ABUSE IN CARE ROYAL COMMISSION OF INQUIRY TULOU – OUR PACIFIC VOICES: TATALA E PULONGA

The Inquiries Act 2013

Under

TRANSCRIPT OF PROCEEDINGS		
Date:	19 July 2021	
Venue:	Fale o Samoa 141r Bader Drive Māngere AUCKLAND	
Counsel:	Mr Simon Mount QC, Ms Kerryn Beaton QC, Ms Tania Sharkey, Mr Semisi Pohiva, Ms Reina Va'ai, Ms Nicole Copeland, Ms Sonja Cooper, Ms Amanda Hill for the Royal Commission Ms Rachael Schmidt-McCleave, Ms Julia White and Ms Alana Ruakere for the Crown	
Royal Commission:	Judge Coral Shaw (Chair) Ali'imuamua Sandra Alofivae Mr Paul Gibson Dr Anaru Erueti Ms Julia Steenson	
In the matter of	The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions	

INDEX

OPENING SUBMISSIONS BY MS SHARKEY	2
OPENING SUBMISSIONS BY THE CROWN	8
ASSOCIATE PROFESSOR HONOURABLE LUAMAN	NUVAO DAME WINNIE
Questioning by Ms Sharkey	10
Questioning by Commissioners	26
FA'AMOANA LUAFUTU	
Questioning by Ms Sharkey	29
Comments by Commissioners	56

[9.30 am]

Hearing begins with opening ceremony

[11.45 am]

CHAIR: Talofa lava, Ni sa bula vinaka, Mauri, Fakaalofa lahi atu, Noa'ia, Tālofa, Kia orana, Mālō nī, Mālō e lelei, Munumunu leana, Tēnā ra koutou katoa. Our warm wishes to you all. Particularly we welcome our survivors, whether they are here today in person or whether they're watching via the livestream, you are very welcome, your presence is very important to us.

To our esteemed guests, thank you for honouring us with your presence today. We are truly honoured that you have taken the time and the trouble to come along to support this extremely important issue.

I want to particularly thank the students of Mangere College who, through their youthful passion, have covered us with a warm Pacific mantle. And also to those who brought their fine mats and honoured us with that presence as well, thank you very much to all of you.

So, welcome to all of you to the Royal Commission into Abuse in Care. This hearing is a very important part of our wider Pacific investigation in which we are examining the experiences of Pacific people who have been abused in care, both care of the State and in the care of faith-based institutions.

This is the first of its kind, this hearing, not only for New Zealand but particularly for Pacific survivors for Pacific communities, and the wider Pacific regions. Our Pacific team has named the hearing 'Tulou - Our Pacific Voices: Tatala e Pulonga'. Others much more knowledgeable than I will explain to you the full depth and breadth of this Tongan saying. But I want to let the voice of one of our survivors, Leoni McInroe, a Pacific survivor, to speak instead. What Leoni said was this: "The darkness and shame we have carried has begun to lift in the light of exposing the truth of what we suffered at the hands of so many for so long."

My name is Coral Shaw, I'm the Chair of the Royal Commission and I'm very pleased to now introduce to you my Commissioner colleagues. Commissioner Paul Gibson, who is absent, sadly met with an accident while he was running on Saturday and that means that he cannot travel at the moment. We are hoping that he will join us once he has recovered and we are keeping his seat warm for him. I'll now introduce each of the Commissioners who are able to be here and I'll start with Commissioner Steenson.

COMMISSIONER STEENSON:

E mihi ana kia tātou, tātou kua whakakotahi mai ki te tautoko I te kaupapa I tēnei rā. Nō
reira tēnā tātou tēnā rā tātou katoa. Ko Julia Steenson tōku ingoa, ko Ngāti Whātua rāua ko
Tainui ōku iwi. I just want to say what an absolute privilege the opening ceremony was
this morning. It was an important part of this hearing and it's a very important
acknowledgment of the Pacific whanau that we are here to look after, so kia ora.

CHAIR: And to my left is Commissioner Anaru Erueti.

COMMISSIONER ERUETI: Tēnā koutou, tēnā koutou katoa kā nui te mihi ki ā koutou ngā iwi taketake o Pacifica, tēnei te mihi nui kia koutou katoa mauria mai o koutou mana o koutou reo o koutou tikanga ki waenganui ia mātou. Nau mai hāere mai. Ko Anaru Erueti tōku ingoa nō Taranaki, kō Ngā Ruahinerangi te iwi, ko Arakuku te hapu, ko Ngārongo te marae.

My name is Anaru Erueti and it's a real honour to be here this week and next week amongst my Pasifika brothers and sisters. I expect it will be two weeks of a lot of tears and sadness but also joy and laughter too I'm hoping. And so pleased to be here amongst you all recognising the importance of hearing Pasifika voices for our mahi, so kia ora koutou.

CHAIR: And last but no means least, somebody who will be very familiar to all of you, that is my colleague, Commissioner Ali'imuamua Sandra Alofivae.

COMMISSIONER ALOFIVAE: Fa'afetai lava. I la ava ma le fa'aaloalo lava, oute fa'atalofa atu i le pa'ia ma le mamalu o lau afio ua mafai ona fa'atasi i lenei aso. Sui matagaluega ese'ese, sui mai le malo susuga faafegaiga ae maise uo ma aiga o e faatatau i ai le tatou aso, ma le tatou fonotga, o le upu palagi e ta'u o tatou 'Survivors'. A o tatou o e ua o'o i ai mea mata'utia. Fa'afetai fa'afetai lava le o'o mai, fa'afetai le susū mai. Ia fa'amanuia le Atua I le tatou fonotga i lenei aso.

CHAIR: Thank you to each of my colleagues. The hearing is now officially opened and I have the pleasure of calling upon our leader, our counsel for the Pacific investigation, Ms Tania Sharkey.

OPENING SUBMISSIONS BY MS SHARKEY

MS SHARKEY: Talofa lava, Noa'ia, Ni sa bula vinaka, Mauri, Fakaalofa lahi atu, Tālofa, Kia orana, Mālō nī, Mālō e lelei, Tēnā koutou katoa. Good morning Commissioners, my name is Tania Sharkey, Lead Counsel Assist of the Pacific investigation, one of the three thematic investigations within the Royal Commission of Inquiry alongside the Māori and disability investigations. I am joined by my senior Counsel Assisting, Simon Mount QC and Kerryn Beaton QC here with me today.

I wish to begin by acknowledging the survivors present, those watching the

livestream and those Pacific survivors who will be taking part in Tulou - Our Pacific Voices: Tatala e Pulonga. I acknowledge all other Pacific survivors who have come forward to register or are engaged with the Royal Commission, those survivors who have passed on and are no longer with us, and those who have not yet come forward or who, for a many number of reasons, are unable to do so.

I acknowledge the family members and friends supporting our survivors and members of support groups who are here today. I acknowledge all dignitaries and members of the public who are present or watching the livestream.

The experience of Pacific peoples in care in New Zealand is framed by the context of the overall experience of Pacific peoples in this country. The first big wave of migrants from the Pacific Islands began in the 1950s. Government and industry turned to the Pacific for workers and actively encouraged Pacific peoples to come and meet the demands for unskilled labour in order to support and grow New Zealand's economy. But despite that encouragement, Pacific people's experienced discrimination as immigrants when compared with how Palagi immigrants were treated. There was a general preference for Palagi immigrants and that preference explicitly enshrined in public policy until the mid-1970s.

What research shows is that as a Non-Palagi immigrant community, Pacific peoples have been consistently marginalised, discriminated against and trapped in cycles of socioeconomic deprivation. This experience is rooted in New Zealand's colonial relationship with Pacific nations, the sourcing of Pacific migrants to fill labour intensive jobs for low wages, and subsequent racist singling out of Pacific peoples from the highest levels of Government. The resulting disparity and equality experienced by the Pacific community has created a vulnerability towards Pacific young people coming to the attention of Social Welfare and entering the care system.

Tulou - Our Pacific Voices is the first public hearing of its kind for Pacific communities in Aotearoa. The Tongan metaphor Tatala e Pulonga is included in the title as it describes what this hearing will do. The revealing, the peeling back, the lifting of the darkness which, in the context of this hearing, is to make public the experiences of abuse suffered by Pacific peoples in State and/or faith-based care and to also prompt a serious discussion of where to from here of Pacific peoples in care in Aotearoa.

By way of general background, over 100 Pacific survivors are registered with the Royal Commission. Many, many more are engaged but for varying reasons have not or are unable to formally register with us. A number of survivors are no longer with us. Of our survivors, the overwhelming majority in terms of Pacific ethnicity are from Samoa and the

Cook Islands. They are followed by Tonga, Fiji, Niue, then Tokelau. Further research is required to identify whether this data represents a general reflection of the migration pattern of these countries to Aotearoa, their relative population size in this country, or whether any particular cultural aspects have affected Pacific survivors from those smaller affected nations from coming forward.

1 2

The art of oratory and storytelling to pass on knowledge and experiences is ingrained and deeply rooted in Pacific history. This two-week public hearing will continue that tradition. The experiences, the evidence you will hear over the next two weeks represents an overall Pacific story. What I mean by that is the experiences we have received from all our Pacific survivors to date provide us with very clear themes which form the narrative of this public hearing and will be told in this way.

Days 1 and 2 begin with the contextual background of Pacific peoples in New Zealand. We will hear from voices speaking to the migration story of Pacific peoples to Aotearoa, voices relating to the circumstances which led to them being placed in care, voices from witnesses who speak to the targeted racism of Pacific Islanders. The Dawn Raids did not just suddenly occur one day in 1974. For a long period before that, there was increasing tension towards Pacific Islanders. Pacific Islanders walking down the street being questioned and arrested by Police was not uncommon. Pacific children as young as 14 years old being held at Mt Eden Prison.

During the Dawn Raid era, Pacific peoples were told to carry passports if you did not look like a Kiwi. Police task forces set up to specifically target Pacific Islanders resulting in significant numbers of arrests and appearances in court by Pacific peoples but without any interpreters available. The word "overstayer" became synonymous with Pacific Islanders. Factories were raided, church services interrupted, dogs were used to scare and intimidate, Pacific peoples were encouraged to nark and to dob each other in as overstayers. There are many other examples and I acknowledge Dr Oliver Sutherland and ACORD, who are watching today via livestream, for providing information invaluable to this aspect of our hearing and our final report.

We continue the remainder of this week with the theme of silence which our survivor voices tell us comes in many forms. Silence as to ethnicity, including the data and recording of ethnicity of Pacific peoples in Aotearoa, silence as to shame and fear in a Pacific cultural context, silence as to one's identity and well-being.

The experience of Pacific peoples in both State and faith-based care in New Zealand is a severely neglected and under-researched topic. It is made all that the more difficult by

the fact that official institutional records largely omitted and obscured Pacific peoples for much of the period between 1950 and 1999.

Continuous change around statistical methods and flawed reporting by staff and institutions has resulted in a highly flawed historic account of Pacific peoples in care. Pacific peoples were at times recorded as Māori or combined with Māori in a joint Polynesian category or simply recorded as non-Māori.

Inaccurate recording is effectively a form of neglect and, as will be heard from survivors throughout this public hearing, has resulted in distinct forms of abuse for Pacific peoples. An expert witness will give evidence that for the period within the scope to this present day, methods of recording Pacific ethnicity by Government agencies remain inconsistent across the board and this has direct links to the outcomes for Pacific peoples.

There are socio-cultural factors present within Pacific communities which may inhibit the disclosure of abuse by survivors, by their families, or survivors who witness abuse. Respect for authority, respect for one's elders, the hierarchical structure of Pacific cultures inhibits abuse disclosure. The importance of protecting the family name and reputation and not bringing shame upon one's family inhibits abuse disclosure. Gender roles, taboo topics such as talking about abuse inhibits abuse disclosure. There are also specific cultural factors and perspectives for Pacific peoples that shape understandings of mental health, disability, and the role of faith.

For many Pacific peoples, speaking out against the church is considered a sin greater than no other, given the position which the church and members of the clergy hold within Pacific communities. We will hear evidence from a witness who did speak out. We will hear her experience and the impacts of coming forward. We will hear from a witness who experienced abuse at a faith-based boarding school and the significant impacts of this abuse on his cultural identity. We look at the appropriateness of care placements and adoption in particular and hear from a witness whose Samoan identity and culture was silenced when the State placed her with a Palagi family.

In week 2 we continue with themes relevant to the nature, extent and impacts of the abuse in care experienced by Pacific survivors. The survivor accounts of Pacific peoples as a marginalised community demonstrate unique experiences of abuse which differentiate them as a demographic from both Māori and Palagi care survivors.

Pacific survivors experienced racist abuse that was directed towards them specifically as migrant Pacific peoples. Survivors speak to Pacific Islanders being treated the worst of all ethnic groups and a preference not to say you were a Pacific Islander for

1 2

fear of harsher treatment. Staff were ignorant of Pacific cultural norms and characteristics. State and faith-based care systems devoid of any facilitation, strengthening or support of an individual's Pacific culture and identity.

1 2

You will hear from survivors who lost their language in care, and survivors who were stripped of their cultural identity. What you will see and hear from our Pacific voices is that these survivors, although perhaps different in timing of care, placements, settings, and abuse, have been affected by the themes which form the overall Pacific story.

The Talanoa panel held on 29 July marks the beginning of a discussion about two very significant matters relevant to the experiences of abuse in care by Pacific peoples. The first panel will consider the circumstances that see our Pacific peoples go into care and the second panel will consider redress, which, in its simplest form, means righting a wrong. What does redress look like through a Pacific lens. The Government's apology in relation to the Dawn Raids is timely, it's timely for discussion and future consideration of what redress through a Pacific lens might look like.

The Talanoa panel is the start of these important conversations. This work does not end here, it is just the beginning. We will go into our communities following this hearing and hold focused fono with Pacific survivors, stakeholders, NGOs, faith-based institutions, community leaders and other relevant agencies to continue gathering information necessary to inform our final report.

The decision to hold a Pacific public hearing is not one that was made lightly.

There are many different ways a survivor of abuse in State and faith-based care can share their experience with the Royal Commission and this, a public hearing, is just one of them.

Our Pacific communities should know there are Pacific voices, including and in addition to those whom you will hear from over the next two weeks, who do want the public to hear their story in this forum, who want the opportunity to speak their truth as other survivors have done in other public hearings.

The majority of our survivors appear in person. We have a survivor appearing via video link from prison where there are other survivors, Pacific survivors of abuse. Some survivors are pre-recorded due to their particular situation, some are anonymous. The priority is the survivor and how they wish their experience to be heard. This is how they want the dark cloud to lift, Tatala e Pulonga.

We emphasise that what is seen and heard at this public hearing is not the extent of the Pacific investigation. Public hearing time is necessarily constrained and not all matters of importance to the Inquiry under its terms of reference can be dealt with over two weeks. Other work occurs outside of the public hearing domain. The opportunity for Pacific survivors and witnesses to participate is not over. We encourage all survivors and witnesses to abuse in care to contact us and come forward to give an account to the Royal Commission.

1 2

Considerable thought has gone into the way this public hearing would be run. It was the request of the Pacific investigation to bring the Royal Commission here to the Fale o Samoa, Māngere. South Auckland is home to the largest Pacific population in New Zealand. To bring our Pacific survivors to this fale is important, a Pacific space which for many can represent home and/or a Pacific space for survivors to share their experiences.

To bring the Royal Commission to the community is important to make it easily accessible to our Pacific people, our communities, the NGOs and agencies who work with our Pacific survivors with our children and young people; that is important.

The Pacific investigation is small in number but big in heart. We are made up of a number of multi-disciplinary teams within the Inquiry. I will mention my team because they have done the hard yards and I am merely fortunate to be the public facing mouthpiece.

I am joined by our well-being Maikali Kilione, community engagement Fa'afete Taito, Fonoti Pati Umaga and Tofa Fagaloa; research and policy Fraser Williams, Elaina Lauaki-Vea and Tania Woodcock who is no longer with us; our planning lead Miriama Williams; the investigators who have worked hard Helenā Kaho and Moana Ilalio; solicitors Stephanie Philcox, Reina Va'ai, Lafoai Tims, Hene Taufalele, senior solicitor Alex Leulu and my co-counsel Semisi Pohiva. The Pacific investigation also wish to mention our evidence management team Josh Bannister, Tim Armitage and Kelly Curran. I make special mention to Fraser Williams whose research findings I have quoted in parts of this delivery.

The manner of this hearing has been done with the best of intentions, balanced against many factors, many complex issues, both cultural and otherwise. Ultimately the decisions in relation to the selection of witness, the manner and delivery of the Pacific people's experience of abuse in State and faith-based care in this public hearing is delivered by Pacific for Pacific.

In closing, the impacts of abuse are far-reaching and cause ripple effects throughout the family and the community. Abuse does not discriminate and given the added layers of cultural complexities, including silence, shame and fear, the effects of abuse in care for Pacific peoples are particularly devastating, the effects are intergenerational.

Any discussion or measurement of success for Pacific peoples must be assessed by those in our communities who continue to be disadvantaged. A great number of disadvantaged Pacific peoples can be found in the Care and Protection and Justice spaces. Many of the answers to the questions on how to build thriving Pacific communities for all Pacific peoples can be found in the reasons behind why increasing numbers of our Pacific children are ending up in care and why we are over-represented in the Justice system. Those involved in improving Pacific well-being and outcomes for Pacific peoples and communities must get involved in these spaces, understand and engage in this uncomfortable topic.

This hearing will allow survivors a voice to share their experiences, for experts to give insight into a great many issues relevant to Pacific peoples. It is also for the institutions who were responsible for the abuse and those who are responsible for the care and/or future well-being of our children and young people, the chance to listen, acknowledge, learn and make genuine meaningful change to prevent further abuse from occurring.

Malo 'aupito, thank you Madam Chair.

CHAIR: Thank you Ms Sharkey. Before the first witness is called, I'm going to invite Ms White who appears for the Crown.

OPENING SUBMISSIONS BY THE CROWN

MS WHITE: Tēnā koutou ngā Kōmihana, Julia White appearing for the Crown. With me today is Alana Ruakere who is the Director of the Crown Secretariat and she will be presenting a brief opening statement. I'd also like to alert the Commissioners at this stage that Rachael Schmidt-McCleave will be appearing for the Crown in week 2 of the hearing.

CHAIR: Welcome Ms Ruakere.

1 2

MS RUAKERE: Talofa lava, Mālō e lelei, Kia orana, Fakaalofa lahi atu, Ni sa bula vinaka, Taloha ni, Tālofa, Noa'ia, Mauri, Tēnā koutou katoa. On behalf of the Crown response to the Royal Commission, I would like to thank the Commissioners for the opportunity to present a brief opening statement.

Firstly, I want to acknowledge the courage and strength of the survivors who have come forward and talanoa, korero to the Royal Commission and the hard mahi of the survivors group, their whanau, aiga and supporters who have stood with and helped them sometimes for many years with little recognition or support.

I would like to acknowledge her royal highness Princess Mele Siu'ilikutapu, Sir Anand Satyanand and I also wish to acknowledge the Minister for Pacific Peoples and member of parliament for Māngere, Lau Afioga Honourable Aupito William Sio and Lau Afioga Honourable Luamanuvao Dame Winnie Laban and the many Pacific community leaders and supporters who are here today.

The Crown's approach to the Royal Commission of Inquiry overall and to Tulou - Our Pacific Voices: Tatala e Pulonga in particular, is to listen and learn from survivors, their communities and leaders about their experiences with the New Zealand State. I am Director of the Crown Response Secretariat, a small team established specifically to co-ordinate the Crown's response to the Abuse in Care Inquiry. Our role is to make sure the Royal Commission gets the historical information and other support it needs from the State agencies to do its job.

In addition to the Crown Response Secretariat, the agencies represented here today are the Ministry of Social Development, Oranga Tamariki, the Ministry of Education, Immigration New Zealand, the New Zealand Police and the Ministry for Pacific Peoples. Multiple other Government agencies are listening remotely on the livestream.

The importance of survivors' voices is recognised by the Crown. Their contribution to the work of this Royal Commission cannot be overstated and their courage and strength inspires us all. This Inquiry and this hearing will be an opportunity for the Crown to confront some uncomfortable events in the history of our nation, a history of racism and abuse of some of the most vulnerable members of our communities and the devastating impact this has had on Pacific survivors and their families.

The Crown is listening carefully so that survivors' stories can drive change to improve Government systems to prevent further abuse and to provide redress to those abused.

The Crown is being held to account by survivors' lived experience and is committed to improve. The Crown welcomes the opportunity to hear first-hand from Pacific survivors, to hear their stories and to learn from what they have to say about their experiences in the care system.

As in the Royal Commission's previous hearings, the Crown will not be seeking to question any survivor witnesses, nor to have any questions put to survivor witnesses through Counsel Assisting. The Crown's objective at this hearing is to listen actively and to supply information to assist the Royal Commission's inquiry so we can learn and, importantly, change. Fakaaue lahi, malo 'aupito, meitaki maata, fakafetai, fa'afetai lava mo le avanoa.

CHAIR: Thank you Ms Ruakere. Are there any other statements that anybody else wishes to

1		make? I believe we're there. Thank you for acknowledging your team, Ms Sharkey,
2		I meant to do that and I forgot, but I'm only too conscious that you have a small but
3		perfectly formed team who are assisting you and I do acknowledge them.
4		It is time to call your first witness?
5	MS	SHARKEY: Yes.
6		ASSOCIATE PROFESSOR HONOURABLE
7		LUAMANUVAO DAME WINNIE LABAN
8	CHA	AIR: Dame Winnie, if I may call you that. Before you begin your evidence, can I ask you to
9		take the affirmation. Do you solemnly, sincerely and truly declare and affirm that the
0		evidence that you give to the Commission will be the truth, the whole truth and nothing but
1		the truth?
12	A.	I do.
13	QUE	STIONING BY MS SHARKEY: Malo le soifua Luamanuvao Dame Winnie Laban. Thank
4		you very much for being here with us today. You've got your statement in front of you?
15	A.	Yes.
6	Q.	Before we begin, I just wanted to ask whether there are any opening remarks you would
17		like to make?
8	A.	E muamua ona ou ta le vai afei ma ou fa'atulou i le pa'ia lasilasi ua fa'atasi mai. Tulou ou
9		ponao'o Samoa i le afio o Tupu ma E'e. Tulou ou Faleupolu. Tulou auauna a le Atua. Oute
20		fa'atalofa atu i le pa'ia ma le mamalu o le aso. Kia ora koutou, Talofa, Kia orana koutou
21		katoatoa, Taloha ni, Fakaalofa lahi atu, Ni sa bula vinaka, Mālō e lelei, Noa'ia, Gude tru
22		olgeta, Shalom and warm Pacific greetings. I greet you all in the sacred languages of the
23		Pacific.
24		Like many migrants from the Pacific Islands, my parents came to New Zealand
25		seeking education and opportunity for their children. Not all families found success. Some
26		children became the victims of the circumstances of the poverty and hardship.
27		Unemployment, relationship break-down and limited family support contributed to child
28		abuse and neglect and led to behavioural psychological and social problems offending and
29		subsequent State intervention. It is my hope that the Royal Commission of Inquiry into
80		Abuse in Care will provide an opportunity for our Pacific people to tell their stories, to be
31		heard and to be understood, and that we build a path grounded in our Pacific cultures and
32		communities leading towards hope, healing and reconciliation. Thank you.
33	Q.	Thank you. So just for the benefit of those who are watching the livestream and those who

are in attendance today, Luamanuvao has kindly provided a statement that will be published