



PAPUA NEW GUINEA'S POLITICAL CONDITION AND TRENDS THROUGH TO 2025

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INTRODUCTION

Papua New Guinea entered its 2017 National Election after a tumultuous period in the country's politics and economy, and there remains much uncertainty about the election process, with significant implications for the country's future.¹ In the last ten years key political, bureaucratic, and regulatory institutions have struggled and in some cases, failed. These struggles have been more profound under the O'Neill government despite some tangible advances in the country's ambitious *Vision 2050* roadmap.²

There is a widespread desire across the country for robust and independent institutions to ensure economic gains are transparently and sustainably managed. The ultimate question for many voters in the 2017 general elections was not who would form the next government, but who would be the most credible leader.³ With elections now over, and the O'Neill government returning for a second term, what does Papua New Guinea expect of the new government and those in power?

This analysis attempts to address how key trends in PNG's politics will impact upon both the bureaucracy and regulatory environment. It will identify some of the key actors and how they are likely to change. It will discuss current political trends, their impact on the regulatory and legislative environments and how likely they are to continue in the future. Finally, it assesses the prospects of continuing dysfunction in PNG politics, the further marginalisation and deterioration of the bureaucracy, and how this destructive course might be avoided.

SECTION 1: WHO ARE THE KEY ACTORS IN POLITICS AND THE BUREAUCRACY, AND HOW IS THIS LIKELY TO CHANGE IN THE FUTURE?

PETER O'NEILL

Prime Minister Peter O'Neill has been the most dominant political player in PNG politics this decade. The dramatic events of the 2011 constitutional crisis resulted in the unexpected elevation of O'Neill into power. He quickly became revered among his peers as an experienced combatant of the country's hostile politics.⁴

O'Neill maintained strong populist support in the early years of his government by promising free health and education programs and infrastructure development, backed by a strong anti-corruption focus in the form of the Investigative Task Force Sweep.⁵ However, his prolonged resistance against his arrest warrant for official corruption has contributed to the deterioration of regulatory and enforcement institutions as well as reducing confidence in his political longevity.⁶

With mounting allegations against him, O'Neill influenced key political allies and swayed the appointment of key bureaucrats whose loyalty helped consolidate his grip on power.

O'Neill's influential political allies include William Duma,⁷ Dr Fabian Pok,⁸ Peter Ipatas,⁹ James Marape¹⁰ and Mao Zeming.¹¹ Playing into existing regionalist sentiment within PNG politics, O'Neill maintains a firm inner circle of Highlands MPs¹² and ensures that controversies involving them are subdued.¹³ Other key players in O'Neill's ascension include former Prime Minister Pais Wingti,¹⁴ Speaker of Parliament Theo Zurenouc, Don Polye,¹⁵ Patrick Pruaitch,¹⁶ and Ben Micah.¹⁷ Polye, Pruaitch and Micah were key allies in the early period of O'Neill's government and were rewarded with senior ministerial portfolios until their falling-out with O'Neill led them to the Opposition. Don Polye and Ben Micah lost their seats in the 2017 election.

O'Neill's political party, the People's National Congress (PNC), also suffered losses of influential political figures such as the former Deputy Prime Minister Leo Dion, Mao Zeming and Theo Zurenouc. The latter two were critical, as in the past they leveraged support for O'Neill from MPs in the mainland coastal region (Momase).

Unlike his previous government, O'Neill initially faced an uphill battle against a resurgent Opposition group with 46 MPs. However, some members in the Opposition have defected to join O'Neill since his election as the country's Prime Minister in August 2017. With the looming vote of no-confidence in the next 15 months, O'Neill will do whatever he can to retain support.¹⁸

CHARLES ABEL

The appointment of Charles Abel as Deputy Prime Minister is an attempt to retain support from the coastal MPs as well as redirect attention from O'Neill to a competent partner. In the last government, O'Neill played a prominent role while the Deputy Prime Minister was almost non-existent on the national scene. However, that is likely to change.

Abel has already been proactive in engaging with national issues and will be using his experience in trade and commerce to try and restore investor confidence. While Abel reports to O'Neill, he should be able to influence the Cabinet unlike his predecessor Leo Dion. Being relatively young and from the coastal region, Abel may also challenge and foster consensus among his peers and outspoken MPs in the likes of Gary Juffa, Allan Bird and Bryan Kramer in the Opposition, reducing the attention on O'Neill while presenting a credible image of O'Neill's government.

OTHER INFLUENTIAL MEMBERS OF GOVERNMENT

Peter O'Neill has appointed a Cabinet of 33 members, the largest in Papua New Guinea's history.¹⁹ Key Ministers within his Cabinet include James Marape, a loyal lieutenant who retains his finance portfolio; William Duma, a controversial figure who brought with him critical numbers to the government; Justin Tkatchenko, who holds the portfolio of Lands & Physical Planning; and Puka Temu, a leader of the 'Papuan Bloc' who holds the health portfolio. Other key members of government include Sir Julius Chan, a former Prime Minister and Governor of New Ireland province who crucially sided with PNC soon after the election. Job Pomat was also appointed speaker of Parliament, a position which brings with it significant influence. Pais Wingti and Peter Ipatas join Sir Julius Chan as senior politicians providing clam and stability among O'Neill's alliances.

SAM BASIL

Basil's leadership in the Opposition and strong voice on important national issues has initially gained the respect of both sides of parliament. He led the resurgence in one of the oldest parties in Papua New Guinea, Pangu Pati, with the highest number of MPs in The Alliance, and hoped to be nominated as Prime Minister by the opposing coalition camp in the event of a change in government.

However, the elevation of Patrick Pruaitch as the Opposition Leader unsettled his ambition leading to his defection to join O'Neill in the government. Since a key campaign platform for Pangu Pati during the 2017 national election was to remove O'Neill, Basil's defection together with 14 other Pangu Pati MPs, appeared to discredit Pangu Pati's image among loyal supporters.

But Basil's move may also be strategic to support any move within the government to unseat O'Neill. A common reason provided by all who have defected, including Basil, is the challenge in accessing the electoral development funds as an Opposition MP. While that continues to be an issue, Basil's standing and the timing of his move is disappointing for the resurgent Opposition.

SIR MEKERE MORAUTA

The return of Sir Mekere Morauta from retirement to national politics presents a significant threat to O'Neill's continued dominance. Morauta's intellectual leadership and statesmanship inspires unity among the parties opposed to O'Neill. Morauta and fellow Independent MPs have recently joined the Pangu Pati, allowing Pangu the highest number of MPs in the Opposition before the defection of its members to the government. The official position of Pangu Pati is unclear as its members in both the government and the

Opposition claim to represent the party. Morauta inadvertently assumes leadership of the Opposition faction of the party.

Morauta leads a 'redeeming plan' that starts with the replacement of O'Neill.²⁰ However, his long vendetta against O'Neill over the PNG Sustainable Development Programme (PNGSDP) funds, which O'Neill has sought to control by removing Morauta as Chairman, may invite closer scrutiny of Morauta's past controversies.

PATRICK PRUAITCH

Patrick Pruaitch is the party leader of the National Alliance (NA), the second most well-established political party to Peter O'Neill's PNC party and the current Opposition Leader.²¹ Founded by Sir Michael Somare, the NA-led government stayed in power for two terms prior to O'Neill's takeover in August 2011. NA is well financed, with close links to foreign logging companies. However, partners in the Opposition doubt NA as trustworthy due to alleged mismanagement of the country during their term in government. It is one of the likely reasons for Sam Basil's defection to join the O'Neill government after Pruaitch was elevated as the leader of the Opposition. It appears the appointment was more out of convenience to keep the NA Members in the Opposition.

While NA has publicly stated its opposition to O'Neill during their fallout in February 2017, key elements within the coalition continue to question Pruaitch's leadership.²² Pruaitch was part of the infamous 'kitchen cabinet', alleged to be responsible for the country's mismanagement during Somare's reign.²³ He was also Treasurer in the final years of O'Neill's first term, when the economy was considerably mismanaged. Newly elected and well respected MPs Allan Bird and Walter Schnaubelt promise to instil some credibility in the NA party but this will not be immediate.

OTHER INFLUENTIAL MEMBERS OF THE OPPOSITION

Kerenga Kua is outspoken on complex legal issues associated with governance in PNG's highly litigious environment. As one of the country's most senior lawyers, Kua commands the respect of both parliament and the general public. A change in government would see him reignite anti-corruption efforts and ensure the completion of investigations against O'Neill. Kua's ascension will likely see a restoration of confidence in the legal system.²⁴

Gary Juffa commands strong populist support and addresses issues such as unscrupulous foreign businesses, illegal immigrants and the West Papuan conflict with patriotic overtones that sometimes may appear contentious.

As a former army captain revered for his role in ousting the Sandline mercenaries, Belden Namah may come across as undiplomatic at times, but many regard his straight-shooting approach as necessary to ensuring accountability in a highly predatory political environment.

Another player, Bryan Kramer, is PNG's most influential blogger with a significant social media presence due to his anti-corruption campaigns. Elected for Madang Open, Kramer is likely to be a leading voice for reform while engaging directly with the public on the inner workings of parliament and the government systems.

FORMATION OF COALITION GOVERNMENT

The existence of multiple political parties has meant that O'Neill had to form a coalition government, as has been the case for all governments since independence.²⁵ There are at least three key drivers that influence MPs in the formation of government, in order of importance:

- Which 'camp' has the numbers to form the new government?
- What can I gain from joining a 'camp'?
- Is the proposed Prime Minister a credible person?

By this hierarchy, the credibility of Peter O'Neill as a Prime Minister is the least consideration for MPs despite outstanding serious criminal investigations against him. For some MPs, it is assumed that leadership will change during the term of the parliament through a vote of no confidence or other permissible means.²⁶ The primary concern for MPs is to be in government rather than in the Opposition.²⁷ Joining the Opposition means a loss of privileges, including the potential for ministerial portfolios, as well as difficulties in accessing the electoral development funds (District Service Improvement Program and Provincial Service Improvement Program).²⁸

The process of choosing the Prime Minister continues to be undermined not only by accusations of manipulation and inducements but increasingly it tends to be about what the MPs gets in return for their support, not the people of Papua New Guinea. With a high level of fluidity in MPs' movements, this trend only adds to the anxiety that in PNG politics, 'there are no permanent enemies or friends, only permanent interests'.

KEY ACTORS IN BUREAUCRACY AND REGULATORY INSTITUTIONS

Some key players within the bureaucracy and state institutions have been able to exert power and have direct impact on political outcomes and the regulatory and legislative environment.

ISAAC LUPARI

The Chief Secretary to the Government, Isaac Lupari, oversees the entire public service machinery and is one of O'Neill's most trusted allies. He is an important asset for the government, with extensive experience and networks within the echelons of PNG bureaucracy.²⁹

However, Lupari's position is untenable. He was implicated in the Finance Inquiry, which uncovered a multimillion fraud syndicate involving very senior public servants, MPs and private companies associated with the Department of Finance.³⁰ The Commission recommended Lupari for criminal charges but none have yet been laid.³¹

Using his insights into the public service machinery, Lupari influences O'Neill and his Cabinet in the appointment of departmental heads. Lupari continues as Chief Secretary under the O'Neil government although a potential change in government may affect the pending criminal investigations against him.

OTHER IMPORTANT ACTORS

Other key actors directly contributing to or affecting the regulatory and legislative environment include:

- Police Commissioner Gari Baki
- Judges and Lawyers
- Defence Force Commander Brigadier-General Gilbert Toropo
- Ombudsman Commissioners
- Public Prosecutors
- The Secretaries of Finance, Treasury and Planning
- Provincial and District Administrators

The following analysis identifies these actors, considers their impact on institutions and the resulting trends. In the last ten years it appears that having influence within the security forces is imperative to the continuation of political power. Further, having access to funds through the finance, treasury and planning departments, and local government administrators assist in the misuse of public funds. The conduct of the Ombudsman Commission, the Public Prosecutor and those within the judicial system appears to be relatively robust, but assisting them in addressing their many challenges will enable them to operate more effectively in a politically volatile and highly litigious environment.

SECTION 2: HOW ARE THESE ACTORS LIKELY TO SHAPE THE LEGISLATIVE AND REGULATORY ENVIRONMENT?

The key legislative and regulatory agencies in Papua New Guinea include the parliament, the police, the Ombudsman Commission, the courts, and departmental agencies such as the Financial Intelligence Unit (FIU) within the Department of Finance. Political actors have been able to influence these agencies with a common purpose of limiting their impact on political and personal agendas. There are weaknesses in each of these institutions, which need to be addressed in order to bolster the integrity of PNG's legislative and regulatory framework.

WEAK PARLIAMENT

The Papua New Guinea parliament was envisaged to play a 'central role' in shaping the country's democracy both through its law-making function and as the leading forum for debate on national issues.³² Papua New Guinea's parliament has been complimented for its stability in recent years, but this has come at the cost of robust debate.

The parliament has been riven with controversy since the 1980s when the vote of no confidence scheme was first activated, leading to significant parliamentary instability. Successive governments have used their numerical strength to thwart the legislative process as well as suppress fair debates and parliamentary proceedings in order to, not only remain in power, but also maximise predatory political interests knowing they might not retain their seat in the next election.³³

As parliamentary stability has resumed, the PNG Supreme Court has observed over the years a growing trend to “bulldoze legislation through because there [has been] an absence of Opposition or their voices not entered in Parliament”,³⁴ cautioning that “Parliament ... should never be a ‘rubber stamp’ for the executive, and that any legislative programme of the executive should be subjected to the closest scrutiny”.³⁵ Similar assertions were made of O’Neill’s government when overturning the changes made to the Constitution in the Manus Island detention centre case.³⁶

THE COMPROMISED ROLE OF THE SPEAKER

The Speaker of Parliament has been a prime cause for weakening the parliament. Because parliamentary proceedings are non-justiciable (meaning they cannot themselves be a cause for litigation), the Speaker is left unrestrained to engage in questionable practices.³⁷ In the 2011 constitutional crisis, the Supreme Court found that “the Speaker [Jeffery Nape] contributed enormously to the crisis” by failing to remain “neutral and impartial”.³⁸ The Court noted that “the actions of the Speaker appeared to have been motivated by power and political expediency”³⁹ and were “harsh and oppressive”.⁴⁰

Backed by his contentious spiritual beliefs, the Speaker under the O’Neill government, (now ousted) Theo Zurenouc, is credited with restoring some credibility to the parliament, but his conduct has not escaped similar accusations of bias.⁴¹ This issue is most likely to continue in the new government with even Zurenouc admitting that it is a “dangerous trend [that] needs to be proactively addressed”.⁴²

VOTE OF NO CONFIDENCE THREATENS STABILITY

Under the PNG Constitution, a government can be subject to a vote of no confidence after 18 months in power.⁴³ The threat of a vote of no confidence often immobilises ‘normal executive and legislative functions’ leading to increased ‘corruption and patronage’ despite appearances of stability.⁴⁴ Former Prime Minister Sir Julius Chan confessed that the vote of no confidence system means a prime minister “has to spend a quite disproportionate amount of his time and energy keeping individual politicians ‘happy’”.⁴⁵ The Speaker can manipulate the proceedings in order to give unfair advantage to a party.⁴⁶ While this system remains in place, incoming governments continue to face instability after the grace period.⁴⁷

PARTY HOPPING

Papua New Guinea has never had a strong political party system, and with 45 political parties participating in the 2017 elections, this continues to be a challenge.⁴⁸ Once in parliament, political parties exist “solely as parliamentary factions”⁴⁹ without firm ideological premises and party discipline. It allows MPs to hop between parties – leading to tradition of instability and growing urgency to address it.⁵⁰

An attempt was made in 2010 under the *Organic Law on the Integrity of Political Parties and Candidates* (OLIPPAC) to control the movement of MPs but the Supreme Court declared it to be unconstitutional on the basis that the penalties prescribed under the law against MPs were harsh and oppressive of their freedom to make political decisions.⁵¹ As evidenced by the near doubling of O'Neill's PNC party during its first term in government, this trend will likely continue.⁵² The Registry of Political Parties has prepared an amended version of the OLIPPAC but is yet to be passed by the parliament.

While the country remains vulnerable to 'party-hopping', some key indicators, however, suggest that this is likely to change over the next decade.

First, voters over the years have developed an increased awareness and sensitivity to political parties. In the 2012 elections, Somare's NA party lost more than three-quarters of their seats as voters became distrustful of the party. In 2017, O'Neill's PNC party faced similar challenges, losing almost half of its MPs while some of its serving MPs ran as Independent candidates or even refused to state on their campaign posters that they were endorsed by the PNC. In contrast, newly revived political parties, such as Pangu Pati, campaigned successfully on the platform of being the oldest and reliable political party without the backing of wealth or senior political figures.

Second, because voters are becoming more sensitive to political parties, they are quick to hold their MPs accountable for their choices in joining a political faction. This was evident in the 2017 election where many voters expressed their dissatisfaction over their MP's decision to join O'Neill.⁵³

Third, political parties are becoming more established and well connected to businesses and government opportunities, which means there are incentives, both inside and outside of politics, for MPs to remain committed to a party.

Fourth, major political parties are becoming wealthier and have the ability to induce and retain their MPs, and to finance new candidates in increasingly expensive election campaigning.

Despite these trends there will still be a strong focus on election candidates to run as independents so that if they are to win they can 'keep their options open' and extract the greatest benefit from a political party. More than half of the candidates in the 2017 election ran as independents.

USING ELECTORAL FUNDING TO CONTROL MPS' BEHAVIOUR

A primary factor in PNG's political stability in recent years is the government's control and distribution of the electoral development funds under the District Service Improvement Program (DSIP) and Provincial Service Improvement Program (PSIP). The Vice Minister for Provincial and Local-level Government Affairs has made clear the reason why multiple attempts to change the prime minister have been unsuccessful:

“The reason is because DSIP is there that’s why we will be in the government and support the O’Neill-Dion government. It’s not about your number of qualifications you have to lead the government, so long as you have the money, you will master the numbers.”⁵⁴

The annual funding for districts (DSIP) is currently K10 million, with provinces receiving K5 million for each district within that province (PSIP).⁵⁵ The funds are intended for service and infrastructure developments, but the implementation of these programs in many electorates is highly questionable.⁵⁶ The legislation provides for the funds’ allocation, but the amounts, and their timing, is at the discretion of the executive government through its influence on the state’s finance department.⁵⁷

This discretion allows the executive to influence MPs’ behaviour. This trend is likely to continue but will vary according to the government in place. While the system may be unsound and undemocratic, the funds restrain the movement of MPs, thus minimising political instability.

LACK OF POLITICAL WILL AT THE NATIONAL LEVEL

Due to strong localised pressure and expectations from tribal, district and provincial forces, a majority of the MPs are committed to representing these interests at the national level than investing in addressing national concerns. This leaves a vacuum for a handful of political elites to take advantage at the national level. As long as they can keep the locally focused MPs ‘happy’ with what they need for their electorates, then they can have them bandwagon on any policy decisions, legislations or reforms.

This behaviour is slowly changing as local expectations are increasingly connected to national issues and as people become more informed through platforms such as social media on the importance of their MPs addressing national issues. But until that is fully realised, local pressures will continue to affect an MP’s behaviour, which, at times, can be detrimental to the national interest.

LEGAL SYSTEM

Papua New Guinea is one of the most litigious societies in the world. While the trend to suppress high-profile cases casts doubt over the efficacy of the legal system, courts continue to play a pivotal role against a powerful executive government. The Supreme Court has reinforced its unwavering intention that “abuse of power by the [Executive] NEC must not be tolerated by the Court”.⁵⁸

The PNG judiciary comprises the Village, District, National and Supreme courts, with the National and Supreme Courts forming an appellate structure with jurisdiction over serious cases including constitutional matters. The judiciary currently consists of 39 judges, including two on secondment from the Australian Federal Court, an increase from the initial 34 judges in the last ten years.⁵⁹

Chief Justice Sir Salamo Injia aims to have between 80 and 100 judges on the bench by 2020.⁶⁰ This positive development would increase the number of resident judges in the country's 21 provinces, as well as judges serving in the proposed Court of Appeal, a new court to sit between the National and the Supreme courts.⁶¹

Parliament has yet to approve and legislate the proposal. The proposed Court of Appeal hopes to decrease congestion in the court system and increase judges' specialisation, but "staffing such a structure with judges of suitable ability and experience would be difficult for Papua New Guinea alone at its present stage of development".⁶² Some fear that an extra layer of the courts may increase unnecessary appeals, already rife in the current system, although this would not be insurmountable for a robust and independent judiciary.

The Court has taken an active approach against what it perceives as a 'creeping tyranny' in parliament, when it granted 'standing' to the Opposition Leader and senior public servants in 2014 to challenge constitutional amendments in Court.⁶³ The Supreme Court allowed former Opposition Leader Belden Namah to prosecute the Manus Island detention centre case after he failed to defeat the constitutional amendment that sanctioned the Australia–PNG bilateral arrangement in parliament.⁶⁴ Such is unheard of in comparable democracies but the Court has deemed it necessary against the fundamental inefficiencies of the Parliament. This precedent is likely to continue.

However, PNG's courts do remain vulnerable to political interference.⁶⁵ Successive political leaders and public servants have exploited the legal system in attempts to undermine legitimate investigations against them. For instance, Prime Minister O'Neill applied to the National Court in 2014 for a stay of an arrest warrant against him, on the basis that it was the work of "rogue policemen". The Court refused, citing a lack of evidence of rogue policing or political motivation.⁶⁶

This trend of obstructing justice continues, with political actors and bureaucrats remaining in office even when implicated in serious offences that would warrant resignation or suspension until the completion of investigations.⁶⁷

These actions also reflect poorly on the role of the lawyers advising their clients in such cases. Legal practice in Papua New Guinea has become more insular and ethically questionable, with a client-driven approach that takes little heed of the consequent risks to the rule of law.^{68,69} PNG judges may themselves be perpetuating these challenges through inconsistent judgments, unnecessary interventions, persistent delays and devotion to conservative interpretation of the law absent socio-political considerations.⁷⁰

Despite concerns, the PNG judiciary has made important strides over the years and remains relatively robust and independent. A progress was the establishment of the Fraud and Corruption Offences Track to respond to the increase in corruption cases and delays in court hearings.⁷¹

The independence of the judiciary is reinforced through the appointments process. The Judicial and Legal Services Commission (JLSC) appoint all judges except the Chief Justice. The JLSC is an independent body comprised of the Attorney General, the Chief Justice, the Deputy Chief Justice, the Chief Ombudsman and a member of the parliamentary

permanent appointments committee. The JLSC appoints judges to three- and ten-year tenure.⁷² According to the Constitution, the appointing body (JLSC) "is not subject to direction or control by any person or authority".⁷³ This arrangement is different from Australia's in which Federal and High Court judges are appointed by government and with life tenure.⁷⁴

In Papua New Guinea, the government appoints the Chief Justice for a term of 10 years, and Chief Justice Injia's term expires in 2018.⁷⁵ Despite the contentious relationship between Prime Minister O'Neill and the Chief Justice in 2011, key actors within the O'Neill-led cabinet are likely to vouch for his reappointment.

Irrespective of the outcome, the widespread view is that the judiciary is PNG's 'last bastion of hope', and this sentiment is likely to sustain the judiciary's continuing independence.⁷⁶ The Chief Justice reinforced this resolve in his address to his colleagues when opening PNG's 2017 Legal Year: "The future security of our country is in your hands and my hands. Politics will come and go, you and I will remain steadfast and continue to uphold the Constitution with our responsibilities."⁷⁷

PNG POLICE

The PNG police have a challenging role in maintaining law and order in a deeply fragmented and often volatile country. The recent shooting of police officers in Wabag town and Southern Highlands in election-related violence is evidence of the high risks of policing.⁷⁸

Police powers pose a threat to political actors, as successful prosecutions would mean jail time as well as loss of political power. As a consequence, politicians are increasingly interfering with and influencing police operations. Control of the police can facilitate political power. For example, when Peter O'Neill seized power from Somare in 2011, he replaced then Police Commissioner Fred Yakasa (Somare's appointee) with Toami Kulunga.⁷⁹ O'Neill then forced Kulunga's resignation in 2014 for authorising an arrest warrant against him, installing Jeffery Vaki who immediately recalled all investigations against O'Neill and went to great lengths to frustrate legal processes.⁸⁰ The current police commissioner Gari Baki has continued the process, securing O'Neill's term in office while gagging other potential high profile investigations through an internal 'vetting committee'.⁸¹

Nonetheless, the public retains a degree of trust in police work, particularly because of the successes of the anti-corruption work by the Fraud Squad and the Investigative Task Force Sweep despite O'Neill's accusations that they are "politically compromised".⁸²

Since the case of Paul Tiensten, a former senior government minister sentenced to nine years imprisonment in 2014, criminal law amendments have increased penalties from the previous maximum of 10 years to 50 years, with life imprisonment for corruption of K1 million or more.⁸³ Aware of these risks, political actors are wary of criminal investigations, eager to establish closer relations with the police, and interfere in its work where possible.

O'Neill's return has already spurred efforts to further stifle the corruption cases against him while the Police Commissioner faces increased pressure from the public to effect the arrest warrant.⁸⁴

OMBUDSMAN COMMISSION

The Ombudsman Commission (OC) administers the Leadership Code that prescribes the proper conduct of political leaders and senior bureaucrats.⁸⁵ The OC's recent intervention in extending the 2017 return of writs demonstrates its continuing value in the conduct of PNG's democracy.⁸⁶

An independent committee comprised of bi-partisan members including the Chief Justice appoints the commissioners. The OC investigates potential breaches of the Leadership Code and makes recommendations for the Public Prosecutor to undertake court proceedings through a Leadership Tribunal. The Tribunal applies civil penalties, such as dismissing an MP from office, as well as recommending criminal investigations.⁸⁷

The wide-ranging powers of the OC extend to issuing quasi-enforceable directives to financial institutions to halt the release of DSIP and PSIP funds.⁸⁸ It also has automatic 'standing' to challenge laws and constitutional amendments passed by the PNG parliament – a function used to significant effect but in varying degree over the years.⁸⁹ These wide-ranging powers render it vulnerable to attack by political leaders. The most notable example of this was the *Maladina Amendments*, a sweeping set of changes aimed at restricting the OC's investigative and directive issuing powers.⁹⁰ Public protests and a successful court action scotched the Maladina proposal, but political interference in the OC remains a risk.⁹¹

Frustrated by their inability to limit the OC's extensive powers or interfere with the appointment of independent Ombudsman Commissioners, political actors have instead tried to limit its funding, affecting its ability to function effectively.⁹²

APPOINTMENTS OF DEPARTMENTAL HEADS

Political interferences in the appointments of departmental heads have undermined the proper functioning of the public service.⁹³ Appointments were once the responsibility of the Public Service Commission, a three-member independent body appointed to maintain a high standard of merit-based appointments.⁹⁴

However, the O'Neill government replaced this structure with the Ministerial Executive Appointments Committee chaired by the Minister responsible for the department and comprising other government ministers and public servants.⁹⁵ This arrangement is arguably unconstitutional, and suggests a direct political interference in the appointment process. The new arrangement has kept departmental and statutory heads such as the Police Commissioner and the Secretary of Finance and Treasury subservient to the government.

The Public Service Commission is currently challenging the constitutionality of the arrangement in the Supreme Court but until the case is determined, ministerial appointments will continue to hinder the independent functions of the public service.⁹⁶

A similar arrangement is in place for the appointment of district administrators.⁹⁷ The *District Development Authority Act 2014* gives MPs increased funding and influence over the appointment of district administrators to suit their political agendas, leading to greater abuses.⁹⁸

CHALLENGES WITH AUTONOMY

Bougainville is due for referendum seeking complete autonomy in 2019 as part of the Peace Agreement. One of the primary conditions for autonomy is for the Bougainville government to exercise control over its own natural resources. However, this has inspired other provinces to seek similar outcomes. Sir Julius Chan, for instance, is seeking some autonomy for the New Ireland province, which will no doubt be given serious consideration considering how important his support was to O'Neill's PNC party early in the forming of government period. There are similar talks among some prominent leaders in the Highlands provinces but Peter O'Neill's ascension has kept a lid on it.

Looking into 2025, these talks may become more evident especially in Southern Highlands and Enga provinces if changes are made to current key political actors and existing landowner issues are not adequately addressed.

The push for autonomy is largely a result from frustrations that the national government has mismanaged the resource revenues and failed to deliver on the expected benefits. It may play into existing regional and provincial fragmentations as well as revive historic secessionist movements. For investors in extractive and natural resource industry, this is likely to pose a challenge. These considerations, however, should not derail Bougainville's referendum.

WOMEN IN POLITICS

There were 165 female candidates, out of the 3324 candidates that contested in the 2017 national elections, but none were successful in securing a seat in parliament. It is a setback to many who advocated for equal political representation. The disappointing election outcome demands a reassessment of the political culture and its perception of women as political actors.

One of the main reasons identified was that women were disadvantaged because of the increased bribery and election fraud or the aggressive campaign techniques employed by their male counterparts. These issues certainly affected the integrity of the whole election. But the women candidates must be credited for withstanding these electoral malfeasances and for some, even having a close contest.

A pressing issue evident in all the elections so far is the perception of voters on whether or not women are capable of representing their interests in a highly contested, predatory and sometimes, bloody political environment. This perception is influenced by factors quite different to those promoting a safe and tolerant political space for women in Western democracies.

An avenue to effectively address this perception issue is to encourage women to be involved at the local government as councillors, presidents for local level government (LLG), or even as district or provincial administrators. Currently, only a few women are councillors, none, however, are LLG presidents or district and provincial administrators as far as this paper is concerned. These are politically charged positions. Being in these positions would allow women to demonstrate their competency, and seeing their success in these positions would contribute largely to altering the public perception of women in political leadership.

The Prime Minister promised to revisit the proposal for the 22 reserve seats in parliament which, unfortunately, was not supported by MPs, including the three women MPs, in the last government.⁹⁹ The proposal sought to allow each of the 21 provinces and the National Capital District to have a male and female governor. It remains to be seen how the governors of each province, who are often jealous of their powers, will respond to this power sharing arrangement if the reserve seats were to be enacted.

To advance the point earlier, an alternative would be to propose reserve seats at the local level government, allowing women as council presidents and pressuring the government to appoint women as district and provincial administrators. Given the current political environment, such an arrangement is likely to gain more political support from the MPs than the current proposal for reserve seats in the national parliament.

It is important to approach this issue with openness for incremental changes, starting with the local political institutions creating a network of strong women leaders as role models, which will inspire more substantive reform at the national level all the while advancing the national conversation for equal political representation.

SECTION 3: RECOMMENDATIONS AND CONCLUSION

RECOMMENDATIONS

PARLIAMENTARY STABILITY

The role of the Speaker of Parliament should be better defined and endowed with less discretion.¹⁰⁰ Papua New Guinea should consider a bipartisan appointment of a non-parliamentarian to be the Speaker.¹⁰¹ Despite the shortcomings of the *Organic Law on Political Parties and Candidates* to regulate political parties and movement of MPs within political factions, legislation still remains the best chance of countering the fluid party political system.¹⁰² But increased awareness of the importance of political parties among electors and candidates is positively impacting the behaviour of MPs.

DSIP AND PSIP AS CONSTITUTIONAL GRANTS

MPs' access to electoral funds is contentious but will most likely remain a permanent part of the political system.¹⁰³ The Constitution should be amended to have the funds as constitutional grants, with MPs given the right to seek enforcement if the government fails to equitably manage its distribution. Direct control over district development funds blurs MP's functions as legislators and project managers and raises the possibility of a future constitutional challenge.¹⁰⁴ A province-based inter-agency oversight mechanism should be established to improve the transparency and accountability of expenditure.

Lack of proper management of development funds has also created expectations and greater reliance on investors and donors to undertake development work and build infrastructures. While it may be part of the investor's contractual responsibility, it risks encouraging the abuse of public funds.

PUBLIC SERVICE APPOINTMENTS

If PNG's bureaucracy is to remain relevant and credible, the appointment of departmental heads should revert to the Public Service Commission as sole appointing body, restoring its constitutional role.¹⁰⁵ Cronyism, as exemplified by the police force, hamstringing the entire system. It has created distrust in the public service machinery, forcing people including investors, to bypass the state system to deal directly with the political elites.

OMBUDSMAN COMMISSION AND PUBLIC PROSECUTOR

Government funding for the OC and Public Prosecutor needs to be maintained at a level sufficient for effective operations. They need to attract and retain competitive staffs able to represent the agencies against the highly skilled private lawyers often hired by politicians. Acting appointments in these agencies should be abolished or only for a defined period, as job insecurity have been argued to compromise performance.

JUDICIARY AND LEGAL SYSTEM

Judges must be consistent and coherent in their judgments. Inconsistency has created a culture of 'judge-shopping' among litigants, exposing the courts to exploitation to the detriment of the legal system.¹⁰⁶ Legalistic judgments or court proceedings that take little or no account of surrounding socio-economic and political circumstances could be provocative and inconvenient to the course of justice. This includes the mediation proceedings between landowners and investors where court's intervention may not always lead to a just outcome.¹⁰⁷

The PNG Law Society needs to be proactive in disciplining lawyers who breach ethical standards. With more Australian lawyers in the country, there is also a need for Australia to be proactive in regulating the practices of its lawyers who are often called into question.¹⁰⁸

PNG POLICE AND ANTI-CORRUPTION INVESTIGATIONS

It is critical that an independent body similar to the Ombudsman Commission appoints the Police Commissioner with security of tenure so that the Commissioner remains independent from political influence. The proposed Independent Commission Against Corruption looks promising, following its incorporation into the PNG Constitution.¹⁰⁹ While its functions are as yet unclear, it is most likely to have a greater independence and continue the work of Investigation Task Force Sweep (ITFS). The successes of ITFS in countering corruption remain unparalleled to any anti-corruption agency in Papua New Guinea. Although discredited and rejected by the current government, ITFS' model must be revisited if Papua New Guinea is to successfully combat corruption.

CONCLUSION

There is a real risk that PNG politics will become increasingly dysfunctional under the current structures and conditions. With the threat of a vote of no confidence looming large over any new government, the need to keep coalition parties 'happy' rivals the responsibility to govern.¹¹⁰ Distribution of the electoral funds (DSIP and PSIP) appears to be the single most important factor in consolidating political power against potential challenges.¹¹¹

But misuses of these development funds often create expectations for investors and donor agencies to step in and provide basic government services leading to questions of dependency and sustainability. Underfunded state institutions, with some subjected to internal interferences and overt political sway over of departmental appointments contributes to the decline of current statutory and bureaucratic environment.

Over the next decade, investors may be confronted with two narratives – whether Papua New Guinea is increasingly becoming a failing State with a highly predatory elite or whether Papua New Guinea, being a relatively young democracy, is still undergoing a highly complex process of state formation and the issues described here are part of that process. Neither of these narratives offers any assurance except to suggest that these challenges are likely to persist but in varying degrees in the future. However, there are also key indicators that suggest things may change for better as the country heads into 2025 and beyond.

First, the people of Papua New Guinea have shown to be highly resilient despite systemic inefficiencies and instability. For instance, during the 2011 constitutional crisis, the country had ‘two’ prime ministers for nearly seven months, and key accountability institutions were almost inoperable. Yet, the country overall was stable and the Constitution unbroken. Political instability as a result of issues identified here is often contained at the national level. The sub-national and local levels remain unhindered using both formal and informal institutions to aid their governance systems.

Second, key accountability institutions continue to demonstrate their resilience amid challenges and political interferences. The courts, the Ombudsman Commission and now the parliament, initially with 46 Opposition MPs – the highest number in the history of the country’s parliament – and despite some recent defection, continues to maintain credibility. Choosing to be in the Opposition and missing out on the perks and privileges of being with the government is an important behavioural change indicating commitment to good governance and potential for better leadership in the future.

Third, general elections in the last ten years have indicated that voting behaviours are gradually changing. People are increasingly aware of the ill effects of ‘money-politics’ and unscrupulous political campaigns and are sensitive to the reputations of political parties. These factors have influenced the high turnover of MPs in the last ten years. While the management of the electoral system have been a failure, the voters are increasingly better informed to make good political choices.

A major part of this shift is access to contemporary political platforms. Social media is transforming politics from being tribal and disparate to an institution capable of forging collective national interests. Increasingly, prominent political players are accessing social media forums, and are involved in the sharing of ideas and concerns in the hope that a politically informed population will encourage public scrutiny of political leaders.¹¹² While social media may not translate to effective change, it is a positive influence. It helps shape collective views on critical national issues while dismantling the cleavages that perpetuate cronyism and shelter perpetrators responsible for the country’s decline.

Having an unbroken Constitution, and regarded as one of the established democracies in the world, Papua New Guinea certainly has the potential to see its democratic project flourish. Strengthening the public service mechanism would be imperative to its resurgence. Over the years, the public service has been reconfigured to make politics its epicentre. Domestic and foreign interests bypass the formal state to deal directly with political actors – further legitimising this reconfiguration. It will require a sustained effort of political re-engineering – re-crafting the institutional rules of the game – to steer the country forward.¹¹³ Current indicators suggest this is possible.

With the controversies of the 2017 elections behind it, the largely disenfranchised but resilient population of Papua New Guinea now waits anxiously to see how its elected 'male' leaders will navigate these challenges and bolster the country's democratic resolve.

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