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## THE INEFFECTIVE DUAL ROLES OF PAPUA NEW GUINEA MEMBERS OF PARLIAMENT: WHY IT MATTERS

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### Abstract

The Papua New Guinea (PNG) *Constitution* states that the National Parliament has the sole right to make laws, and these lawmaking responsibilities cannot be permanently delegated. Parliament is also required to provide representation and hold the executive government accountable. This paper argues that the reforms to the Organic Law on Provincial Government in 1995, and the creation of the District Development Authority in 2014, has shifted the focus of the Members of Parliament (MPs) from their national duties to those of service delivery. Managing these dual roles has not been easy, and by focusing on local needs, the MPs have neglected their national responsibilities. As PNG faces crisis on all fronts, the paper suggests that MPs should focus on national priorities.

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# THE INEFFECTIVE DUAL ROLES OF PAPUA NEW GUINEA MEMBERS OF PARLIAMENT: WHY IT MATTERS

By Michael Kabuni

## Introduction

Broadly, the role of Members of Parliament (MPs) in parliamentary democracies falls into three categories: debate public policy and pass laws (including appropriating budgets); provide checks and balances to the government or the executive; and be the voice of the people (Russel & Gover, 2017). In Papua New Guinea (PNG), the reforms of 1995 that eliminated the provincial government system, and the creation of the District Development Authority (DDA) in 2014, brought in an added responsibility to the MPs where they also act as service deliverers and project managers (Wiltshire, 2014). In the process, they have neglected their former three responsibilities, and the costs are high. This paper highlights these issues, and argues for the need to start a national conversation on the dual roles of MPs.

The Westminster model of parliamentary democracy which the PNG Parliament has been modeled after, is often led by a majority which also makes it susceptible to being dominated by the executive arm of the government (Russel & Gover, 2017). This is because the government side has monopoly over the appointment of ministerial portfolios and access or control of state resources. This can be an incentive for MPs to move to the government side, especially if there are no laws or there is weak enforcement of laws that ensure resources are equally distributed. This leads to executive dominance and a weak parliament. When parliament is weak, it cannot hold the executive accountable, a phenomenon that gave rise to phrases like 'an elaborate rubber stamp' or 'legislature on her knees' (Russel & Gover, 2017).

This paper examines the three roles of parliament and how effective the PNG Parliament has performed over the recent years. The main argument of this paper is that, not only is Parliament weak in the face of executive dominance, but it also demonstrates no interest in focusing on national priorities.

The paper also argues that MPs see no incentive to take their lawmaking and policymaking powers seriously. This is because their political survival depends less on their role as

lawmakers, and more on their added responsibility as service deliverers which was created under the 1995 Provincial and Local Level Government reforms and the creation of the DDA in 2014. The neglect of lawmaking duties is a serious concern because the PNG *Constitution* exclusively vests the lawmaking powers to Parliament. If Parliament does not engage in meaningful debate on policy and laws, no other entity will.

The paper is divided into four main parts. Part 1 is about Parliament's exclusive lawmaking powers discussing its constitutional basis and court cases which affirms this position. This provides a background for discussions about why MPs should focus on their role as lawmakers. Part 2 discusses the rise of executive dominance in PNG politics and how the Parliament has been reduced to being a mere rubber stamp. Part 3 discusses the fluidity of PNG politics, and how this brings into question whether there is representation at all in the PNG Parliament. The dual roles of MPs in Part 4 attempts to provide an explanation on why PNG Parliament has performed poorly on all three roles discussed in Parts 1, 2, and 3. The main emphasis is on the additional role created under the reforms of 1995 and creation of the DDA in 2014 which diverts MPs attention to service delivery.

The paper concludes on a broader concern over governance as the implications of a patron-client model that persists, when MPs strive to meet local needs instead of focusing on national issues.

## Methodology

This paper is limited to desktop research reviewing secondary sources related to the role of parliament in Westminster democracies and its application to PNG. The paper builds on previous work such as those of Gelu and Axline (2008) on PNG, and international equivalents such as those by Russel and Gover (2017) on the role of Members of Parliament in the United Kingdom (UK). The PNG Supreme Court rulings such as *Namah v O'Neill* (2015) and *Namah v Pato* (2016) were analysed to shed light on the Court's interpretation of the role of PNG MPs, with references to the relevant provisions of the PNG Constitution. Other sources such as newspaper articles and other online materials were used to examine the

performance of PNG MPs. The author also relies on personal experiences, observing and teaching politics at the University of Papua New Guinea and working in this space to inform the discussion.

## 1. Lawmaking powers of the PNG Parliament

This section explores the lawmaking powers of the Parliament, its legal basis, and Supreme Court rulings which clarifies the exclusive domain of Parliament over lawmaking. It then assesses PNG MPs' performance against this role. Towards the end, it highlights some of the crisis facing PNG and argues for MPs to revert to their national duties. The role of the MPs as parliamentary committees are briefly discussed at the end of this section.

### *Protection and monopoly over lawmaking*

Sections 99 and 100 of the PNG *Constitution* establishes the lawmaking or legislative powers of the PNG Parliament. Section 99(2)(a) of the *Constitution* reads:

... the National Parliament, which is an elective legislature, with subject to Constitutional Laws, has unlimited powers of law-making ...

This provision of the *Constitution* implies that only elected representatives can constitute the Parliament, and unless the laws they make are contrary to Constitutional Laws, the elected representatives' powers to make laws shall not be limited by any entity. Constitutional Laws, as defined by schedule 1.2 of the *Constitution*, are the Constitution and the Organic Laws. Sections 115 and 134 of the *Constitution* ensure that the functions of the parliament are non-justiciable, inter alia, and cannot be subject to the courts. The former guarantees immunity for MPs within the Parliament chamber from the courts and anyone else outside the precincts of the chamber. The latter clearly states that Parliament's activities are non-justiciable unless they violate a procedure prescribed by a Constitutional Law. Section 134 reads:

Except as is specifically provided by a Constitutional Law, the question, whether the procedures prescribed for the Parliament or its committees have been complied with, is non-justiciable ...

The net effect of all these provisions is that the proceedings of the Parliament are non-justiciable unless there is a breach of procedure provided by a Constitutional Law. If there is a breach of procedure prescribed by the Constitutional Law, only the Supreme Court of PNG, a subset of the judiciary arm of the government, can determine whether or not Parliament has violated a Constitutional Law in performing their function as lawmakers.

Section 100 of the *Constitution* provides that the lawmaking powers of the Parliament shall under no circumstances be 'permanently' transferred or divested. Provincial assemblies, for instance, can make laws to cover issues that no national legislation provides for, but the provincial legislation becomes obsolete as soon as the National Parliament passes a legislation that deals with the same subject matter. This is because Parliament can never permanently delegate its lawmaking powers. This monopoly of lawmaking powers by the Parliament means that if Parliament neglects its lawmaking powers, the whole country is held at ransom because no other entity outside of the Parliament can compensate for this vacuum.

In addition to making laws, Parliament also appropriates budgets for the following year, usually in its last sitting of the year. The executive arm of the government prepares the budget for the year and presents it to Parliament for debate. The Parliament, in this case, can only debate to reduce the budget or on the allocation of the budget. The Parliament cannot increase the budget presented by the Executive except for the portion allocated to the Judiciary (Kwa, 2001).

### *How well does PNG Parliament perform its lawmaking functions?*

The question one asks now is; given the protection MPs have from the *Constitution* to perform their function as lawmakers without fear or favour, and the monopoly of lawmaking powers, how have they performed so far?

The answer to this question is a resounding disappointment. According to the former Commissioner Secretary of the Constitutional and Law Reform Commission – now the current Secretary of the Constitutional and Law Reform Commission of PNG - Dr Mange Matui, in 2018, about 370 of PNG's laws were outdated at least by half a century, and had "no practical application in modern era" (Pumuye & Kuman, 2022, p.1). This observation was made when PNG had been independent for 43 years. In its 43 years of independence, Parliament, with all the protection and monopoly it had, had failed to review, amend or repeal the 370 outdated laws. The cases of illicit drugs below shows what happens when laws are outdated and are impractical in the modern era.

In July 2020, a plane carrying an estimated 500 kilograms of cocaine allegedly destined for Australia crashed on the outskirts of PNG's capital, Port Moresby. Because PNG's *Drug Act of 1952*, one of such outdated laws does not cover substances such as cocaine, the pilot of the aircraft was only charged for illegal entry — entering the country without a passport (Kabuni, 2021a). He could not be charged for transporting the 500 kilograms of cocaine.

Then in November 2021, police discovered a methamphetamine (meth) laboratory at the Sanctuary Hotel in Port Moresby. The manufacturer was not charged for manufacturing meth because the *Drug Act* does not account for meth. He was, however, charged with illegal possession of weapons. Police described the outdated drug laws as a “slap in the face” given the resources and time put into investigating, “yet we cannot take it to the court process” (Kabuni, 2021a).

It took these two cases of cocaine and meth offenders eluding charges, before Parliament introduced and passed the *Controlled Substance Bill 2021*. These two cases not only expose the outdated laws, but also showed what happens when Parliament does not make laws to cover such possible crimes.

According to section 37(2) of the PNG *Constitution*, a person cannot be charged for an offence that is not provided by law. This provision was interpreted by the Supreme Court of PNG as:

The fundamental proposition is: nobody may be convicted of an offence that is not defined by, and the penalty for which is not prescribed by written law. (SC Ref Nos 2, 3 & 5 of 2014).

In the face of globalisation, and increasing non-traditional security issues confronting PNG, the Parliament must be proactive in amending outdated laws. It also has to introduce new laws that are on par with those in the region.

Another role of the Parliament, that is not as common as lawmaking, but is important in keeping the government in check, is to actively scrutinise government proposals through the various parliamentary committees, and holding the bureaucracy accountable. There are 34 parliamentary committees, and each is delegated a specific function. However, at most times, these committees are non-existent. If these committees were in operation, every law, policy, budget, and decision would be scrutinised by a panel of MPs, with expert advice, ensuring that they are in the best interest of the country (Cohill, 2017).

The Public Accounts Committee and the Parliamentary Business Committee are the only two that have been active in recent years. However, the Public Accounts Committee has not gone beyond its investigations of the public tender for health contracts. Whilst understandably, the Parliamentary Business Committee has to be active as its role is to ensure that the notice for a motion of vote of no confidence has satisfied constitutional requirements. As votes of no confidence are a permanent feature of PNG politics, the Parliamentary Business Committee, usually filled by MPs sympathetic to the incumbent prime minister, have been active throughout the years.

### *There is no lack of issues that need MPs attention*

PNG is inundated with crisis on all fronts requiring MPs to prioritise national interests. The first climate change-induced human displacement in the world will potentially be from PNG’s Carteret Islands (Kabuni, 2021b). What is the national plan for resettlement? Cases from volcano displaced Manam and Kadavor islanders show that resettlement on traditional land is not easy.

The cyberattack on PNG Finance Department’s IT system in 2021 shows how vulnerable PNG government departments are. Violence against women and sorcery-related violence has reached endemic proportions. The National Fisheries Authority has reported that illegal, unreported and unregulated fishing is now recognised as the single most significant threat to long-term sustainability to PNG’s marine resources (Kabuni, 2021c).

PNG’s census is another pressing issue. The last census was conducted in 2011, more than 10 years ago. The next census has been pushed back to 2024, which will be 14 years after the last census. This affects planning, distribution of service delivery, and development priorities as the government does not know its population. The common roll update was another crucial data that had not been done before the issue of writs for the 2022 National General Election. These are just some of the many cases that require MPs to focus on the core business of the National Parliament as intended when the PNG *Constitution* was crafted.

## **2. Keeping the Executive Government accountable**

This section discusses the second role of Parliament, which is to keep the executive arm of the government accountable. It discusses how this was supposed to work in theory, and how it works in practice in PNG. The executive arm of the government, in theory, derives from, and remains accountable to the legislative arm of the government (Heywood, 2013). The Parliament votes for the head of government or the prime minister, who then appoints the cabinet that makes up the executive. However, the prime minister and the cabinet remain accountable to the Parliament.

One of this accountability mechanism is the ‘vote of no confidence’ against the government. In PNG, after a government is formed following a national general election, the government (executive) is immune to a vote of no confidence for the first 18 months, commonly known as the ‘grace period’. After the 18 months grace period, the Parliament can remove the government if in its view, the executive government has lost the confidence of the Parliament. Since independence in 1975, only two prime ministers have completed their terms in Parliament. Other prime ministers have been either removed through a vote of

no confidence, or have resigned to avoid the humiliation of one. Despite these revolving door of prime ministers, for the time the governments were in power, Executive Governments have dominated the Parliament.

### Executive dominance

An assessment of the periods from 2012 to 2018 under Peter O'Neill as Prime Minister shows how dominant the executive can be in PNG Parliament. In 2012, Peter O'Neill was elected prime minister by 94 votes to 12. The 94 MPs then remained with the government for the most part until a vote of no confidence in 2016. The opposition numbers declined from 12 to less than four MPs at one time (Donge, 2015). In 2016, following a court order for Parliament to reconvene after it adjourned to avoid a vote of no confidence, nine MPs switched to the opposition while 85 MPs supported O'Neill overcome a vote of no confidence. The opposition remained weak until the 2017 elections, where O'Neill again emerged as prime minister by 60 votes to 40 votes.

Again, the opposition numbers began to dwindle immediately, starting with Sam Basil-led Pangu Pati moving to the government side with 14 MPs. This dominance of the executive in Parliament emerged in the 1990s, and has now become a norm in PNG politics, where MPs tend to gravitate towards the government side, weakening the opposition (Kabuni, 2018). The implications of a weak parliament and dominant executive is that the legislative arm of the government becomes a mere rubber stamp for government proposals. Below are details of some of the unpopular decisions the O'Neill government made that would not have been possible if there had been a strong parliament to restrain the government.

Between 2012 and 2019, a period of seven years under Peter O'Neill's leadership as prime minister, there were 14 major amendments to the PNG *Constitution*. The 14 amendments had overwhelming support from MPs in the O'Neill-led coalition. Some of these amendments were very controversial.

For instance, in 2012, the O'Neill government introduced a series of amendments to section 145 of the *Constitution*, which provides for a vote of no confidence. Section 145(4) of the *Constitution* sets the length of the grace period at 18 months. As stated earlier, a grace period is the period following the formation of a government during which a vote-of-no-confidence motion is not permitted against the prime minister. The O'Neill government proposed for an extension of the grace period to 30 months, an increase in the number of MPs required to sign the notice for the vote of no confidence from 11 to 21, and the increase in days for the notice for a vote of no confidence from one week to four weeks.

These provisions essentially made the vote of no confidence impractical. That is, if the opposition wanted to change the government, it had to get more than 20 MPs to sign the notice. However the opposition's numbers were less than 20 so they could not institute a vote of no confidence. The extension of the notice from one week to four weeks meant that even if the opposition was successful in getting 21 signatures, they had to wait for one month. And third, the increase of the grace period from 18 months to 30 months meant the opposition had to wait for another 12 months as provided under the *Constitution*, if they wanted to change the government.

All these amendments were passed with minimum restraint from a very weak opposition. And then in 2013, the Parliament further amended section 124(1) of the *Constitution* to reduce the minimum parliamentary sitting days from 63 to 40 days in a year (Kama, 2017).

In 2015, the Supreme Court ruled as all invalid and unconstitutional, the reduced parliament sitting days, increased grace period, increased number of MPs required to sign a notice for a vote of no confidence, and the increased number of days required to notify Parliament before a vote of no confidence was instituted.

The details and the implications of the Supreme Court decisions are discussed below.

### Supreme Court interventions

Unable to stop amendments to the *Constitution* on the floor of Parliament, the opposition sought the Supreme Court's intervention, and in 2015 the Court ruled all the amendments unconstitutional. The Court held that the increased number of MPs required to issue a notice for the vote of no confidence and the increased days for the notice from one week to four weeks (s. 145(1)(b)) restricted the right of MPs to "expeditiously move motions of no confidence during a crisis of bad governance" (*Namah vs O'Neill*, 2015, para 90).

The Court observed that "a motion for vote of no confidence... is a health check for parliamentary democracy" and should not be abused (Ivarature, 2016, p. 11). It warned the government from "using its numerical superiority in Parliament to manipulate the conduct of its business, or worse still, amend the Constitution... to entrench itself in power and avoid responsibility to Parliament" (*Namah vs O'Neill*, 2015, para 94).

In a separate ruling in 2016, while overturning another Constitutional amendment by the government-dominated Parliament, the Supreme Court noted that there was a growing trend for the executive side of the government to

“bulldoze legislations through” because of a weak opposition, and cautioned that Parliament should never be a rubber stamp to the executive (*Namah v Pato* [2016] PGSC 13).

These amendments such as the reduction of parliament sitting days, extension of the grace period, and the adjournment of parliament were indeed directly contrary to the primary role of MPs. How could MPs amend the *Constitution* to prevent them from performing the role they were elected to do; that is, prevent them from debating laws and policy issues? Although the Supreme Court restored the minimum sitting days and grace period in 2015, Parliament continues to adjourn to avoid votes of no confidence, as experienced in November and December 2020. In PNG, the one thing MPs are elected to do, they actively seek to avoid.

As discussed in Part 1, the Supreme Court cannot interfere unless a procedure specifically prescribed by a Constitutional Law, or provisions of the *Constitution* are violated. In the cases discussed above, the Parliament violated several procedures provided by the *Constitution*. The grace period is provided by the *Constitution*, as is the procedure for a vote of no confidence, and the minimum number of parliament sitting days. The government-dominated Parliament violated these provisions, creating room for the Supreme Court to intervene.

### A legislature on her knees

Instead of holding the executive accountable, Parliament in PNG is relegated to the periphery when major decision making is concerned. The risk that comes with lack of proper debate or lack of opposition to government proposals is that legislations that are politically driven get passed, even if they are unconstitutional. The 2014 UBS loan saga is a good example of how a dominant executive used its numerical superiority to give legitimacy to a loan that violated the *Constitution* (Ombudsman Commission Report on UBS Loan, 2020). In 2014, the government obtained AUD1.2 billion loan through the Sydney UBS office to buy shares in the ASX listed company Oil Search. This amount was in excess of the total amount allowable for the executive government to borrow. It requires Parliament’s approval. The government borrowed first, and retrospectively used its huge numbers to approve it on the floor of Parliament.

The opposition could not reverse this decision because they did not have the numbers. The government-dominated Parliament voted for the loan, although it was unconstitutional. This matter has since been the subject of a Commission of Inquiry. Without the interventions of the Supreme Court, PNG Parliament is essentially a rubber stamp, a legislature on her knees.

<sup>1</sup>The National Parliament created seven new electorates in March, 2022.

### 3. Providing representation of the people in Parliament

There were 111 elected representatives or MPs in PNG before the 2022 National General Elections.<sup>1</sup> They comprised 22 governors or provincial MPs, and 89 open MPs who represent the districts in the provinces. The minimum number of districts in a province is Manus Province with one, and Morobe Province having the most with nine districts, and therefore, having the most open MPs from a province. Representation has suffered on many fronts in PNG. Apart from the executive dominance discussed above, the fluidity with which MPs switch parties and sides in Parliament makes it impossible to determine which policy or position the MPs subscribe to.

#### Fluidity of political affiliations by MPs

The recently created PNG MPs Database by researchers from the University of Papua New Guinea and the Development Policy Centre of the Australian National University’s Crawford School of Public Policy, shows the frequency with which MPs switch from one party to another, and from the government to opposition, since 2017. As of January 2022, only 40 of the 111 MPs elected in 2017 remained with the party that endorsed them as candidates for the 2017 election or remained as independent MPs. Forty-eight MPs switched between parties once, 24 moved twice, and four moved three times — going from being an independent to a party counts as moving parties (Howes & Wangi, 2022 forthcoming). Pangu Pati, which had only nine MPs elected in 2017, had 28 MPs after it formed the government following the election of James Marape in May 2019 as the Prime Minister. This number increased to 34 MPs as of January 2022.

#### Assorted coalitions

A closer look at movements of MPs since August 2019 shows how difficult it is to make the argument that MPs provide representation in Parliament. After the election of James Marape as Prime Minister, the National Alliance members, Allan Bird, Walter Schnaubelt, Ian Ling-Stuckey and Peter Isoaimo, along with other opposition MPs including Sir Mekere Morauta and Garry Juffa, joined the Marape-led coalition at the end of August 2019. What is of interest is the composition of the government coalition: Sir Mekere Morauta, the opposition nominee who challenged Marape for the prime minister’s position on 30 May 2019; Patrick Pruaitch, the opposition leader who sought a Supreme Court reference questioning Marape’s election; and about six MPs who did not vote for Marape on May 2019 joined Marape in the government by the end of August.

Neither Kerenga Kua nor Brian Kramer, both ministers in the Marape government, had voted for Marape to become

PM in 2019. Kerenga voted against Marape, while Kramer was absent.

When the 18 months grace period following Marape's election came to an end in November 2020, more than 20 MPs from Marape's coalition switched to the opposition side in a bid to remove Marape as the prime minister. They were led by Deputy Prime Minister Sam Basil, and other senior government ministers such as Minister for Foreign Affairs Patrick Pruiatch. But as a successful vote of no confidence became impractical due to the government outmaneuvering the opposition, Sam Basil switched back to the government side, and was restored to the deputy prime minister position.

Marape was then surrounded by an assortment of MPs: those who voted for him, those who did not vote for him, and those who wanted to see his election declared null and void. This assorted pattern extends to political parties. Parties with conflicting policies are content to be in the same coalition. Political parties and candidates forgo the policies they campaigned on during election, and make political decisions based on what they can get out from their partnership in the coalition.

The above discussions show that the MPs are not interested in representing their electorates. They have no commitment to any party or policy programs. They move at will when it is convenient. Political parties lack ideological basis, and operate only as parliamentary factions for the formation of government following an election. Under Section 63 of the Organic Law on the Integrity of Political Parties and Candidates (OLIPPAC), the party with the highest number of MPs elected during the elections is invited by the Governor General to form the government. Apart from that, MPs switch between parties, and between sides, seeking opportunities for accessing ministerial portfolios and state resources.

What explains the movement of MPs to the government side? Ministerial portfolio allocations seem to be a possible explanation for coalition politics in PNG. There are 32 ministerial portfolios that the PM controls. He allocates to MPs<sup>2</sup> and political parties that help consolidate his position as prime minister to deter votes of no confidence. There are also appointments as chairman and members of the parliamentary committees. The other possible reasons are discussed next in part 4.

#### 4. The dual roles of PNG MPs

The discussions in the first three sections of this paper

<sup>2</sup> cannot take on ministries. The reforms introduced in 1995 make it mandatory for a governor to Governors relinquish their position if they are appointed to a ministerial portfolio.

focused on the conventional role of MPs, and whether MPs in PNG have been effective in performing these roles. It showed that they fail to perform these three functions. This final section of the paper focuses on potential explanations to why MPs not only fail, but neglect their functions as elected representatives. For instance, why are MPs not interested in debating outdated laws when they are in session? Why are MPs hesitant to remain in the opposition? Why are MPs always switching from one party to another? Why are the parliamentary committees non-existent? At the centre of these questions are the 1995 and 2014 reforms, which made PNG MPs service providers and project managers, in addition to their conventional roles as lawmakers, providing representation, and holding the executive accountable. MPs have since then focused on service delivery.

#### The 1995 reforms and the creation of the District Development Authorities

The 1995 reforms replaced the provincial representatives with the national MPs, and gave the MPs more control over the management of the provincial affairs, which were formerly the task of a separate elected legislative and an executive body led by a Premier (Gelu & Axline, 2008). The 2014 DDA then gave the open MPs control of the affairs of the districts (Wiltshire, 2014).

The provincial assemblies are now chaired by the governors of the provinces, which also constitutes the Open MPs, while the DDAs are chaired by the national MPs. There are elected representatives apart from the MPs, in the form of Local Level Government (LLG) presidents and town mayors, but both the provincial assemblies and the DDAs have 'appointed' representatives such as the church, women, chiefs or youth representatives who are usually allies of the MPs. The DDAs administrators have been swaying towards political appointments (Wiltshire & Opperman, 2015). As members of the provincial assemblies and DDAs, the national MPs are now responsible for the management of provincial and district affairs. Thus, the MPs who are elected to debate public policies and pass laws, provide checks and balances to the executive government, and present their people's views and demands in the National Parliament, are now preoccupied with managing provincial and district affairs (Kabuni, 2021b).

The component of funding that these MPs have the most control over is the Constituency Development Funds (CDF), called the Services Improvement Program funds (SIPs). The governor controls the Provincial SIPs (PSIPs), and the open



MP controls the District SIPs (DSIPs).

As chairs, the politicians dictate priorities and allocation of the funds, which at its height reached a total of K10 million per year after 2013. It fluctuates depending on the revenues, but remains higher than constitutional grants (Laveil, 2021). A survey of the use of these funds in 2014 showed that services were regressing (Howes et al., 2014) and although acquittals for these funds are very poor (Auditor General's Report, 2019), the funds remain popular with the MPs. According to the Auditor General's Report (2019), only 13 of 111 MPs submitted their acquittals for the year 2016. The Auditor General reported lack of funding as a main constraint for not conducting audits of CDF funds more consistently. Ironically, despite the poor service delivery, constitutencies see the role of MPs as service deliverers and project managers, and not lawmakers.

MPs who are under pressure to be seen as delivering services become opportunistic. They seek out a position in Parliament that increases their chances of accessing the DSIPs and PSIPs. This explains the dominance of the executive government. MPs support the government and the prime minister of the day, irrespective of controversial decisions as discussed in section 3, in the hope that they get their DSIP and PSIP in return.

In 2016, after MPs supported O'Neill overcome a vote of no confidence by 85 votes, the then Vice-Minister for Provincial and Local-Level Government Affairs, Joe Sungi, stated:

“The reason (for the unsuccessful vote of no confidence against Peter O'Neill in 2016) 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” (Mou, 2016).

Due to lack of access to financial data for 2016, it is difficult to say whether MPs supported O'Neill because of the CDFs. But by their own admission, it is possible to deduce that DSIPs and PSIPs is a substantial motivation for MPs to support the government.

### The vicious cycle of patron-client relations

The direct access that MPs have to millions of kina, and the discretion they enjoy over the application of this money, creates an expectation among voters that they can transact their votes for direct personal benefits. The non-existence of acquittals means the MPs can prioritise for funding just about anything from school fees to *'haus kraikrai'* contribution (money

for funeral expenses). In a vicious cycle of a principal-agent relationship, the MPs focus on meeting local, direct and personal benefits of the voters that improves their chances for re-election, while the voters neglect the failure of their MPs to make better laws (Kabuni, 2021b).

By focusing on provincial and district affairs, MPs are neglecting their mandated role as lawmakers. The government rushes through legislation and controversial amendments to the country's *Constitution* — such as the extension of the grace period under Peter O'Neill, which was intended to prevent vote of no confidence, or the reduced parliament sitting days — without much debate. MPs are happy to vote on it, get their SIPs, and go to their provinces.

A world-wide survey ranks PNG among the highest clientelistic societies of the world (Woods, 2018), where voters are more inclined to vote for MPs based on direct material or monetary benefits, rather than their role as lawmakers. But this expectation from voters, to some extent, was created by the reforms engineered by politicians in 1995 and 2014, which made MPs directly responsible for the delivery of goods and services.

### Conclusion

The cost of MPs neglecting national priorities is just too high to take things lightly. If the laws are poor, and the policies lack scrutiny and debate at the national level, implementation will suffer. If the Public Accounts Committee, for instance, is underfunded and understaffed, service providers will waste money by the millions and yet get awarded contracts. The MP-voter relationship has also evolved into an unhealthy expectation. Instead of judging MPs by their performance on national priorities, voters judge MPs on their ability to meet immediate and local needs. Some MPs on the other hand, focus on meeting these personalised needs of their voters while neglecting national priorities.

In addition to this, such patron-client relations contribute to corruption and poor governance. MPs who are under immense pressure to meet the immediate voter demands usually use funds allocated for other purposes to satisfy the voters demand. Projects that bring the MP popular support are prioritised over services that may be in actual need of funding. And sometimes, some MPs engage in outright corruption to satisfy their voters (Grant, 2017). The net effect is a debilitating service delivery nationwide (Gelu & Axline, 2008), which in the long run affects and has adverse effect on the quality of life of the voters.

Reform in the political sphere that removes MPs' influence over affairs of the provinces and districts may prove difficult,

but it is necessary. The Constitutional amendments of 1995 and the creation of the District Development Authority in 2014 must be revisited, and MPs' dominance over the provincial and district affairs be minimised. The provincial and district projects should be implemented by the relevant government agencies whilst the MPs can provide oversight – a role similar to the parliamentary committees at the national level. Relieved from their service provision responsibilities, MPs can focus on national priorities. Parliamentary committees must be concurrently funded and equipped to scrutinise the executives' proposals, and hold the bureaucracy accountable. However, if reforms that curtail MPs' role at the provinces and districts are not possible, the constituency development funds (DSIP/PSIP) must be given constitutional grant status. Unlike provincial and district grants, the constituency development funds are not allocated under an existing legislation, leaving it vulnerable to the control of the prime minister of the day. The prime minister uses these funds as carrot and stick to garner political support, weakening the opposition.

Papua New Guineans must begin the conversation on the cost of neglecting national priorities. There is no lack of work for MPs at the national level. They are just focused on the wrong level of governing.

## References

- Auditor General. (2019). Report of the Auditor-General Part IV 2019 on the accounts of public authorities and statutory bodies. Port Moresby: Author.
- Cohill, W. (2017, 21 December). Too many parliamentary committees in PNG Parliament. Message posted to <https://devpolicy.org/too-many-committees-png-parliament-20171221/?print=pdf>
- Constitution of the Independent State of Papua New Guinea.*
- Donge, J.K.V. (2015, 20 March). Peter O'Neill's statecraft and skillful politician. Message posted to <https://devpolicy.org/peter-oneills-statecraft-a-skillful-politician-20150320/>
- Gelu, A. and Axline, A. (2008). *Options for restructure of decentralised government in Papua New Guinea.* (PNG NRI Special Publication 50). Port Moresby: Papua New Guinea National Research Institute.
- Heywood, A. (2013). *Politics* (4th ed). New York: Palgrave Macmillian.
- Howes, S., Mako, A. A., Swan, A., Walton, G., Webster, T., Wiltshire, C. (2014). *A LOST DECADE? SERVICE DELIVERY AND REFORMS IN PAPUA NEW GUINEA 2002 – 2012.* Port Moresby: National Research Institute
- Howes, S. and Wangi, T. (2022). PNG MPs Database. ANU Crawford School of Public Policy Blog. Australian National University
- Ivarature, H. (2016). *Unravelling parliamentary instability: Ministerial durations in Papua New Guinea, 1972–2012.* International Institute for Democracy and Electoral Assistance Discussion Paper 2016/18: 1–32. Stockholm, Sweden.
- Kabuni, M. (2018, 16 July). Does political stability consolidate irresponsible governments? PNG 2012–2018. Message posted to <https://devpolicy.org/does-political-stability-consolidate-irresponsible-government-png-2012-2018-20180716/>
- Kabuni, M. (2021a). The Supreme Court and parliamentary politics in PNG. *The Interpreter*, Lowly Institute, Sydney.
- Kabuni, M. (2021b). The dual roles of PNG politicians and why they fail at both. *The Interpreter*, Lowly Institute, Sydney.
- Kabuni, M. (2021c). PNG's security ahead of 2022 elections: confronting threats on many fronts. Policy Forum: Asia & the Pacific Policy Society, 9 December 2021
- Kama, B. (2017). *An analysis of Papua New Guinea's political conditions and trends through 2025.* Sydney: Lowly Institute.
- Kwa, E. (2001). *Constitutional Law of Papua New Guinea.* Sydney Lawbook Co.
- Laveil, M. (2021, 8 July). PNG's MP funding: volatile and unaccountable. Message posted to <https://devpolicy.org/pngs-mp-funding-20210708/>
- Mou, F. (2016, 10 May). DSIP funds keeps MPs intact with O'Neill, says Sungi. *PNG Loop News.* Message posted to <https://www.facebook.com/looppng/posts/1818998448328016/>
- Namah v O'Neill* [2013] SCA 165 of 2013 & SCA No. 177 of 2013 (4 September 2015).
- Namah v Pato* [2016] PGSC 13.
- Ombudsman Commission Report on UBS Loan, 2020.*
- PNG Drug Act 1952.*
- Pumuye, G. and Kuman, J. (2022). The need for law reform in Papua New Guinea. In Brief 2022/02, Part 1.

Australian National University: Department of Pacific Affairs.

*Radio New Zealand* (2013, 11 February). Busy legislative activity in PNG as MPs extend votes of no-confidence grace period.

Re Constitution Section 19(1) – Special reference by Allan Marat; In re Constitution Section 19(1) and 3(a) – Special reference by the National Parliament [2012] PGSC 20; SC1187 (21 May 2012), para 301; *Namah v Pato* [2016] PGSC 13; SC1497 (26 April 2016).

Russell, M. and Gover, D. (2017) *Legislation at Westminster: Parliamentary actors and influence in the making of British Law*. London: Oxford University Press.

Supreme Court Reference Nos 2, 3 & 5 OF 2014.

Walton, W.G. (2018). *Anti-corruption and its discontents: Local, national and international perspectives on corruption in Papua New Guinea*. New York: Routledge.

Wiltshire, C. (2014, 13 January). Without fear or favour? O'Neill's district authorities to build capacity and consolidate MP powers in PNG. Message posted to <https://devpolicy.org/without-fear-or-favour-oneills-district-authorities-to-build-capacity-and-consolidate-mp-powers-in-png-20140113/>

Wiltshire, C. and Oppermann, T.C. (2015). Politicising drought relief in Papua New Guinea. *In Brief*, 2015/66. Australian National University Department of Pacific Affairs.

Woods, T. (2018). The clientelism trap in Solomon Islands and Papua New Guinea, and its impact on aid policy. *Asia and The Pacific Policy Studies*, 5(3): 481–494. Available at <https://onlinelibrary.wiley.com/doi/epdf/10.1002/app5.23>

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