh in on the problem. As an NHRI we saw that with domestic violence **business as usual was not going to do it for Samoa**. We needed to do something more. Samoa needed to approach domestic violence as a societal problem of national concern.

The National Inquiry was in fact a national conversation on violence in the Samoan family. It was intended to be a Samoan effort to look at the problem in Samoa with a view to formulating Samoan solutions to a vexed problem that is troubling all societies in the world.

The Report and recommendations of the Inquiry have been favorably considered by a Parliamentary select committee. That committee is awaiting a response from Government to be put before Parliament for debate.

This exercise is a good example of an NHRI taking the initiative in a matter of great importance to the population and enlisting the help and good offices of the Parliament to encourage Government to act in a way that would greatly benefit all.

Let me say a few words about Human Rights in general and how human rights work have been viewed by the Samoan people.

“Human Rights” is very often rejected by people in Samoa with only perfunctory consideration. It is regarded as a foreign thing and therefore suspect. Different things play into this attitude. People have often expressed the sentiment that human rights is **something the United Nations is trying to shove down our throats**.

We tell people that this is not the case; that human rights is about humans, it's about the wellbeing and the freedom of people to enjoy their existence. So unless they somehow consider Samoans not to belong to the human race, they have to start seeing human rights in Samoa simply as the entitlements of Samoans as people living with one another/ and in the same way, see the entitlements of everybody else in the world.

Seen in that light, human rights have been with the Samoans/ and observed by them since time immemorial under a different guise; that is, in the guise of the faaSamoa.

It is easy to point to areas where observance in Samoa of **accepted tenets** of human interaction between people have changed from what was the case in the past. Observance of these things in Samoa today do not measure up to the high standards of the past. It can be argued therefore/ that **the international human rights drive of today is a timely wakeup call** for Samoa and for humanity the world over.

It is evident that when you advocate the values of central concern to 'human rights' (respect, dignity, security etc.) you ring the same bells that sound the music of the "fa'aSamoa". That is a fact.

Then you run into another fact. When you focus on the Samoan culture of today with regard to human interaction, it is not possible to isolate it from the God of its Christian beliefs. Originally this connection was pagan but now it is firmly Christian.

The cornerstone of Samoan social interaction is mutual **recognition of individual dignity**. *Feavaa'i* requires that I respect you and you respect me. That is a fundamental premise of the "faaSamoa". A person who disregards or demonstrates ignorance of this in his speech or behavior is ill-regarded as a person of no breeding in Samoan eyes.

Mutuality permeates everything in a communal society: respect, dignity, equality, protection etc. The ideal in the observance of these values are reflected in well-known maxims and expressions of the Samoans that are still bandied around today. It is useful that these things are etched into the "communal memory" in this way/ because it makes it possible to point to '**deterioration**' in our observance of them over time; - the toll of modernity you might say.

We have concepts such as the *feagaiga* or covenant relationship between brother and sister and generally by extension between males and females. Once upon a time a woman wanting to put an end to persistent unwanted approaches from a Samoan man would need only to say: "*E pei oe e leai sou tuafafine.*"

"You are as if you have no sister." She is saying to the unwanted suitor: "please extend to me the treatment you would give your sister". Hold that scenario up to males today who commit rape or domestic violence.

We have a saying in Samoan: "*o tama a manu e fafaga I fuga o laau ao fanau a tagata e fafaga i upu*" –Human offspring are fed with words in the same way birds are fed with blossoms.

How does that square with demands that were made from some quarters in recent times to re-introduce corporal punishment in schools.

Samoans understand human rights values very well/ but they **make sense in the Samoan mind because of Genesis 1: 27.**

“God created human beings in his own image; in the image of God he created them; male and female he created them.”

This is the **source** and basis of human dignity that Samoans of today embrace. The human being, made in the image of God, has inherent dignity. (That is an article of Faith) And **mutual regard** for individual dignity is corner stone in Samoan cultural interaction. (That is fa’a-Samoa) The international community, on the other hand, see human rights as flowing from the Universal Declaration of Human Rights adopted by the UN General Assembly.

There is confluence in the two positions which, for our own purposes in our local situation, we highlight, even if it is of no interest to the secular world.

In the wake of World War II and its atrocities, the UDHR was landmark international consensus, / on the dignity of the individual/ and the inviolability of his person and entitlements as a human being. We applaud the international consensus of 1948.

The values reflected in it owe much to Judeo-Christian ethos and principles which had been enshrined in Western laws and ideals from a past when the West believed in a transcendent creator God. God may have become unfashionable since/ and phased out of mainstream life and the popular philosophies of Western civilization/ but ‘Judeo-Christian based human rights’ have continued on as the gold standard for human behavior.

The “Universal Human Rights” thing, from our point of view, as has been said by somebody I’m not able to recall right now, can be likened to a bouquet of cut flowers. They exist visibly on their own, and although detached from their source, they retain their beauty and fragrance from that source. --- The moment any aspects of unfolding human rights are seriously perceived by Samoans **not to be identifiable** with that source, Samoans in their present frame of mind/ and Samoa as a Christian country may well have problems with any such ‘emergent aspects’ of human rights.

In 2017 Samoa inserted expression of the fact of its Christian beliefs into the body of its Constitution. This adds to the earlier sole mention of its Christian beliefs in the Preamble of the Constitution.

So much then for the suggestion that human rights are alien to Samoan culture and Christian beliefs. In essence they are not/ and we are trying to move on past that negative perception of “Human Rights”.

Thank you!