

PACIFIC OMBUDSMEN NETWORK NEWS

ISSUE 15 – AUGUST 2008

UPDATE FROM THE COMMONWEALTH OMBUDSMAN

Prof. John McMillan
Commonwealth Ombudsman

The second half of 2008 starts with a farewell to the long-serving former Chief Ombudsman of Papua New Guinea, Ila Geno, who finished on the first of July. From the start, Chief Ila has been a key to the quest for a Pacific Island professional community of ombudsman and staff. Progress continues and I am sure his dream will live on with the emerging Alliance. He has provided an insightful article on some of his experiences. It is a pleasure to have it in this edition. I feel that this won't be the last we will hear of Ila as he embarks on new adventures to strengthen good governance in PNG and our region.

We welcome his replacement in the Ombudsman Commission of PNG, Chief Ombudsman Chronox Manek. We know that he will have both a challenging and stimulating job. He has been the Public Prosecutor for PNG, so Chief Chronox is no stranger to the stresses of accountability institutions. I speak for all of us, when I say we look forward to working with him, the other two PNG Ombudsmen and their staff.

For the Solomon Islands, it is a time of renewal. After 23 months since the Appointment Committee met, it gives me great pleasure to congratulate Ombudsman Joe Poraiwai to the substantive position in the Solomon Islands. I have confidence that Ombudsman Joe will now demonstrate the

relevance of his office to Solomon Islanders who have been kept waiting so long. He has long experience with the office and a commitment to improved service.

CURRENT ACTIVITIES

Dr Stephen Ranck
Director, International Program

At the moment, we are working on two Pacific Island fronts: (1) we are close to implementing a couple of Network placement activities; and (2) we are working to shift from the Network to an Alliance with more formal structures and more direct Pacific Islander representation.

Network activities

We are completing two final activities under the AusAID grant for the old Network. First, we will have Michael Woodhead going on a placement to Samoa from 13 September to 14 December 2008. This responds to the Samoan Ombudsman's request for assistance at the Port Vila meeting. Michael is an investigation officer with the Commonwealth Ombudsman. He will work with the Samoan staff on key functions (complaint handling, outreach and reporting) with a further joint output being some suggested benchmarks for later consideration by the Alliance. This should be an exciting time for the Samoan staff.

Second, we are still working to get the first placement to Tonga. The changing political environment and moves to more democracy over the last few years have delayed the placement originally discussed in early 2006. The plan now is to provide the Tonga office

with one of our officers, Ron Ross, who has legislative drafting experience as well as direct ombudsman work. The Government of Tonga has just established an Anti Corruption Commission which has a temporary Commissioner soon to be replaced by a Tongan Commissioner. The Tongan Ombudsman will share some facilities with the Commissioner; however, the ombudsman functions will be independent. New legislation is proposed for this, and the present plan is that Ron Ross will assist legislative drafting and other ombudsman functions in Tonga with back-up resources from the Network. This could be a last Network activity as we move to the Alliance.

Alliance activities

The Pacific Ombudsman Alliance (POA) is the latest name for changing the Network to something more formal. Interim Board members used a scheduling form that achieved consensus on the timing for the first interim Board meeting. This is planned for a day and a half on Tuesday and Wednesday, 28 and 29 October 2008. The Board will meet in Brisbane as the most logical city in terms of travel from all the different Pacific locations. The vital role for the interim Board is to establish the governing arrangements for the Alliance.

By the time we hold this first meeting we should have a much clearer idea of funding availability. We also should have a robust document for discussion that meets the different needs of the various parties to the Alliance to include fair representation for all those small Pacific Forum states that have no ombudsman. We meet with the Forum Secretariat's Henry Ivarature in September to further work on this.

Already the Network/Alliance has been providing resources to Palau and the Federated States of Micronesia as they explore improved means for complaint handling.

In the next edition, there will be more news on Alliance progress. Also, I shall cover some of the activities we have been running in parallel with the Ombudsman Commission of Papua New Guinea.

FAIR, FRANK AND COMPLIANT WITH THE RULE OF LAW

Observations of recently retired Chief Ombudsman Ila Geno



Commencing on 1 January 2001 I spent seven years and six months as Chief Ombudsman at the Papua New Guinea Ombudsman Commission, during which time many and varied developments took place. I will not be able to cover all of them, but will cover the main events in relation to development activities and some significant core operational performances that impact on the image of the Commission nationally and internationally, which serve as useful lessons for all in emerging evolving democracies.

I took charge of the Commission during the era of the Institutional Strengthening Programme, commenced by my predecessor Simon Pentanu, who championed the modernising of the Commission, and which continued after my appointment as Chief until late in 2002.

In September 2002 we relocated from the old Garden City offices to the brand new Deloitte Tower Building, in the down town city area.

The move provided a big morale boost to members and officers, and meant a vast improvement in personal security and office security and much healthier working conditions than in the old accommodation.

From 2003 we transited from Institutional Strengthening to a phase of consolidation, whereby we established a modernised OCPNG. The era of Information Technology became well established and all Work Stations were connected on a Local Area Network throughout the Commission. This era brought about a remarkable change in the culture of communication in the Commission and eventually saw the introduction of the Internet to members of the Commission, directly connecting the members to the world.

In 2003 PNG hosted the 21st Asia Pacific Ombudsman Region (APOR) Conference, held in Madang. The Prime Minister of PNG, the Right Hon. Grand Chief Sir Michael Somare officially opened the conference. This Conference was very well attended by APOR members and a number of significant decisions were made, including the decision to create the Pacific Ombudsman Network.

I also had discussions with Commonwealth Ombudsman Professor John McMillan in relation to a proposition I advanced for a twinning/exchange programme, to commence in the first place between OCPNG and CO, which the Professor supported without any hesitation, for which I sincerely thank him.

This agreement later materialised into an MOA signed between OCPNG and CO under which Twinning and placements of officers from both institutions commenced. This programme greatly contributed to an International Liaison Workshop held in Moresby for OCPNG, PNGDF, Police, CIS and the counterparts in Australia i.e. ADF, CO and AFP. Immediately following the workshop an MOA between the Police and the OCPNG was signed by both myself and the Commissioner of Police for close cooperation in handling complaints against the police.

Other government agencies have indicated support for similar arrangements with OCPNG in the near future. The liaison Workshop helped to build coalition building for the OCPNG with Police, PNG Defence Forces, Correctional Service especially in improving their Internal Complaint handling systems in order to improve performances and the integrity of their institutions.

The Madang APOR Conference also saw my election as Director for APOR in the International Ombudsman Institute which I retained unopposed until my retirement. As a result I have been closely involved with colleagues in the Region especially in the Pacific Ombudsman Network bringing Ombudsman and the like Institutions together and I have witnessed remarkable personal and professional communication and relationships develop among colleagues. This has no doubt helped us immensely to understand each other better and assist most effectively as much as possible. The recent development of the Regional Ombudsman Mechanism desired by the Pacific Plan is a fine example in which colleagues are working together to come up with workable mechanisms for the countries without Ombudsman or mechanisms for complaint handling.

In 2004 we initiated a Comprehensive Management Review of the Commission and with the assistance of AusAID, we engaged a Constitutional expert lawyer Dr Deklin to identify all the relevant legislations that impose duties on the Commission.

This formed the basis for building the desired capacity of the Commission in the future. The exercise brought about a major review of the core functions of the Commission as mandated by the identified legislations. The findings and the recommendations approved by the Commission were used to re-structure the Commission and increase the manpower capacity by nineteen additional personnel over and above the recurrent manpower. The review caused the Commission to increase funding from 9 million kina in 2006 to 11

million kina in 2007. To date recruitment of additional personnel is continuing with the level of funding retained in the 2008 budget.

Leadership

We achieved a landmark Supreme Court Reference initiated by the Commission over the flawed election of Governor General in which the Chief Ombudsman successfully sought the Supreme Court to interpret the laws relating the Election of Governor General in 2003.

Almost 50% of all the Leaders referred to the Public Prosecutor for prosecution for alleged Misconduct in office since Independence took place during my term as Chief Ombudsman. It has been a real challenge in view of the fact that quite a number of very eminent leaders were prosecuted for alleged misconduct in office and consequently found guilty.

In 2006 serious allegations were made against myself for misconduct in office by a parliamentarian which the Ombudsman Appointments Committee investigated and decided not to pursue further, approximately eight months after I had responded to the allegations.

Challenges

The three Ombudsman members of the Commission are independent of each other as provided for by the Constitution. The Commission is the majority of the three members. The solidarity of the Commission is a challenge and it is left primarily to the Chief Ombudsman to manage the Commission with the assistance of the other members. The external view is the solidarity. Unrealistic expectations are imposed on the Commission by the public and there is a tendency and a temptation for the Commission to overstate its role for example in relation to its Human Rights jurisdictions.

Political Influences

I have been very firm in the way I have related with Politicians and Chief Executive colleagues

in matters concerning the administration of the Constitutional duties and functions of the Commission. In so doing I have faced serious legal challenges in both the National and the Supreme Courts of the country and the end results been so far so good. My parting advice is to **be fair, frank and compliant with the rule of law** and that has been the principle I tried to maintain all these years. I am now venturing out to chart the uncharted waters. I know I have not fully covered all activities and events as there is so much to tell, but keep them for next time round.

Let me express my very sincere thanks and appreciations for the wonderful and meaningful professional association with you all, Prof John McMillan and colleagues in the Pacific Ombudsman Network with a particular reference to the Twinning Arrangements between OCPNG and CO which no doubt has drawn the two Institutions very closely together and benefited greatly from each other.

Kind Regards,

I Geno

Thank you to recently retired Papua New Guinea Chief Ombudsman Ila Geno for this item.

REPORTS

ACT Corrective Services: Discipline and Adjudications

The Corrections Management Act has instituted a number of important reforms of the discipline system for detainees. The recommendations in this report issued in July 2007 propose improving a number of aspects of the process in order to ensure ththe the system is fair and effective.

For full text of the report, please visit:

[http://www.ombudsman.act.gov.au/act/publicsh.nsf/AttachmentsByTitle/investigationreport_20080715/\\$FILE/online_ACTCorrectServices_Discipline-adjudications_20080715.pdf](http://www.ombudsman.act.gov.au/act/publicsh.nsf/AttachmentsByTitle/investigationreport_20080715/$FILE/online_ACTCorrectServices_Discipline-adjudications_20080715.pdf)

The regulation of mine safety in Queensland: A review of the Queensland Mines Inspectorate

This report focuses on the Queensland Mines Inspectorate (QMI), the body responsible for mine safety regulation in Queensland. Impetus for this investigation included recent criticism in the media and academic forums about Queensland mine safety.

For full text of the report, please visit:

<http://www.parliament.qld.gov.au/view/legislativeAssembly/tableOffice/documents/TabledPapers/2008/5208T3688.pdf>

RESOURCES

Theo Levantis' presentation 'A Look at the Land Situation in the Pacific' provides useful information on the kinds of customary land ownership rights in the Pacific, patterns of land policy since the 1800s, and the effects of land registration on women.

The powerpoint is available in full at:

<https://www.govdex.gov.au/confluence/download/attachments/37060773/11+Theo+Levantis.pdf>

AUSTRALASIAN LAW REFORM AGENCIES CONFERENCE 2008

**Hosted by the University of the South Pacific
School of Law**

Port Vila, Vanuatu, 10-12 September 2008

ALRAC 2008 will bring together representatives of law reform agencies from across the region for a program of dynamic speakers, engaging workshops and important networking opportunities.

For more details, please download the [conference brochure](#) and [registration form](#).

For further enquiries, please email John Maseiras (maseiras_j@vanuatu.usp.ac.fj)

WAYS OF WORKING

WHAT IS THE ROLE OF THE AGENCY SPECIALIST?

At the Office of the Commonwealth Ombudsman, approaches of specific interest or requiring special handling, are referred to the nominated agency specialist or specialist team within the office.

Agency specialists have been nominated for each agency about which we have received more than 30 approaches in at least three of the last five years. They include agencies such as the Australian Federal Police, Australian Taxation Office, Department of Defence and Centrelink (the Australian Social Security agency).

Agency specialists have internal and external duties.

Internally agency specialists:

- Provide an advisory service for investigation officers about how to handle individual approaches in order to ensure consistency on approach handling across the agency
- Handle more complex or systemic approaches where necessary
- Maintain and update internal Intranet information relating to the agency, to provide answers to frequently asked questions on the agency, and to share information about any policy or procedural changes in the agency which might impact on approach handling
- Monitor and provide oversight for the handling of approaches in their specialist area, by regularly reviewing open cases, and carrying out quality assurance checks and important points in the resolution of complex and sensitive cases
- Advise Senior Executive of any changes needed in managing approaches in their specialist area

Externally, agency specialists:

- Arrange, maintain and confirm formal contact arrangements with their agency
- Liaise with the agency to ensure an effective working relationship through regular meetings and sharing feedback on good practice as well as on problems
- Provide regular reports to the agency on approach handling statistics and other issues as agreed.

FEEDBACK ON THE IPAA CONFERENCE

Angela O'Neil from our Defence Specialist Team shared her experiences at the 2008 Institute of Public Administration Australia National Conference held in Sydney on 19 and 20 June 2008.

I was lucky enough to attend the National Conference of the Institute of Public Administration Australia (IPAA) in Sydney, and provided this feedback to fellow staff, which I'm happy to also share with other network members.

The title of the conference was *'The future of public service: striking the right balance'*. The 'balance' the conference was striving to determine was the balance between the New Public Sector Management (NPSM) model and traditional roles and expectations of the public service – especially in relation to legitimacy, accountability and transparency of government actors. During the conference, this was recast as *'striking a new balance'*, as it was suggested that the *'right balance'* would not ever be met.

The conference was held over three days, and used four themes or 'lenses' (organisational capacity building, partnerships, service delivery and communities) to examine or assess what the *'right balance'* for public service might be.

To stop delegates going 'ho hum' and falling asleep, the conveners of the conference used a variety of learning devices, including very high quality keynote speakers, smaller

concurrent sessions, workshopping, role playing, and even sets of magnetic public service words. The organisers also engaged four actors to present a play about an attempt at a government/private/community partnership in the housing portfolio. The play, in four Acts, was split across the second and third days of the conference.

The first day, which was an academic day, gave delegates the opportunity to ask what was meant by the 'NPSM model' – and to discover that this is the model that has well and truly been implemented in Australia and New Zealand. We learnt that the NPSM model was driven by the shift in focus from *public service* to *service delivery*. This resulted in recasting the citizens we serve as customers and clients, changing our funding to an outcomes and outputs framework, devolving employment powers to agency heads, implementing performance appraisal of public servants, and increasing the levels of non-core government services performed under private contracts.

The move has also been from a rigid and prescriptive regime to a much more flexible model – and the question for the conference was – have the traditional core values of an independent public service been retained and protected during that transition? The answers for each delegate were influenced by their own views and experiences, but the speakers from Canada, Brazil, New Zealand and Argentina helped to put that question into an international context.

Interestingly, the Hon Jocelyne Bourgon OC Canada (one of Canada's leading public sector reformers and a keynote speaker at the conference) expressed the view that Australia may have gone too far when we removed public service staffing and management powers from the Public Service Commissioner and fully devolved those powers to agency heads. Canada retains a body that has central control over staffing and management of the public service.

The biggest 'aha!' moment for me was when Professor John Alford from the Australia and New Zealand School of Government (ANZSOG), shared his views on the word 'client' and its application in the public service environment. After some discussion, Professor Alford came to the conclusion that 'client' is the word (in the English language) that best describes the relationship between a citizen and government. However, he then set about qualifying the definition of 'client' depending on the type of service the client was 'receiving' from the agency (ie voluntarily 'buying' the service, receiving a service for which there was no payment, or being compelled to receive the service). Professor Alford's paper will be well worth a read when IPAA puts the conference papers on their website on 1 July 2008.

The way the conference was structured maximised networking opportunities for delegates, and encouraged people to speak with a wide range of delegates from other agencies and States. This was taken a step further at the conference dinner where seating was assigned on an alphabetical basis.

Have I forgotten to mention that the conference was held in Luna Park? Or that Luna Park was open to the public on the Thursday and Friday of the conference? It's hard to say whether this added to the excitement experienced by conference delegates (the screams from Luna Park patrons were certainly diverting), but the panoramic setting for walks at lunch time was incomparable (Harbour Bridge, Opera House). The conference dinner was a Carnival theme, and the meal was punctuated by three opera singers scattered around the dining hall who sang to the dinner guests between courses. Expect the unexpected at an IPAA conference.

The next National IPAA Conference will be from 19 to 20 November 2009, in Brisbane. More information is available at the IPAA website:
http://www.ipaa.org.au/01_cms/details.asp?ID=162 .

Thank you to Angela O'Neil from the Defence Specialist Team for this item.

CONTACT US

Network News is supported by AusAID's Pacific Governance Support Program, which works to reduce poverty and achieve sustainable development by linking Australian Commonwealth Government with their Pacific counterparts, and by supporting shared regional governance approaches.

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STAFF CHANGES

Pauline Fowlie is moving to a new challenge for at least the next couple of months. Working with our Business Improvement Team, Pauline will be moving the Commonwealth Ombudsman's Work Practice Manual onto the intranet so that it will be easier for staff to use. She is among our rare few staff with the skills to do this type of data migration work. The International Program has benefited enormously from her many talents and we wish her well in this new endeavor.

Carolyn Langley will replace Pauline starting 2 September 2008. Carolyn is an investigation officer with our Law Enforcement Team. She has a depth of practical ombudsman experience that she will bring to this position. We welcome her and look forward to her contributions.