



National Integrity Systems
Transparency International
Questionnaire

Papua New Guinea 2003

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This Questionnaire forms part of the National Integrity Systems Country Study Report, 2003, for Papua New Guinea.

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Papua New Guinea

The National Integrity System Indicators

Questionnaire

Executive

Can citizens sue Government for infringement of their civil rights?

Formal or Legal Position

There are existing laws in the constitution under civil liberties that allow for citizens to sue the government or its agents.

What Actually Happens

Suing the government or its agents can be a very expensive undertaking. The majority of citizens cannot afford the high legal fees and so they do not exercise their rights. Those who could afford the legal fees have successfully taken the government and its agents to court. A good percentage of the citizens, however, are ignorant of their rights to sue the government.

Are there procedures for the monitoring of assets, including disclosure provision, for Cabinet and other Government Ministers?

Formal or Legal Position

Yes, under the OLDRL.

What Actually Happens

They are required by the OLLDRL to make annual returns on their assets and business interests to the Ombudsman Commission.

Are there procedures for monitoring of assets, including disclosure provisions, for high level officials?

Formal or Legal Position

Yes. Under the OLDRL.

What Actually Happens

The responsibility for monitoring the assets of high level officials is left with the officials themselves. They are expected to make annual returns on their assets and business interests to the Ombudsman Commission. 308 annual statements were received in 2000 which was down from the high of 557 in 1998 and implies that not all leaders are providing the required returns. The OC reported that 15% of its annual resources in 2000 were

devoted to making sure that leaders comply with the provisions of the leadership code as it applies to statements.

Are there any differences in procedures and disclosure provisions between elected ministers, appointed ministers and high level officials?

Formal or Legal Position

No. all are covered by OLDRL (sect. 6 & 10), there are no appointed ministers.

What Actually Happens

All are required to provide an annual return to the Ombudsman Commission.

Are there conflict of interest rules for ministers?

Formal or Legal Position

Yes, OLDRL especially section 6, 10 & 15.

What Actually Happens

Ministers are required to declare all their interests to the PNGOC and any respective committee prior to voting or decision making should there be conflicting interest. However it is very difficult to administer this provision if a minister fails to disclose a gift and the onus is left on individual ministers.

Are there conflict of interest rules for high level officials?

Formal or Legal Position

Yes – Sect. 6 & 10 of OLDRL.

What Actually Happens

Difficult to be policed and the onus is left to the officials to declare.

Are there rules and registers concerning gifts and hospitality for Ministers?

Formal or Legal Position

OLDRL especially Sections 11 & 12.

What Actually Happens

Very difficult to police this provision. May be misunderstood as gifts can be accepted as culture in PNG.

Are there rules and registers concerning gifts and hospitality for high level officials?

Formal or Legal Position

Yes, Sect. 11 & 12 of OLDRL

What Actually Happens

But the onus lies with the high level officials to comply with the rules to declare these gifts. Also these rules clash with the culture.

If so, are these registers kept up to date? By whom?

Formal or Legal Position

Not often & by PNGOC

What Actually Happens

Comes into effect when leaders declare their interest.

Have they legal powers to enforce disclosure?

Formal or Legal Position

Yes, under sect. 4, 15, 17 of OLDRL.

What Actually Happens

- Officials can avoid disclosure on technical grounds.
- PNGOC lacks the capacity & resources to verify, especially the details of disclosure.

Have they staff to investigate allegations?

Formal or Legal Position

Yes, PNGOC has staff in three (3) regional centers and in POM.

What Actually Happens

PNGOC has too much on its plate and lacks capacity to investigate all allegations.

What powers of sanction are in place against parliamentarians?

Formal or Legal Position

The OLDRL does not specify the sanction except to rule as misconduct of office.

What Actually Happens

Guilty leaders face up to 3 years dismissal from their office.

Have they ever been invoked?

Formal or Legal Position

Yes

What Actually Happens

But there have been appeals against tribunal decisions resulting in reduced penalties.

What powers of sanction are in place against ministers who are also parliamentarians?

Formal or Legal Position

Face Leadership Tribunal

What Actually Happens

Loss of office and they are ineligible to hold any public office for three years along with lesser sanctions such as fines.

Have they ever been invoked?

Formal or Legal Position

Yes (See Report, Annex 1, Tables 1 and 2)

What Actually Happens

Leaders appeal and have reduced penalties. In a very few instances they have been able to win appeals against their penalties, in the majority the decisions of the tribunals have been upheld.

What powers of sanction are in place against ministers who are not parliamentarians?

Formal or Legal Position

N/A

What Actually Happens

N/A

Have they ever been invoked?

Formal or Legal Position

Yes.

What Actually Happens

Leaders avoid dismissal by resigning prior to facing the tribunal.

Are there restrictions on post ministerial office employments?

Formal or Legal Position

No.

What Actually Happens

Leaders are not restricted from working elsewhere. Ex-ministers often gain employment with the government either as ministerial advisors or other political appointments.

Are members of the executive obliged by law to give reasons for their decisions?

Formal or Legal Position

No and generally they do not. The decisions of the national Executive Council were supposed to be secret. In practice this was not always so.

What Actually Happens

Decisions were quite often leaked along with submissions setting out the reasons for the decision. Ministers often made questionable decisions which were never explained unless a public enquiry was instituted e.g. the purchase/lease of aircraft that would not "cost the state a toea" or purchases of military hardware and other decisions involving large capital expenditures.

Do Ministers or equivalent high level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances?

Formal or Legal Position

No, the requirement in procurement procedures implies a board decision.

What Actually Happens

Of course the ministers can use special provision and 'discretionary power' to revoke a committee decision or award contracts and licences.

Are there administrative checks and balances on decisions of individuals of the executive?

Formal or Legal Position

Yes, Acts like Public Finance Management Act & Public Service Management Act.

What Actually Happens

An executive member can avoid the checks & balances by replacing the officer responsible with his own men. Otherwise, officials waiver the checks – balances in fear of being reprimanded.

Legislature

Is the legislature required to approve the budget?

Formal or Legal Position

Yes.

What Actually Happens

Executives use numerical strength to get the budget approved.

Are there significant categories of public expenditure that do not require legislative approval? (which departments does this involve, what is their expenditure and what percent does this represent of the government's annual expenditure?)

Formal or Legal Position

Yes, 'off budget' agencies like statutory/commercial entities owned or partially owned by the government.

What Actually Happens

However the performance of SOEs amidst political interference had been very poor. Consequently they have been making a loss. The government is then approached to bail out the entities/or support the entities.

Are there conflict of interests rules for parliamentarians?

Formal or Legal Position

Yes, the OLDRL (Sect. 6, 10 & 15).

What Actually Happens

Parliamentarians usually wait until reminded by the PNGOC to declare interests.

Are there rules and register concerning gifts and hospitality?

Formal or Legal Position

Yes, OLDRL (Sect. 11 & 12).

What Actually Happens

PNGOC lacks capacity to implement these rules.

If so, are these registers kept up to date? By whom? Have they legal powers to enforce disclosure?

Formal or Legal Position

Updated by PNGOC. Enforced under Sect. 4, 17 & 15 of OLDRL.

What Actually Happens

Registries are updated annually and upon declarations by members. Where there is no declaration, then there is no record nor update.

Have they staff to investigate allegations?

Formal or Legal Position

Yes: in PNGOC.

What Actually Happens

But they lack resources, capacity and political will. Often the investigations are aborted or delayed.

What powers of sanction are in place against parliamentarians?

Formal or Legal Position

Same as those for ministers and high level officials – they can be dismissed from office or liable to lesser sanctions such as fines if proven guilty by a leadership tribunal.

What Actually Happens

Members escape sanctions by resigning before facing a leadership tribunal. Otherwise they escape penalties on technical grounds.

Have they ever been invoked?

Formal or Legal Position

Yes

What Actually Happens

Several elected Members of Parliament were referred to the Leadership Tribunal and suspended.

Are there restrictions on post legislature employment?

Formal or Legal Position

No, (unless dismissed by a Leadership Tribunal).

What Actually Happens

Ex MPS join the parliamentary staff as consultants, or use political connections to be appointed as chairman and members of various government boards.

Electoral Commission

Is there an independent Electoral Commission (if not, are the arrangements for elections in the hands of agencies who are widely regarded as being non-partisan)?

Formal or Legal Position

Yes, as a constitutional body.

What Actually Happens

The experiences of 2002 & 1997 elections (esp. anomalies and abuse in voting, the poor logistic support on election violence, etc...) have brought into question the impartiality of the Commission.

Who appoints the Head of the Commission?

Formal or Legal Position

Electoral Commissioner appointed by a Committee comprising of the PM, Leader of Opposition, Chairman of Related Permanent Parliamentary Committee, and the Chairman of PSC.

What Actually Happens

Committee makes the recommendation to the Governor General who makes the appointment..

Political Parties

Are there rules on political party funding?

Formal or Legal Position

Yes, Part IV, V & VI of the OLIPPAC.

What Actually Happens

Recently passed and yet to be fully implemented.

Are substantial donations and their sources made public?

Formal or Legal Position

No.

What Actually Happens

The OLIPPAC only defines for the sources of funds to be lodged to the Registrar of Political Parties who has been appointed to control the Integrity of Political Parties legislation, compile a register of parties, members, donations etc and determine whether parties are in compliance with the Act.

Are there rules on political party expenditures?

Formal or Legal Position

Yes. Part VI (Sect. 67) of the OLIPPAC.

What Actually Happens

However, the law does not regulate on what and where to spend, except to demand political parties to specify details of all their expenditure.

Are political party accounts published?

Formal or Legal Position

No.

What Actually Happens

No law to enforce party accounts to be published.

Are accounts checked by an independent institution, are they published and are they submitted to parliament?

Formal or Legal Position

No.

What Actually Happens

Political Parties had been operating on an ad-hoc basis. The well established parties prior to the OLIPPAC had no assets or shared assets with companies owned by party leaders.

Does that institution start investigations on its own initiative?

Formal or Legal Position

No.

What Actually Happens

Cannot tell since the OLIPPAC is yet to be implemented.

Who appoints the Head of the institution?

Formal or Legal Position

Sect. 40-42 of OLIPPAC refers to the FBM to be headed by a Chairman to be elected from within the board.

What Actually Happens

Recently implemented and therefore we are yet to see any trends. However it is most likely for the Head to be under immense limelight especially in the light of the distribution of resources to political parties.

Supreme Audit Institution

Is the national auditor general independent? i.e. Is the appointment of the general auditor required to be based on professional criteria/merit?

Formal or Legal Position

Yes. It is a constitutional office therefore it is independent. Appointment at this stage based on merit.

What Actually Happens

At this stage the Auditor General has been very much a stable appointee from within the organization. But the appointment process has never been tested. The recent revival of PAC might cause politicians to revisit the appointment procedures.

Is the appointee protected from removal without relevant justification?

Formal or Legal Position

Yes. As a constitutional office holder, he/she can be removed if there is a breach of the leadership code.

What Actually Happens

But the appointment process has never been tested. The recent revival of PAC might cause politicians to revisit the appointment procedures

Are all public expenditures audited annually?

Formal or Legal Position

Yes, by law.

What Actually Happens

Practically and due to incapacity the auditing process exceeds a financial year.

Is reporting up to date?

Formal or Legal Position

No.

What Actually Happens

Lack of resources prevents updating.

Are reports submitted to a Public Accounts Committee and/or debated by the legislature?

Formal or Legal Position

Yes. Section 214 of the Constitution.

What Actually Happens

The Somare-Marat government has revived the PAC which had been allowed to become moribund. There has been vigorous reporting in the press of its findings and some speculation that it has been underfunded. However the chairman has assured the author that that is not the case. The current PAC has not been in existence for 12 months and therefore not obliged to report to the Parliament. References of irregularities have been made to the police and the OC.

Are all public expenditures declared in the official budgets?

Formal or Legal Position

No.

What Actually Happens

Off budget organizations and SOEs function outside of the budget. Even the existence of EDF enables MPs to spend public monies outside the official budget.

Judiciary

Have the courts the jurisdiction to review the actions of the executive (i.e. Presidency, the Prime Minister's and their officials)?

Formal or Legal Position

Yes, 'allowed under the doctrine of separation of powers'.

What Actually Happens

Courts can review executive decisions if the executive had erred by violating the constitution and other Acts of Parliament.

Are judges/investigative magistrates independent? i.e. Are appointments required to be based on merit? Are the appointees protected from removal without relevant justification?

Formal or Legal Position

Functionally independent but their appointments may be questionable.

Covered by the OLDRL therefore they can be dismissed, but only if they are guilty.

What Actually Happens

PNG's judiciary has been considered to be very independent, although the appointment of the current Chief Justice at one stage raised eyebrows especially when he was much younger than the incumbent Deputy Chief Justice. There is no hard evidence that the judiciary has been in any way compromised.

Are recruitment and career development based on merit?

Formal or Legal Position

Yes.

What Actually Happens

However regional sentiments tend to be an 'invisible' criteria used in recruitment and promotions of judges.

Have there been instances of successful prosecutions of corrupt senior officials in the past 3 years?

Formal or Legal Position

Yes.

What Actually Happens

See Report, Annex 1, Tables 1 & 2 on leaders dismissed (and also please see note above about appeals).

Civil Service

Are there laws establishing criminal and administrative sanctions for bribery?

Formal or Legal Position

No. No specific laws against bribery except for OLDRL which is applicable to senior officials only.

What Actually Happens

Sanctions against bribery are addressed only where there are fraudulent charges which are reported and investigated.

Are there rules requiring political independence of the civil service?

Formal or Legal Position

Yes – The Public Service Management Act which is enforced by the Public Services Commission and the Department of Personnel Management. The Government recently passed three complementary bills on 13 March 2003 which guarantees the independent appointment and dismissal of Departmental heads.

What Actually Happens

The recent establishment of the Public Service Management Act has opened the bureaucracy to political nepotism.

Are recruitment/career development rules based on merit?

Formal or Legal Position

Yes. Usually captured in Staff Development Plans

What Actually Happens

But these have been severely violated and made redundant by tribal/ethnic affiliations.

Are there specific rules to prevent nepotism? (note: rules discriminating positively in favour of marginalized or minority groups are not included in this description).

Formal or Legal Position

No.

What Actually Happens

The ethnic and regional divisions have allowed for discrimination using provisional groups/regional groups as a category.

Are there rules (including registries) concerning acceptance of gifts and hospitality? By whom?

Formal or Legal Position

No.

What Actually Happens

Only for the high level bureaucracy and law enforcing agencies. There are no specific rules concerning gifts and hospitality for those below the Secretary (Head of Department) level. However, there are conventions and policy directives, especially with the police force, on ethics in the bureaucracy. However, these are not effectively policed.

Have they legal powers to enforce disclosure?

Formal or Legal Position

No. Except under criminal laws should the officer be required to.

What Actually Happens

N/A

If so, are these registers kept up to date? By whom? Have they staff to investigate allegations?

Formal or Legal Position

No.

What Actually Happens

N/A

Are there restrictions on post public service employment?

Formal or Legal Position

Yes, especially if you've been retrenched you have to wait for no less than three years before you are redeployed into the Public Service.

What Actually Happens

But incapacity problems and nepotism have been seen to facilitate the re-employment of ex public servants. Public servants (retrenched/retired) can seek employment in the private sector.

Are procedures and criteria for administrative decisions published (e.g. for granting permits, licenses, bank loans, building plots, tax assessment, etc?)

Formal or Legal Position

Not often.

What Actually Happens

Throughout the bureaucracy, too many acting appointments and lack of resources prevent information about such decisions being accessible to the public.

Are there complaint mechanisms for public servants and whistleblower protection measures?

Formal or Legal Position

Yes. Through their union (PEA) and appeal and complaint units within the civil service. Whistleblower legislation has been prepared and is before the Parliament. THE PNGOC Accepts complaints from the public but this is much lower profile than its leadership responsibilities.

What Actually Happens

But no protection for whistle blowers yet.

Civil servants are either ignorant or security conscious, therefore do not complain and raise alarms against corrupt dealings.

Are there means of complaints by members of the public?

Formal or Legal Position

Not often.

What Actually Happens

They are either ignorant or there are no avenues put forward by the civil service as feedback options to gauge public views.

Police and Prosecutors

Is the commissioner of police independent? i.e. are appointments required to be based on merit?

Formal or Legal Position

Yes by law but there is an independence question in the appointment – NEC appointment.

What Actually Happens

Appointment is usually from Assistant Commissioners from within the force. But this does stop the NEC from appointing an outsider.

Is the appointee protected from removal without relevant justification?

Formal or Legal Position

No – subject to NEC.

What Actually Happens

Between 1997-2002 there were five changes made to the top post. This was reflective of changes in the Government.

Are public prosecutors independent?

Formal or Legal Position

Yes.

What Actually Happens

Delays, no shows and missing files suggest that they may be partial/open to other's influence.

Are there special units for investigating and prosecuting corruption crimes?

Formal or Legal Position

Yes – Police Fraud Squad.

What Actually Happens

Despite resource constraints and incapacity the fraud squad can prosecute & jail MPs/Leaders. Some MPs have been successfully prosecuted and imprisoned such as Mr Esoram Buregi who was imprisoned for embezzlement.

Is there an independent mechanism to handle complaints of corruption against the police?

Formal or Legal Position

Not a specific body except PNGOC and private Law Firms

What Actually Happens

Citizens usually seek assistance from private law firms (which are very expensive) and PNGOC to complain against police.

Does civil society have a role in such a mechanism?

Formal or Legal Position

Yes.

What Actually Happens

Bodies like TI (PNG), the CCAC and civil society are continually receiving complaints about police corruption, these are passed on to the police complaints section.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

Formal or Legal Position

Yes

What Actually Happens

Instances of officers being jailed and dismissed from the force due to corrupt practices. Complaints are investigated by the Internal Investigation Unit which received 562 complaints in 2000 which resulted in 224 suspensions, 126 dismissals and a 21 court

convictions, there were a number of lesser punishments. There is no breakdown of reasons for complaints by cause so it is not possible to tell how many were for corruption.

Are there any cases of corruption within the prosecuting agencies?

Formal or Legal Position

Not heard of at this stage.

What Actually Happens

But frequent cases of missing files, inadequate evidence amongst prosecutors raises reservations in this regard.

Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery?

Formal or Legal Position

Criminal Law.

What Actually Happens

The PNGOC & the OLDRL do not allow police to use the same evidence used in a leadership tribunal to deal with leaders.

Is the law applied?

Formal or Legal Position

Yes

Is private-to-private corruption punishable by law?

Formal or Legal Position

No – unless it is a fraud case or has developed into a criminal case.

What Actually Happens

Or unless it leads to breach of a criminal code.

Is the law applied?

Formal or Legal Position

There are provisions for prosecution under the criminal code.

What Actually Happens

Seldom because of resource constraints in the fraud squad. The fraud squad has recently been given a grant from the Australian government to expand its operations and purchase equipment.

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

Formal or Legal Position

Statistics not available.

What Actually Happens

Nevertheless a considerable number of prosecutions have been successful although those with resources hired established lawyers to bail them out on technical grounds

Public Procurement

Do rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Formal or Legal Position

Yes – when tenders are called for in the papers.

What Actually Happens

However this is undermined by factors such as nepotism, inside information & networks.

Are the rules laid down in documents publicly accessible?

Formal or Legal Position

Not often unless advertised.

What Actually Happens

Major government projects and especially those funded with aid money have some requirements published in local papers when bidding.

Are there strict formal requirements that limit the extent of sole sourcing?

Formal or Legal Position

Yes. There are regulations governing all levels of procurement small purchases can be made without going to tender but with more than one quote and the requirements get tougher as the size of the contract increases. There is a widely used mechanism called a Certificate of Inexpediency which allows tender procedures to be by-passed.

Are all major public procurements widely advertised to the private sector?

Formal or Legal Position

No.

What Actually Happens

There are cases of selective bidding or organizations confining tenders to local companies.

Are procurement decisions made public?

Formal or Legal Position

No.

Is there a procedure to request review of procurement decisions?

Formal or Legal Position

No.

What Actually Happens

Yet to cite a case on this.

Can an unfavorable decision be reviewed in a court of law?

Formal or Legal Position

Yes, if there is evidence of breach of existing Law

What Actually Happens

Often this is the prerogative of the organization calling for tenders. And it is difficult to question criteria used by the organization.

Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

Formal or Legal Position

No

What Actually Happens

The onus is on the government, but there is no specific provision to blacklist such companies. It would also be difficult given that companies can change names.

Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Formal or Legal Position

No standard law, but there are practices or attempts made for transparency in the procedures towards awarding contracts.

Are assets, incomes and life styles of public procurement officers monitored?

Formal or Legal Position

No.

What Actually Happens

There are no means to monitor them.

Ombudsman

Is there an ombudsman or its equivalent (i.e. an independent body to which citizens can make complaints about mal-administration)?

Formal or Legal Position

Yes – PNGOC.

Is the ombudsman independent? i.e. Are appointments required to be based on merit? Is the appointee protected from removal without relevant justification?

Formal or Legal Position

Yes – Appointed by the respective NEC committee. An the appointee cannot be easily removed unless in breach of the Leadership code until his/her term expires (5 year term).

What Actually Happens

Recently, the Ombudsman Commissioner has been very vocal and active against corruption. He has trodden on the toes of several prominent politicians and may be replaced. The Ombudsman Commission has a central and four regional offices. Despite the high profile of the leadership cases the majority of referrals are for minor transgressions affecting ordinary citizens. There were 290 files under investigation by regional offices at the end of 1999 and 2953 complaints were received in 2000.

Has an ombudsman been removed without relevant justification in the last five years?

Formal or Legal Position

No.

Can petitioners complain anonymously if they fear possible reprisals?

Formal or Legal Position

Yes.

What Actually Happens

Investigators allow for anonymous complainers but this anonymity might inhibit effective investigation.

Are reports of the ombudsman published?

Formal or Legal Position

Yes. Both reports on Specific Inquiries and Annual Reports, which are also presented to parliament.

What Actually Happens

Lack of resources and capacity has forced annual reports to be late by at least 3 years. But annual reports and Inquiries are open for public consumption. The latest report publicly available is for 1999.

Does the government act on the ombudsman's recommendations?

Formal or Legal Position

Not often.

What Actually Happens

It only acts on portions of reports when they become issues converted into bills or raised during question time in parliament.

Investigative/Watchdog Agencies

Are there special investigative or watchdog agencies?

Formal or Legal Position

No. No government established Agency except for PNGOC. Although ICAC Bill is yet to be passed by the parliament. The government is in the process of creating the National Anti Corruption Alliance within the public service which will bring all agencies who have a role in investigating financial mismanagement together for specific investigations.

What Actually Happens

A public institution like the ICAC is yet to be established.

But there are autonomous/industry based forums/agencies, like PNG Media Council, TI and others who often 'blow whistles' more than actually conduct investigations.

What are their main responsibilities: Investigation; Prevention; Education and Awareness, Prosecution.

Formal or Legal Position

ICAC would be investigating corruption.

What Actually Happens

Reservations on an ICAC include duplication of PNGOC and lack of resources and capacity to sustain it and to make it effective.

Are they independent? i.e. Are appointments required to be based on merit? Are appointments generally based on merit?

Formal or Legal Position

ICAC – Not defined at this stage

What Actually Happens

Should ICAC come into operation and given the immensity of corruption, there could be possibilities for manipulating the appointment process.

Are the appointees protected from removal without relevant justification?

Formal or Legal Position

ICAC – Not defined at this stage

Are their reports published (other than when criminal charges are pending)?

Formal or Legal Position

ICAC – Yes, they will be made public.

What Actually Happens

Yet to be seen (ICAC).

Do they report publicly to the legislature on the general scope of their work?

Formal or Legal Position

ICAC – Yes, this is the intention.

What Actually Happens

They will be required to act as a constitutional body or by an Act of Parliament requirement.

Can people complain to the agency without fear of recrimination?

Formal or Legal Position

ICAC – Yet to be implemented.

What Actually Happens

ICAC – Yet to be implemented.

Media

Is there a law guaranteeing freedom of speech and of the press?

Formal or Legal Position

Yes, Section 46 of the Constitution.

What Actually Happens

But this section is more definite on civil liberty (freedom of speech) and not specific on free press.

Is there censorship of the media?

Formal or Legal Position

No. But attempts were made in 1996 to have the media made more accountable.

What Actually Happens

There have been proposals by the government to control the press and these went as far as a public workshop to discuss a media tribunal in 1988. However, this drew a very strong reaction from society and especially the press. The bill was never passed by parliament.

Is there a spread of media ownership?

Formal or Legal Position

From the size of the market there is considerable diversity consisting of EMTV – Channel 9 (Australia) . Post Courier R. Murdoch (Aust), National – Rimbunan Hijau (Malaysia) Independent – Churches, NBC – govt. NAU FM – Yumi FM, PNG and others.

What Actually Happens

The economics of the media sector are unprofitable. The market is too small to support more media outlets.

Does any publicly-owned media regularly cover the views of government critics?

Formal or Legal Position

Yes, National Broadcasting Commission, the government owned station is supposed to provide independent news and current affairs programmes.

What Actually Happens

It has been limited by lack of funds and many of its regional stations are off the air. Its ability to provide current affairs programmes has also been severely limited.

Have journalists investigating cases of corruption been physically harmed in the last five years?

Formal or Legal Position

Yes, but verbally assaulted.

Does the media carry articles on corruption?

Formal or Legal Position

Yes – a lot, but only those that surface and are brought to the attention of the media.

What Actually Happens

The media only publish what they have heard. They lack the initiative to conduct investigations and publish their findings.

Do media licensing authorities use transparent, independent and competitive criteria and procedures?

Formal or Legal Position

N/A – Media not regulated here. Anybody can start a media company, under other business related regulations.

Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?

Formal or Legal Position

Yes – media can be sued for defamation.

What Actually happens

There is a great deal of bluster and leaders threaten legal action but this very seldom eventuates unless there is a genuine grievance.

Civil Society

Does the public have access to information and documents from public authorities?

Formal or Legal Position

Not formally. Freedom of Information legislation also before the Parliament and the current PM has made a commitment to having it passed. SOEs are obliged to report to the Parliament annually but many are years behind and there are no statutory requirements regarding physical performance.

What Actually Happens

The public's accessibility is limited often due to their ignorance, or lack of interest. Information is also accessed through annual reports, but this has become meaningless because reports are so far behind due to failure of the Parliament to police the Acts and also the fact that the Auditor-General is also far behind in reporting on financial performance. The revival of the PAC has put pressure on SOEs to get their reporting up to date.

Do the public authorities generally co-operate with civil society groups?

Formal or Legal Position

Yes. But co-operation only comes about when the government wishes to legitimize its actions. Otherwise public authorities have been distanced from the society.

What Actually Happens

It hasn't been until the last 10-15 years that public authorities started to listen to civil society groups.

The level of cooperation varies between different types of groups and the government eg: the government is more willing to listen to and co-operate with the Chamber of Commerce, rather than student groups or NGOs. The evolution of TI and the CCAC have meant that there has been varying degrees of cooperation and disclosure. Often information is made available in a non-attributable basis.

Are there citizen's groups or business groups campaigning against corruption?

Formal or Legal Position

Yes.

What Actually Happens

Yes. Especially the TI chapter here and other NGOs in particular. Eg: Caritas.

Are there citizen's group monitoring the government's performance in areas of service delivery, etc?

Formal or Legal Position

Yes. But not as a single voice until the recent establishment of CIMC.

What Actually Happens

Yes, and vocally. The presence of a free press helps this considerably..

Do citizen's groups regularly make submissions to the legislature on proposed legislation?

Formal or Legal Position

No. Unless the representatives of the groups are appointed by the legislature or invited to make submissions.

What Actually Happens

Citizens groups in PNG are passive until their interest is threatened by the government or other groups and circumstances. And their passivity and reactions often result in irrational and 'knee-jerk' policies. Government rarely consults the private sector or civil society regarding proposed changes to legislation or regulations. The CIMC has been set up to improve dialogue between all sectors of society and government does use this to air proposed legislative changes.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

Formal or Legal Position

Yes, but in a casual manner.

What Actually Happens

TI (PNG) in conjunction with the Education Department and other educators has developed a training course for teachers that introduces ethical and moral issues into the education system at a very basic level. This is taught at teachers training institutions around the country.

Regional and Local Government

Are there, at regional and local level, rules and disclosure provisions similar to those operating at national level on nepotism, conflict of interest, gifts and hospitality, and post public office employment?

Formal or Legal Position

Yes all of heads of Provincial Depts and their deputies come under the leadership code.

What Actually Happens

All elected leaders of local governments are required to declare their interests. This is yet to be tested due to less perks and privileges and accessibility to resources at provincial and local level.

What public offices at regional and local level are appointed by the national government?

Formal or Legal Position

Heads of Provincial Departments/Provincial Administration but individual MPs can influence the appointment of District Managers in respective constituencies.

What Actually Happens

Provincial administrators are also replaced on the basis of their party loyalties and the influence of Provincial Governors.

Is there a legal requirement that meetings of city/town councils be open to the press and public?

Formal or Legal Position

No but press can cover upon invitation by the councils.

What Actually Happens

City/town council news is disseminated to the press by councils, and not by the press or public's own initiative.

Are there clear criteria restricting the circumstances in that city/town council can exclude the press and public?

Formal or Legal Position

No. The Press and public can access information on any subject depending on the availability of information and accessibility of information.

What Actually Happens

City/town councils at this moment are insignificant in resource development or resource distribution. Consequently they do not attract much attention from the press nor the public.

Do national agencies with a remit to deal with corruption (anti-corruption agencies, ombudsmen, supreme audit institutions, and so on) work at regional or local levels and are there specific agencies with regional and local responsibilities?

Formal or Legal Position

Yes, eg. Auditor General is by law required to inspect the books of all government organizations. And the Ombudsman Commission has regional offices.

What Actually Happens

There are regional branches of AG and PNGOC but they lack capacity and resources to police the code and implement the transfer functions. They also wait for the public to raise complaints before investigating.

Progress with Government Strategy

Has the government announced an anti-corruption strategy and a timetable for implementation?

Formal or Legal Position

Yes, the Prime Minister has committed his government to passing the iCAC Bill. There is no broader strategy despite the fact that politicians everywhere state their commitment to 'transparency and accountability'.

What Actually Happens

The ICAC bill is before parliament and is yet to be passed.

How much of the strategy has been implemented?

What Actually Happens

None.

Is the strategy at national level or regional/local level?

What Actually Happens

N/A

Is the government meeting its own timetable?

Formal or Legal Position

N/A.

What Actually Happens

N/A

Donor Anti-Corruption Initiatives

Which bilateral and multilateral donor agencies are based in the country?

UN, AusAid ADB & WB

What types of anti-corruption initiatives have they supported?

All agencies have procurement and appointment procedures that should be followed. World bank and ADB are specifically targeting corruption in a number of ways e.g improving public administration and public finance management, but none of these reach the level of the common man.

But they support initiatives through the concept of good governance and some specific programmes aimed at improvement in this area.

Are there any examples of donors cooperating or coordinating their programs?

Yes. Under a program they would support different phases of a project.

Donors normally would have their own project focus. However and under the banner of good governance they would jointly sponsor different phases of a program.

Future Research and Donor Support

Can key areas or issues be identified in terms of corrupt activity that the research for the report has demonstrated as requiring immediate attention, and which are they?

Yes.

- The tendering process under public procurement.
- The 'carrot & stick' culture amongst service deliverers.
- The arrogance by leaders to rort procedures for their own benefit.
- The lapse in merit-based appointments.
- The lack in policing of existing laws funding of institutions dealing with corruption.
- The passive attitude of society towards corruption.

Is there a particular aspect of corrupt activity either particular to the country concerned, or significant in terms of effect or impact, that would require more in-depth research?

Yes.

Process:

- Nepotism and disregard for merit in appointment of leaders.
- Lack of transparency in public procurement.
- Lack of adherence to the rules and regulations underlying organizations and activities.

Is there a particular approach or initiative to combating corruption that may be considered for further research or study as an example of best practice?

Yes.

Most viable initiatives that would likely to have effect (arranged in priority) are:

- Facilitating more involvement of society. And especially how societal participation in governance should increase and be sustained through the CIMC and successful introduction and implementation of whistleblowers legislation.

- Finding effective means to firstly eradicate corrupt attitudes amongst lower level officials and secondly to reshape attitudes and behaviour of the service deliverers.

Can key areas or issues relating to possible anti-corruption initiatives be identified as requiring donor support.

- Most importantly aid donors need to be specific in addressing corruption. They should insert clauses in their aid that state the aid would be suspended should corruption be detected.
- They should also devise a pledge that would be signed by both parties to uphold anticorruption behaviour.
- Introduction of an Integrity Pledge for all major contracts issued in PNG.

Can key areas or issues relating to anti-corruption initiatives be identified in terms of forming the basis for potential donor prioritization, sequencing, cooperation and coordination?

In addition to gender and good governance which are used as preconditions to aid, donors should add:

- Transparency,
- Community projects,
- Societal involvement,
- Adherence to accountability and ethics within the Public Sector , and
- Ethics within investors as additional conditions.