PNG’S DECENTRALISED SYSTEM OF GOVERNMENT: ISSUES/CHALLENGES

National Conference on Autonomy and Decentralisation

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OUTLINE

• CLRC ESTABLISHMENT AND MANDATE
• CLRC LAW REFORM POWERS AND FUNCTIONS
• BACKGROUND: REVIEW OF PNG DECENTRALISED SYSTEM OF GOV’T
• PNG’S DECENTRALISED SYSTEM OF GOV’T: CRATERS AND POTHOLES
• CONCLUSION
CLRC LAW REVIEW POWERS AND FUNCTIONS

• **CLRC: POWER:** Consult with an independent Constitutional Office established under Part IX of the Constitution and section 3 of the CLRC Act 2004;

• **FUNCTION:** review, reform and modernise All Laws including the constitution and the Organic Laws, to; (1) Eliminate defects in laws, (2) Simplify the laws, (3) Adopt of new and more effective methods for the administration of the laws and the dispensation of justice, (4) Make recommendations in relation to, (a) making of laws, (b) consolidation of laws, (c) repeal of laws; and (5) Reinstatement, codification or amendment to customary laws.

• h; (1) any Government Department, institution, authority, organisation, instrumentality or body; (2) any other institution, organisation or body that, in the opinion of the Commission, would be affected by any proposed change in a law; (3) any member of the public; (4) Provide advice and information to any government department or governmental institution, authority, organisation, instrumentality or body concerned with proposals for the reform or amendment of a law; (5) Consider any proposal for the reform of a law that is referred to it; (7) hold seminars and conferences on appropriate legal issues; (8) Undertake research and study on the subject under review; (9) obtain information, advice or assistance available to it from any source whether within or outside the Government; (10) obtain information on the laws and legal systems of other countries; (11) do all things necessary or convenient to be done for or in connection with the performance of its functions.
BACKGROUND

- **PNG DECENTRALISATION:** We are not hunting for decentralisation. In fact, we settled that issue even before independence, not as an option but a necessity (Peasah, 1994). What we are hunting for now is the “**best-fit - type or model**” of decentralisation that suits us PNG. Thus, our decentralisation story from the 1940s to this National Conference is not about decentralisation itself but rather about a model than can work.

- **NEED FOR REFORM:** After the 1995 reform, we have not stopped searching a better version. Studies after studies have been conducted which have all pointed to the ‘NEED FOR REFORM’ (Eg; GoPNG 2005; PSRAG 2004/2006/ NRI, 2009; Kalinoe, 2009; others).

- **PUBLIC OUTCRY FOR A BETTER SYSTEM:** Over the years, issues that used to be the concerns of few design engineers in the corridors Waigani became nationwide concerns, attracting popular demand for a thorough review of the system.

- **ALOTAU ACCORD I:** In response, the then O’Neill-Dion coalition partners agreed to review the OLPGLLG.

- **NEC DECISION 179/2013:** The NEC took a decision on 30 May, 2013 to that effect and instructed CLRC to work together with DPLGA to review the OLPGLLG.

- **CONSTITUTIONAL DIRECTIVE NO. 1:** In July 2013, the Head of State directed CLRC to proceed with the Organic Law Review.

- **NATIONWIDE CONSULTATIONS:** CLRC and DPLGA embarked on a nationwide consultations from 25 November 2013 – 20 August 2014. CLRC and DPLGA also received written submissions from individual citizens, organisations, include expert technical papers.

- **DATA ANALYSIS AND WRITE-UP:** Between September and December, 2014 a technical team was put together to go through all data, analyse, and do the report.

- **FINAL REPORT:** In April, 2015 the Final Report (Volumes 1 and 2) was submitted to Government.
TERMS OF REFERENCE (TOR)

• 3 BROAD TORs (OBJECTIVE OF GOVERNMENT)

  1. A relevant and effective political and administrative structures that suits the demands of the country in the 21st century.

  • FORTY (40) years later, the real challenge is not necessarily secession nor bringing government closer to the people, but a faulty and ineffective service delivery mechanisms that are compromised by a weak public service as well as structural and procedural bottlenecks. There are competing roles and duplications in responsibilities of government agencies placed between the capital and provinces.

  2. Greater empowerment of the people at the provincial and local levels.

  • This is a pledge to work towards empowering people at the provincial and local-level governments. While there is a deliberate push in recent times for capacity building among the populace in the provinces, taking charge of their respective destinies will remain a mirage unless capacity building is twined with the devolution of a certain degree of political authority.


  • We have to start dispelling the fear that more power and authority channeled to provinces is likely to incite secession sentiments. It is incumbent on all Papua New Guineans to work together for a stronger country.

• 4 WORKING TORs:

  • For all practical purpose, CLRC and DPLGA reduced the above three broad TORs to four - Political, Administrative, Financial, and Legal - pillars of the OLPGLLG.
• **POLITICAL ISSUES**

  • Multi-layered political structure – the 1995 reform created 4 levels of government (NG, PG, LLG, WC). Inception of DDA system makes it 5.

  • Establishment of discretionary funds/slush funds and the associated political rivalries between provincial and national MPs, with more politicians competing for same political spaces and people (voters).

  • More politicians meant increase in the cost of administration support of the political offices.

  • Changing role of the MPs - towards service delivery rather than policymaking and lawmaking. And one of the common reasons is “the system is not effective” to deliver.

  • 1995 political structure fermented a “dependency syndrome” among the people on politicians who control the structure to deliver services, making the people lazy;

  • Long turnaround time for decisions to reasons.

  • The “One-Size-Fits-All” (Symmetry vs Asymmetry).
CONT’D

• **ADMINISTRATIVE ISSUES**

  • A multi-layered and a complex administrative system – 5 layers (NA, PA, DA, LLGA, WA);

  • Huge administrative costs involved in trying to keep system alive, to the total neglect of the purpose why the system is there – SERVICE DELIVERY.

  • High staffing costs – a multi-layered administrative system with too many chickens that do not lay eggs for the people.

  • No technical manpower for frontline service facilities;

  • Long turnaround time to execute decisions/funds/projects on the ground, as the system of eclipsed at every level.

  • One-line Public Service – Discrimination in salary ranges between those in Waigani and those in the FRONTLINES of the service delivery chain (Districts, LLGs and Wards).
FINANCIAL ISSUES

Horizontal Equalization: Rich sharing with Poor: relates to Unfair and Inequitable distribution of country’s wealth; some provinces have more revenue than others. Aside from the transfers from the National Government such as annual grants and GST, few provinces receive large revenues from royalties derived from the natural resource projects within their jurisdiction. Should the ‘wealthier’ provinces be required by law to share some of their royalty revenues with the ‘poorer’ provinces?

Vertical Equalization: Revenue Raising Powers: The balance of revenue raising powers is skewed heavily in favour of the central government. Most of the taxation and other revenue raising powers currently are retained by the National Government. Provinces are only afforded a few, such as liquor licensing, motor vehicle registration, head tax. The bulk of revenues which provinces obtain are in the form of transfers from the National Government, principally the GST and royalties. So, in essence, the National Government retains the larger share of revenue powers and gives residual revenue powers to provinces and LLGs. Should more revenue powers be allocated by law down to sub-national governments?

Cost of maintaining a multi-layered political and administrative system consumes huge junks of money, to the neglect of the INTENT of decentralisation – SERVICE DELIVERY;

High costs of running elections;

Long turnaround time for funds to reach the FRONTLINES.
• **LEGAL ISSUES**

  • **Lawmaking at Subnational levels of Government:** Most provinces lack capacity to draft their enabling legislations.

  • **Amendments:** The OLGPLL has been amended more than 15 times (about 159 sections amend).

  • **Enabling Legislations:** The OLPGLLG has 82 sections which provide for 14 Enabling Legislations. While to give effect to their respective components of the Organic Law, 12 of which are in place while two are not until very recently.
OTHER EMERGING POLICY ISSUES

• Two-tier system of government;
• Remove the provincial electorates;
• Return LLG Presidents to Provincial Assemblies as it was in 1977;
• Women’s representation in Parliament;
• Creation of new provinces, districts and LLGs;
• Increasing the number of Open Electorates;
• Formation of regional governments;
• PNG moving into Presidential System (Upper and Lower House of Parliament);
• Provincial and regional autonomy;
• DDAs as the vehicle for service delivery;
• Municipal authorities (City Commissions);
CONCLUSION

• The spirit of the law was well-intended, but the forces of change that have shaped PNG to what it is today may be responsible for the difficulties faced during its implementation phase (GoPNG, 2015);

• The Final Report contains **10 RECOMMENDATIONS** for change, aimed at **STRIKING A BALANCE** between **DECENTRALISATION** and **INTEGRATION** for Greater, Stronger and Prosperous PNG.