

TRANSPARENCY INTERNATIONAL PNG INC

# **MORE TRANSPARENCY WILL IMPROVE OLIPPAC**

**Navigating OLIPPAC into Vision 2050**

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## INTRODUCTION

Creating political stability was the aim of the architect of OLIPPAC, Dr John Nonggor,<sup>1</sup> in his drafting of the OLIPPAC. In an article in the Post courier published on 9 November 2004 he summarized the four main objectives of the OLIPPAC. Firstly, to ensure that political parties were properly registered with appropriate structures such as membership base, officers of a party outside and inside parliament with a constitution clearly setting out the rules of a political party. Secondly, to require candidates who win elections to disclose their financial affairs in relation to contesting such elections. Thirdly, to set up an office to be in charge of registration of political parties and to administer its financial disclosure provision. A Central Fund Board was established for this purpose with the Registrar of Political Parties providing secretarial support. Finally, to provide some sense of order in the running of the parliamentary wings of political parties. This would be achieved by setting specific rules for MP's belonging to political parties to abide by.<sup>2</sup>

In creating stability both weak political parties and a weak Executive Government were to be strengthened, the representation of women in Parliament was to be increased and the flow of finances into politics was to be regulated.

It can be argued the OLIPPAC has largely resolved the issue of a weak executive and political parties have strengthened. However women are still poorly represented and the public are no wiser as to who and how politics in PNG is financed. A large part of this paper aims to suggest ways of improving transparent disclosure of how parties as well as candidates are being funded. That by doing so OLIPPAC can be improved leading to a strengthened system of democratic government with long-term stability. Arguments that the OLIPPAC has failed miss the point of legislative reform. The argument here is that it can be improved.

The vision statement of Vision 2050 is "PNG will be a smart, fair, wise and happy country by 2050". In his address at the launching of Vision 2050 in November 2009 Prime Minister Michael T Somare said, "Fair means our people, our institutions and our systems will practice and uphold transparency, accountability and good governance."<sup>3</sup> OLIPPAC can give effect to Vision 2050 in creating effective stability by being fair in its manner of implementation; in being accountable and transparent.

This paper ultimately argues that creating true long lasting measurable political stability toward 2050 using the OLIPPAC must be partnered with sufficient transparency in the legal framework and

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<sup>1</sup> Dr John Nonggor was the primary architect of the Organic Law on the Integrity of Political Parties and Candidates passed by the National Parliament in 2001. He was also a founder of Transparency International PNG Inc along with other prominent Papua New Guineans in 1996.

<sup>2</sup> The Post Courier, "In Focus" 9 November 2004

<sup>3</sup> "Making the Vision 2050 Work", Prime Minister Michael T Somare Public, Address at PNG Vision 2050 Launching 18 November 2009, Port Moresby. Pg 1 [http://www.publicsectorreform.gov.pg/PDF\\_files/pmv5.pdf](http://www.publicsectorreform.gov.pg/PDF_files/pmv5.pdf)

administrative implementation of OLIPPAC. Here we suggest avenues for change to improve on OLIPPAC.

### **More Transparency Required**

As defined by Transparency International, "Transparency" is a principle that allows those [persons] affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes. It is the duty of civil servants, managers and trustees to act visibly, predictably and understandably.<sup>4</sup>

Hence this concept must and does equally apply to political parties, political party leadership and its overall administration. As makers of administrative decisions, often engaging in business transactions and implementing charitable works they must act visibly, predictably and understandably. As a natural consequence the general public has a right to information regarding the activities of their elected officials, the political parties that they are affiliated with and the administrative processes created by the implementation of the OLIPPAC.

Under Right to Information principles all government information is considered by default to be public information. The only exclusions that apply are matters of national security and commercial confidence.<sup>5</sup> This criterion does not apply to the areas covered by OLIPPAC. As such the public should and must have access to all information pertaining to OLIPPAC.

Currently the Registrar of OLIPPAC does allow the public to access the financial records of registered political parties via a physical search of its records held at the Registry upon payment of a prescribed fee.(s37 of OLIPPAC) Yet access to this information is not widespread, and there is no access to this information via the internet.<sup>6</sup> This information is also not published for the general public to access more readily. In addition there appears to be limited awareness activities by the Registrar's office to inform the public of their right to access this information held by the Registry. All OLIPPAC information should be public information and available in both printed form and online, and regularly updated.

So what specific information should be made public and more readily accessible? We say that information pertaining primarily to the use of public funds be made available to the public for closer scrutinisation.

Firstly, the minutes of the deliberations of the Integrity of Political Parties and Candidates Commission must be made available. The Commission consists of the Clerk of Parliament, Electoral Commissioner, the OLIPPAC Registrar, the Chairman of National Fiscal and Economic Commission and representatives

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<sup>4</sup> [http://www.transparency.org/news\\_room/faq/corruption\\_faq#faqcorr2](http://www.transparency.org/news_room/faq/corruption_faq#faqcorr2) (Accessed 12 June 2010)

<sup>5</sup> "The Public's Right to Know- Principles on Freedom of Information Legislation", prepared by UK based NGO Article 19, <http://www.article19.org/pdfs/standards/righttoknow.pdf> (Accessed 12 June 2010)

<sup>6</sup> <http://www.ippcc.gov.pg> (Accessed 12 June 2010)

from the National Council of Women and the National Council of Churches.(s 4 of OLIPPAC) They are required to meet once every three months and prepare a report to the Parliament on an annual basis of their activities. (ss10 & 15 of OLIPPAC) According to section 15(2) the Commission also has the power to prepare other Reports. We submit that there is nothing preventing the Commission from therefore publishing and making available on their website the minutes of their tri-monthly meetings. Under the current "confidentiality" clause (s91 of OLIPPAC) these reports are not restricted from public access.

Secondly, sources and amounts of Party funding should be made public. At the moment political parties are being funded through the Central Fund and through individual, both citizen and non-citizen contributions under Part 6 of OLIPPAC. Annual filing of financial statements are mandatory declaring the levels of contributions to parties and of successful candidates.(s 88 of OLIPPAC) This information is then kept by the Registry and available to be searched by the public. As pointed out previously however, as with all records held by the Registry, although information is available for the general public for inspection it must be made more accessible via the internet and hard copy publication. Possibly the powers under s40 of OLIPPAC relating to the publication of the list of political parties before national elections can be extended to include summaries of private persons who have made contributions and how much they have contributed. Funding to the Central fund via the National Budget component can also be made public via the website and the obligatory National Gazette.

Thirdly, the salaries and allowances of Party office holders that are paid with public money should be made public. Section 78(e) of OLIPPAC makes clear that public monies meet these salaries and allowances. Sections 12(c) & 25(5) of OLIPPAC ensures that the Commission through the Registrar has administration of payments to party executives as determined by the Salaries and Remuneration Commission. These determinations as to the terms and conditions of employment need to be transparent and accountable, and hence must be communicated to the public by the Registrar. Questions as to level of payments and how much is being spent on the multiple parties in existence must be clear.

Fourthly, the internal deliberations of the political parties should also be made public. Currently the annual provision of financial statements by political parties is the only requirement for disclosure of party activities (s88 of OLIPPAC). Full disclosure of internal deliberations perhaps through provision of minutes of political executive meetings especially in relation to deliberation on private contributions and other financial issues should be a possibility.<sup>7</sup>

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<sup>7</sup> In Indonesia the *Law on Public Information Transparency* was passed in April 2008 entering into effect May 2010.

Article 14 states that political parties themselves are to make the following information available namely

- a. the principle and the objectives;
- b. the general program and activities of the political party;
- c. the name, address and composition of the management and the alterations thereto;
- d. the management and use of funds that originate from the state budget and/or the regional budget;
- e. the decision taking mechanism of the party;

Finally, it is vital that the public are informed on how the Central fund is distributed. Pursuant to section 77 there are several sources of funding of the Central fund including public monies by way of the annual National Budget as well as contributions from private individuals both citizen and non-citizen and international organizations as well. The need for transparency via making information pertaining to the money being paid into the Central Fund accessible to the public goes far in ensuring freedom of information and ultimately fulfilling the aims of Vision 2050.

To encourage a system of transparency within the Organic Law itself section 92 pertaining to Confidentiality should be repealed and replaced by an access to information regime. Limiting access to information via confidentiality provisions goes contrary to a culture of openness that must be encouraged within the use of public monies and the provision of public services. Although access to information regarding commission reports, the registration of political parties and the financial returns of political parties is allowed under the section (s92(2)) of OLIPPAC, a more open scheme must be created to encourage transparency. One that will see the deliberations of both the Commission and the Political parties more open to public scrutiny.

To also set a higher bar for accountability the maximum fines for many of the offences under OLIPPAC must also be reviewed. For example under s91 "inspection" the fine of K10,000.00 is inadequate and should be increased to K100,000.00, so that party officials are not tempted to hide information from the Registrar. K10,000.00 is wholly inadequate compared to the gains made by hiding information

However OLIPPAC can be modified to create a system of transparency and accountability the bottom line must be that any legislative scheme that involves the use of public monies must be open to the highest levels of scrutiny and the process accountable to the general public.

### **3. Asset disclosure and pecuniary interests<sup>8</sup> of MP's**

All Members of Parliament starting with the National and eventually to the Provincial and Local Level, who are members of political parties, should be made part of an asset disclosure and pecuniary interests scheme open to public scrutiny. This would mean that only those MP's who fully disclose their assets and pecuniary interests could then draw on the resources of the State and the privileges of OLIPPAC. There are similar requirements under the Organic Law on the Duties and Responsibilities of Leadership (OLDRL) regarding the provision of financial returns on an annual basis(s 4 of the OLDRL) wherein the

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f. the decision of the party; the result of the conference/congress/national meeting and other decisions that, according to the articles of association and the party's by-laws are open to the public; and/or

g. other information provided by the Law pertaining to a political party.

[http://right2info.org/information-of-high-public-interest/information-about-elections-political-parties-and-candidates/information-about-elections-political-parties-and-candidates#\\_ftn9](http://right2info.org/information-of-high-public-interest/information-about-elections-political-parties-and-candidates/information-about-elections-political-parties-and-candidates#_ftn9) (accessed 29 June 2010)

<sup>8</sup> The principles underlying pecuniary interest relate to a person's interest in a matter being based on the probability that the person stands to gain or lose financially from it. See "THE PECUNIARY INTEREST HAND BOOK", Victorian Office of Local Government Department of Infrastructure JUNE 1998.

[http://www.dvc.vic.gov.au/web20/rwpgslib.nsf/GraphicFiles/PecuniaryInterestHandbook1998/\\$file/PecuniaryInterestHandbook1998.pdf](http://www.dvc.vic.gov.au/web20/rwpgslib.nsf/GraphicFiles/PecuniaryInterestHandbook1998/$file/PecuniaryInterestHandbook1998.pdf)

declaration of assets is clear. There is also the requirement to declare any gifts received as well. (s4(f) of the OLDRL) In the OLLIPAC however it would be useful to complement this with a requirement that an asset and pecuniary interests register be provided for all newly elected members, to be provided with a filing of the election Campaign expenses already required and that should there be any changes to that register that it be updated on an annual basis.

With a dedicated assets disclosure and pecuniary interests scheme specific to the pre-requisite for receiving both public and private party contributions this would be seen as encouraging transparency as regards personal benefits from contributions. Keeping track of personal assets of MPs complements the annual returns submitted to the Ombudsman Commission and the party financial statements submitted to the Registrar of Political Parties.

It is suggested that in that light of the purpose of the disclosure of assets and the maintenance of registers being intertwined with maintaining transparency of the party financials, independent MP's would not be required to provide an assets and pecuniary interests register. Independent MP's would need to disclose their private assets and provide a register of these assets to the Registrar in the event that they found their own political party while in parliament, as Powes Parkop MP has recently effected.

#### **4. Poor Implementation of OLLIPAC to Date**

The question before us is how to make OLIPPAC more transparent in order to ensure its effectiveness toward 2050. This begs the further question then of, has there been a poor implementation of the OLIPPAC to date?

Some academics argue that there has been some modicum of stability within the past several years with the political party of National Alliance at the helm of Government and Parliament. Whether this is stability due to the numbers of MPs that are currently affiliated with the National Alliance and therefore create stability on the floor of Parliament or other more malign forces at work, the fact is that we are unable to determine why there is, on the face of it "stability". However artificially OLIPPAC seeks to create stability in executive government this is a necessary phase toward a more organic stability borne out of true mindset change. MP's will hopefully look beyond mere cultural respect, tribal/provincial allegiances and/or self interests and commit to political action for the greater good of their constituents, political parties, Parliament and the Nation as a whole.

Yet there are individual examples of movement of MP's whether on the floor of parliament or within their own party structures which are rather unclearly within the jurisdiction of the Registrar to at least communicate with MP's about and take some form of corrective action upon.

Examples of these must be the movements of MPs as pertains to leaving government or joining government. Recently Sumkar MP Ken Fairweather left the Government benches to join either the middle benches or opposition to express his disgust at the passing of the ***Environment Act***

amendments.<sup>9</sup> Affiliated to the Peoples National Congress party led by Peter O'Neill with four other MP's making up their ranks<sup>10</sup>, what happens to Mr. Fairweather now that he has effectively resigned from the PNC and moved to the middle benches? According to OLIPPAC, section 57 which sets out the requirements for resignation acceptable, only severe irregularities with the political party itself dignifies any resignation. Under section 57(3) of OLIPPAC resignation for any other reason amounts to misconduct in office. Is the Registrar going to pursue Sumkar MP on this issue? Not likely as this has happened before with other MP's, take Dr Allan Marat's leaving of his party the Melanesian Liberal Party, essentially a two man party the other MP did not leave the ranks of the Government and still remains as sole party member of the MLP. What is the position of the Registrar on this and other such moves? It is difficult no doubt to have and communicate a position however OLIPPAC must be interpreted and implemented to nurture the stability that is the reason for OLIPPAC's very existence. The Registrar and Commission must make the hard decisions about movements of individual MP's within their party and the Parliament. The issue of a genuine conscience vote and how a political party can release its MP to the realms of independent MP status, without misconduct ramifications, might be an alternate solution however to the Sumkar MP's predicament.

Also what of decisions as to the Registration of Parties by independent members of parliament? Look at the issue of Powes Parkop, Governor for NCD establishing his Social Democratic Party. A strict interpretation of OLIPPAC would ensure that a party should not be formed by an independent MP whilst he is in office.<sup>11</sup> This goes against the spirit of the OLIPPAC where an independent MP is meant to maintain his status as an independent for the life of the Parliament. (s69(3)(c))<sup>12</sup>. Although OLIPPAC does not specifically prevent the formation of a party it is from the intention and the reading of the language of the legislation, the intention was to isolate the independent MP so that he or she would not have the power to create instability with their voting flexibility.

Many are admirers of the work of Powes Parkop MP and want to see his work continue however allowing a new political party to be formed contrary to the intentions of the OLIPPAC cannot not be the solution. We must work within the OLIPPAC system however artificial it may be to do so that the individualistic mindset supplanting the purpose and efficacy of the party system can be changed. If we work within that system another interpretation the s69(3) provision of OLIPPAC could allow for the establishment of a new party by an independent MP however that MP would not legally be allowed to joint until the term of parliament were completed.

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<sup>9</sup> The Post Courier "MP Resigns" by Peter Sea published June 17 2010

<sup>10</sup> <http://www.ippcc.gov.pg/parties.htm> (Accessed 12 June 2010) Provides a list of all the registered political parties and their members in PNG including that of the Peoples National Congress or PNC.

<sup>11</sup> See note 12 below.

<sup>12</sup> Section69(3)(c) states " A member of parliament who otherwise, in accordance with this law, becomes an independent member and who does not subsequently join a registered political party shall remain as an independent member for the rest of the term of Parliament..."

A prime example of party politics being successful is that of the recent “bloodless coup” that occurred in the Australian Labor Party. What better testament to the party system can we see than the 159 member strong party essentially displaying a vote of no confidence in its leader. There was no social unrest as a result, no allegations of kidnapping or bribery of MP’s to buy their votes. It was such a successful example of party politics at work that a woman, who climbed up the Labor party ranks is now the Prime Minister of Australia. Another reason why and an example of the effectiveness of the party system in the world and how OLIPPAC can at least in the short term impose machinery that can make party systems work toward stability.

Yet it took hundreds of years for the party system to develop in Australia. PNG has created the OLIPPAC to introduce a similar system and it hopes to break the nature of PNG politics so closely melded with the cultural “bigman” and tribal affiliations mindset in order to create political stability via party systems.<sup>13</sup> . The Registrar and Commission must ensure their best to interpret and implement the OLIPPAC to do just that.

Whatever may be the reasons behind the lack of implementation of OLIPPAC, the fact remains that there must be more stringent administration of political parties. One primary area is the scrutinisation of political party annual financial returns, more in the line of what the Ombudsman Commission does with respect to annual returns from the individual MP’s. There the OC actually actively prosecutes those MP’s that do not comply with the annual requirement. Those political parties that do not furnish returns at all, or furnish returns that are clearly inadequate must be dealt with under OLIPPAC.

All this information needs to be made public, as stated previously there must be a better communication strategy that sees this information being published on the website. It would be in line with existing confidentiality provisions and is very manageable using current technology methods. Access to public information is the right of everyone.

## **5. Improving OLIPPAC’s effectiveness towards 2050**

Improving OLIPPAC’s accountability and transparency to ensure that Vision 2050 is achieved requires a slight rethink of OLIPPAC. This rethink would encompass viable and deeper reaching ways in which compliance with OLIPPAC can be ensured. MP’s must abide by and accept that there are serious consequences to the choices that they make. This could entail a diversion of discretionary funds via

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<sup>13</sup> Morgan, Dr Michael G , Baker, Louise & Hambly, Luke “*Political Parties, Parliamentary Governance and Party Strengthening in Melanesia: Issues and Challenges*”, Centre for Democratic Institutions, ANU, [http://www.cdi.anu.edu.au/\\_research/2005-06/D\\_P/CDI%20Political%20Parties%20Strategy-1.pdf](http://www.cdi.anu.edu.au/_research/2005-06/D_P/CDI%20Political%20Parties%20Strategy-1.pdf)

parties in order to strengthen them.<sup>14</sup> There can be a change to vote-of-no confidence time limits to a general rule that Parliament must be dissolved when a vote-of-no confidence is successful.<sup>15</sup>

Whatever the manner in which the politicians mindset develops, whether it can be coaxed out of current Members and trained in that of the future Members, ensuring change in individual MP actions is the effect.

Ultimately this must entail a closer relationship of the Registrar with the Ombudsman Commission to ensure the prosecutions of breaches of the OLIPPAC that amount to misconduct in office are effected. That the consequences of breaching OLIPPAC provisions are as serious as breaching OLDRL provisions.

The good work of the Registry must also be communicated to the general public as well. To change mindsets in our politicians means educating the general public to hold politicians and political parties accountable for their actions. More awareness and publicity of the Registrars actions is imperative. This needs to be a communications and public relations strategy put in place that can see the media being regularly informed of activity as pertains to registrations, de-registrations of parties, and general information about the political parties and the limits placed on the movement and voting powers of MP's. An educated public fosters genuine change where future MP's and party executives are educated and current leaders are held to a higher standard by their electorates. The website and internet email and mobile telephone technology can and must be used by The Registrar to boost transparency and access to information for the general public.

True stability within Parliament and the Executive can be fostered through the transparent administration of current OLLIPAC and possibly an amended OLIPPAC , amended to reflect the lessons learnt since 2002.

Through a comprehensive regime of disclosure and open access to information an environment conducive to transparency is the result. With greater transparency with assets of individual MP's with the activities of political parties and better access to this information by the general public comes a fostering of true accountability. Amending the relevant parts of the OLIPPAC as identified earlier may be the primary solution to a more effective OLIPPAC.

In paving the way toward 2050 and ensuring the vision statement of a "fair" PNG, transparency and accountability in the political systems must continue to be fostered via OLIPPAC. More transparency will improve OLIPPAC.

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<sup>14</sup> Chand, Satish & Duncan, Roderick " *Strengthening Political Parties in the Pacific*" Conference Submission, Pg 16 <http://rspas.anu.edu.au/melanesia/executive/SatishChand&RoderickDuncan-StrengtheningPoliticalPartiesinthePacific.pdf> (Accessed 12 June 2010)

<sup>15</sup> Fraenkel, J, Regan, A, Hegarty, D "The Dangers with Political Party Strengthening Legislation in Solomon Islands", (2008) State Society and Society in Melanesia Working Paper No 2008/2, ANU, Pg 5 [http://rspas.anu.edu.au/papers/melanesia/working\\_papers/08\\_02wp\\_Fraenkel.pdf](http://rspas.anu.edu.au/papers/melanesia/working_papers/08_02wp_Fraenkel.pdf) (Accessed 12 June 2010)