

**“Ombudsman in a Changing World: Resilience amidst Challenges”
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Ombudsman in a changing world: paradigm shift and challenges

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1. Introduction

Sawasdee Khrap. Chief Ombudsman of Thailand and Treasurer of the International Ombudsman Institute, Viddhavat Rajatanun, President of the IOI, Peter Tyndall, Secretary General of the IOI, Werner Amon and all distinguished guests.

Can I commence by paying my respect to His Majesty, the King of Thailand and say how pleased I am to be here in one of the great cities of the world.

Thailand and Australia enjoy a highly valued and important relationship, including significant cultural and social exchange and a trading partnership valued at 22 billion dollars.

The office of the Ombudsman Thailand and my office enjoy a particularly close relationship. In January 2018, I was privileged to undertake an official visit to the Ombudsman Thailand and also undertook investigation field visits in the Phuket province, including observing two major Ombudsman investigations regarding the delivery of significantly cheaper electricity for the residents of Panyee Island and the provision of more effective and efficient transport for the people of Phuket and its many visitors.

During this visit I was able to witness firsthand the enormous respect that Thai people have for the office of the Ombudsman, the deep commitment that the office of the Ombudsman has for its mandate and the highly effective way in which they contribute to better governance and better outcomes for the Thai people.

Late last year, I had the pleasure of welcoming the Chief Ombudsman to Perth. The Chief Ombudsman led a high level delegation from his office to sign a Memorandum of Understanding on Bilateral Cooperation between our offices. The MOU was the

first such agreement for my office and the first outside of Asia for the Ombudsman Thailand.

More generally, I am proud to call the Chief Ombudsman not just a highly valued colleague, but also a friend.

To the Chief Ombudsman, Ombudsmen, Secretary General and every staff member of the Ombudsman Thailand I could not be more pleased to say: สุขสันต์วันเกิด.

As you know, in this session we are discussing Ombudsman in a changing world: paradigm shift and challenges. I propose to address four paradigm shifts, and concomitant challenges that arise from these shifts: the growth of government; the elevation of human rights; the reality of climate change; and the rise of nationalist populism.

2. Four paradigm shifts

2.1 The growth of government

The first paradigm shift that I will discuss is the growth of government. Over the last century, but particularly over the last few decades, there has been great growth in government around the world, as well as increasing complexity of government services. In short, we live in increasingly regulated states, including supra national regulation. This growth in government has mostly been for abundantly good reasons, not the least of which has been citizens' desires for governments to work individually and collectively to make our nations more prosperous, peaceful, and just. Indeed, much of the growth in regulation has focussed on making our nations fairer and more inclusive.

Growth in government power is also a necessity of expansions in population, both in numerical terms and geographical diversity. Nonetheless, the unwanted, yet sadly assured fellow traveller of the passage of power from citizen to the state, is the risk of abuse of power. With every exchange of power comes the possibility of the corruption, perversion or maladministration of those powers.

This growth of government, and its concomitant risks, has been controlled by all the constituent parts that democratic framers have, over time, so carefully considered and crafted. At the absolute heart of the control of government action is the separation of powers, both at once disaggregating power but also placing review and constraint on the separated powers. So too does the great notion of the rule of law temper and regulate the arbitrary use of power and give certainty to all citizens that rules must be known and fair before their use and fairly applied.

These controls of structure and principle must, in the modern state, be buttressed by other strong forms of mediating power. The office of the Ombudsman plays a vital role in the oversight and control of government overreach, ensuring that the empowered use that power lawfully, fairly but also to the advantage of the disempowered, marginalised and vulnerable.

2.2 The elevation of human rights

The second paradigm shift is the elevation of human rights. Human rights that had been identified from as far back as previous millennia, were dignified by the post second world war compact that commenced the universalising of human rights, the creation of the United Nations, and increasingly over the last several decades, the elevation of a range of fundamental human rights as both a guiding principle of policy and law making, but also often its purpose.

Successive governments and Parliaments have identified an increasing need for our offices to undertake human rights work, coupled with a strong desire by Ombudsmen to do more, and more innovatively, to protect the basic and fundamental rights of citizens. My office, for example, had 26 employees when I commenced in office and will have over 100 employees this time next year. It is now the case that many Ombudsman undertake the role of National Human Rights Institutions and also as National Preventative Mechanisms under OPCAT. This sort of change in the role of the Ombudsman, particularly due to an increase in human rights functions, can be seen right around the world.

To enhance our international leadership and influence on the vital issues facing nations and the global ombudsman community, the Ombudsman as an institution must, and will, forge closer ties with the UN and promote the Venice Principles, focussing our work as Ombudsmen on advancing human rights, protecting minorities and furthering access to justice.

2.3 The reality of climate change

The third paradigm shift I will consider is the reality of climate change. There is no question that climate change represents both a particularised, but also existential, threat to our environment, economies, governance, social cohesion, equity, health and wellbeing. It is a shift that has changed socio-political landscapes over the last decade and will continue to do so.

It is a matter that is both global but also acutely felt in our region – I come here at a time that Australia has just suffered a catastrophic bushfire season. The 2018 communiqué of the Forty-Ninth Pacific Islands Forum held in Nauru in September last year, recorded that:

[r]ecognising that climate change presents the single greatest threat to the livelihood, security and wellbeing of Pacific people, Leaders **reaffirmed** the importance of immediate urgent action to combat climate change.

This theme was reiterated and further enunciated in the 2019 communique. Further, in its major 2018 report, the Intergovernmental Panel on Climate Change states that “regions at disproportionately higher risk include Arctic ecosystems, dryland regions, small-island developing states, and least developed countries.”

As an Ombudsman community, we will need to continue to engage with the fact that climate change will impact disproportionately on those who are least able to bear its burden. It is a particularly cruel irony that the threat will often be the greatest for those such as our great friends in the Pacific Islands, who are the least responsible for its creation. The particular threat to low-lying Islands and regions of nations will be a challenge for which offices of the Ombudsman will have a role in addressing.

2.4 The rise of nationalist populism

The rise of nationalist populism, or perhaps more accurately its unwanted re-emergence, is the fourth and last paradigm shift I will discuss. In populist states we can see much that is of concern, but one concern particularly egregious to us is the threatening of the Ombudsman institution. I must say I have been particularly proud to be a member of the IOI, as over the last several years, President Tyndall and Secretary Generals Amon and Kräuter, have stood with unwavering strength with any Ombudsman the subject of threat. The IOI will always stand on the side of advancing human rights, protecting minorities, access to justice, the rule of law and standing strongly with Ombudsmen under threat.

3. Meeting these paradigm shifts and challenges

Before making my concluding remarks, I pause briefly to consider how we as Ombudsmen might meet these paradigm shifts and challenges. I will only do so at a principle level, as there are sessions dedicated to addressing challenges later in our conference.

I simply observe that although there are many paradigm shifts, often apparently seismic shifts, to our polities, our governance and our discourse, I have complete confidence that the challenges that arise from these shifts, and the changes yet to come, will be met by the institution of the Ombudsman.

The widespread international adoption the Ombudsman institution is, in the modern history of government accountability and justice, nothing less than astonishing. At the same time that the Ombudsman has spread throughout the world, the expansion of the Ombudsman institution has not been one of just scale, but also scope.

The Ombudsman is, in short, a remarkably resilient and endlessly adaptable concept. Its institutional form works with equal elegance in a variety of constitutional contexts. Ombudsmen are now regularly recognised as constitutional officers, more so again as officers within Parliamentary Westminster systems of government, but at the same time, for example, in the traditional Chinese system of government comprised of five branches, Ombudsmen are elevated as their own branch of control.

With 200 member institutions from more than 100 countries counting themselves as members of the IOI, it is self-evident how Ombudsmen continue to adapt successfully to the vast variation of systems of government around the world.

4. Conclusion

In conclusion, paradigm shifts throughout the world have occurred, are occurring, and will continue to occur. These shifts can be welcome, unwelcome or of mixed reception. These shifts can present positive opportunities, but so often they give rise to challenge.

The institution of the Ombudsman, the IOI and great offices like the office of the Ombudsman Thailand, will meet the challenges that arise. We, as Ombudsmen, will succeed and we will do so for at least one simple reason – no matter what paradigm shifts occur, history has demonstrated that even in the face of ignoble change, those who hold close, and act on, noble principles can always ultimately succeed.

The fundamental principles for which the institution of the Ombudsman has, and will always stand, are indeed noble, and extraordinarily humbling for all of us here today who have the greatest privilege to serve this institution. The Ombudsman is a bulwark against the misuse of the power of the state against its citizens, a protector of the dignities and rights of our most vulnerable, a promoter of the rule of law and democracy and a proactive agent for change so that governments continue to serve its citizens in the most fair, just and effective way. The institution of the Ombudsman can at once both respond, and provide leadership, to changes in the socio-legal environment in which it exists. We have, we can and we will.

Khob Khun Khrap.