



**INTEGRITY OF POLITICAL PARTIES & CANDIDATES
COMMISSION**

THE GAIRE DIALOGUE

“CONFIDENTIAL”

**REGISTRY OF POLITICAL PARTIES/CENTER FOR
DEMOCRATIC INSTITUTIONS, ANU**

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FORWARD

The **Gaire Dialogue** is the result of the OLIPPAC Review Workshop held at the March Girls Resort on 13th – 14th April 2011. International and national experts from Australia, PNG, Vanuatu, Fiji Solomon Islands and experts from the regional and international organizations such as UNWOMEN, PIF Secretariat and the Pacific Commonwealth Secretariat (Honiara) – all attended and contributed immensely to the OLIPPAC Review.

Issues concerning the behavior of political leaders both in parliament and out of parliament; actions of the Speaker on the floor of parliament in gagging debate or evading critical national issues in favour of the government of the day; remuneration packages for parliamentarians; women candidates; women in political parties; funding of political parties; training for political party officials; tenure of the Prime Minister and Speaker and many more contentious issues came under the microscope during the OLIPPAC Review.

Perhaps the most challenging and compelling issue is not identifying what is or has gone wrong in the political system and behavior of leaders but rather: How do we contain and administer them in order to become transparent, accountable and a responsible government in serving the interest of the people of PNG? This question goes deep into the fiber of our political and legal system. In fact it threads into the metaphysics of the idea of government that a government is instituted by the people through a democratically elected process to govern the State and its subjects. The virtues of good governance and high moral values expected of a leader are some of the fundamental pillars of the idea of utilitarianism and government. John Locke and John Stuart Mill have stressed the importance of quality leadership. Similarly, Plato and Aristotle have emphasized the same views. But why do political leaders in Papua New Guinea or elsewhere defy such good political and moral ideals?

The Organic Law on the Integrity of Political Parties and Candidates (OLIPPAC) was introduced by the Mekere government in 2000 and came into force in 2002 and for the past eight years of its existence many critics have argued that it has become a template for institutionalized corruption rather than stability. OLIPPAC has on the one hand created political stability, while on the other, has become a tool for a government in power to manipulate power in pursuit of its own agenda. Over a period of time critics of the government in power has seen negative outcomes in policies and decisions that have being counterproductive to the interest of the people of PNG. As a consequence, people cry foul to the government and its leaders. Has OLIPPAC contributed to this socioeconomic and political fiasco? If so, how do we contain it and redirect leadership energies to more positive and fruitful outcomes beneficial to the people of PNG? Would legislating through OLIPPAC and giving it additional laws be the answer? Would added legislation be the answer to these pertinent issues?

Finally, I wish to thank the Center for Democratic Institutions, Australian National University especially the efforts of its experts and learned people such as Professor Ron May and to Wollongong University for the presence of Professor Ted Wolfers and other eminent national academics, staff of the National Research Institute SUCH AS Dr Musawe Sinebare, Dr Alphonse Gelu, Dr Ray Aneré and Dr Michael Unage, Pacific Islands Secretariat Officials, Electoral Commissioner of Vanuatu, MSG and the Pacific Commonwealth Secretariat whose attendance during the OLIPPAC review were significant indicators showing their willingness to contribute to the development of OLIPPAC in Papua New Guinea.

Two notable people who contributed immensely to the OLIPPAC review process are Mr. Grant Harrison from the Center for Democratic Institutions, ANU and Dr David Aneré from IPPCC and to all Staff of the Registry of Political Parties. I thank you all for your contributions in shaping the political destiny of PNG through OLIPPAC. However, I must remind us that the task is far from over. We have yet to face the Kokopo OLIPPAC Conference during which the Gaire Accord will be endorsed as a template for the Kokopo Communiqué to pave way for necessary legislative changes to OLIPPAC.

Sir Kina Bona KBE
Registrar

Table of Contents

	Pages
Introductory Remarks	4-5
Patterns of Political Behaviour & Lessons from Administering OLIPPAC	5-6
Immediate Action (Political Party Regulation)	8-16
Funding for Female Candidates	17-19
Parliamentary Behaviour and Operations	19 – 22
Training for Political Parties and Parliamentarians	22 – 23
Long Term and Other Options	24 – 27
Next Steps in the Policy Review Process	27-28
Conclusion	28

1. INTRODUCTORY REMARKS

On 7 July 2010 the PNG Supreme Court ruled invalid those provisions of the Organic Law on the Integrity of Political Parties and Candidates (OLIPPAC) which sought to regulate the behavior of members of parliament (MPs), in particular:

- ss57-59, which limited the circumstances in which an MP who is a member of a political party could resign from that party and specified procedures to be following when resigning;
- ss60-61, which described procedures to be followed by the Ombudsman when investigating the circumstances of such resignations and by MPs when such investigations are taking place;
- s65, which required MPs to vote as their party determines on motions of no-confidence, votes for the election of Prime Minister, votes for the budget and votes in relation to Constitutional legislation;
- s66, which provided that votes cast contrary to s65 shall not be counted; and
- ss70-73 which extended similar limits to independent MPs.¹

The Court found that these restrictions were inconsistent with fundamental rights described in PNG's Constitution, including the freedoms of expression, assembly and association.²

The provisions in OLIPPAC concerning the regulation of political parties and the conduct of parties and candidates at elections were not challenged and remain intact.

On 13-14 April 2011, the IPPCC, with assistance from the Centre for Democratic Institutions (CDI) and the National Research Institute (NRI), convened a Policy Workshop to consider what administrative or legislative action should be taken in response to the Court's decision.³

¹ The Court also ruled that s81 of OLIPPAC (which allowed contributions to political parties by non-citizens) was inconsistent with ss129-130 of the Constitution (which prohibits contributions from non-citizens) and is therefore invalid.

² The Court's decision has also been understood to mean that the Constitutional provisions which enabled OLIPPAC are themselves inconsistent with fundamental rights provided for elsewhere in the Constitution. This indicates strongly that any future legislative attempt to limit the behaviour of MPs will, if challenged, be found to be unconstitutional (see Ted Wolfers, *Note on Outcome of Reference to the PNG Supreme Court on the Constitutionality of the OLIPPAC*).

³ The workshop, which was conducted at March Girls Resort, Gaire Village, was attended by 32 national and international experts. A list of workshop participants is attached.

This paper summarizes the main policy suggestions made during the course of the workshop. It also draws on comments made by participants in written responses to a series of Focus Questions.

Discussion during the workshop was wide-ranging and competing views were often expressed. The paper does not reflect all of the policy suggestions made at the workshop. Instead it is a summary of the most practical and feasible administrative and legislative actions that could be taken.

The suggestions have been grouped into two broad categories: action which could be taken immediately and longer-term options which warrant further public debate.

The paper begins by reporting some of the general conclusions which were drawn by workshop participants about political behavior in PNG and about the administration of OLIPPAC. Ok

2. PATTERNS OF POLITICAL BEHAVIOUR & LESSONS FROM ADMINISTERING OLIPPAC

Patterns of Political Behavior

While there was debate about the extent to which OLIPPAC achieved its object of promoting parliamentary stability (and indeed what stability means and whether it is desirable⁴), there was wide-spread agreement that the political behaviors which motivated the introduction of OLIPPAC are still evident. There was consensus that politics in PNG is still characterized by:

- Executive domination of the Parliament (including of the position of Speaker);

⁴ It was noted that stability in a governing coalition is not necessarily the same as stability in government policy and administration. It is possible for a stable governing party or coalition to be inconsistent in its policy making and resource allocation, just as it is possible for policy and administration to remain constant even when ministers or governments change. It was also noted, with reference to current political circumstances in the Middle East and North Africa, that long-enduring governing parties are not always responsive to social pressures. A political system which allows for orderly, responsive changes in political leadership can alleviate such pressures, leading to a more stable system of government.

- weak political parties (with most parties having poor internal discipline and little policy coherence); and
- Weak allegiance to parties by MPs (who are inclined towards party hopping in response to assessments of likely reward).

There was also a strong sentiment that these behaviors affect the quality of political governance in PNG and, therefore, warrant continuing public policy attention

Lessons from Administering OLIPPAC

Most participants acknowledged that the OLIPPAC provisions which sought to regulate the behavior of MPs were not only ambitious but difficult to administer. The complexity of the provisions was indicated by the fact that they:

- were poorly understood by MPs and their parties;
- required parties to exert influence over the members in a way that is beyond their current capacity; and
- required a degree of cooperation between the Speaker, the Registrar of Political Parties and the Ombudsman Commission which proved to be difficult to achieve.

This complexity led to instances where the law was not properly enforced.⁵ The absence of enforcement action did little to make parties and MPs believe that the compliance was necessary and had the cumulative effect of undermining the credibility of the law.

On the other hand, the party registration provisions (which are clear and unambiguous) have been relatively easy for the IPPCC to administer and for parties to comply with.

During the workshop the IPPCC identified four particular lessons:

- the importance of educating political parties and their officials about their obligations;
- the importance of having simple business processes to facilitate its administration and make efficient use of its staff resources;

⁵ Instances were cited during the workshop where parties did not meet to consider proposed Bills, where MPs voted in a manner inconsistent with party resolutions and where MPs changed parties without providing the required justification. Enforcement action was not taken in any of these cases.

- the importance of having clear internal operational policies to guide its decision-making – for example, policies which involve a gradual transition from educating parties and candidates about their obligations, to guiding parties and candidates through the processes of compliance and, ultimately, to strictly enforcing the law. And
- the importance of having clear divisions of administrative responsibility and lines of communication with other government agencies involved in administering OLIPPAC (especially with the PNG Electoral Commission and the Ombudsman Commission).

The IPPCC also noted that, having worked with political parties over a number of years to encourage compliance, it is appropriate now to increase expectations and enforce the law more rigorously.

Recommendation 1

That, in considering what further legislative action should be taken, the IPPCC assess carefully the complexity, cost and benefits of proposed action, to ensure that:

1. The intent of the proposal is clear;
2. The incentives for compliance are obvious and sufficient;
3. Those being regulated have the capacity and resources to comply;
4. Administrative oversight and enforcement responsibilities are clear;
5. Proposed regulators have the capacity to guide and enforce compliance.

Recommendation 2

That the IPPCC review its internal business processes, staffing capacity and operational policies to determine whether its processes or policies can be improved and /or implemented successfully.

1. Capacity building: a) IPPCC or Registry Staff; and
b) Staff of Political Parties
2. Reforms to the Commission membership

Recommendation 3

That the IPPCC review its relationships with other government agencies involved in administering OLIPPAC (i.e., the Parliament, the Electoral Commission and the Ombudsman Commission) with a view to improving information flows and operational coordination between all stakeholders.

1. Review IPPCC functions and membership;
2. Strengthen links with NRI, OC, EC, CRC, , Legislature, Treasury, Finance, National Planning, Monitoring & Evaluation; and other vital stakeholders and where possible, NGOs;
3. Add more power to IPPCC to monitor and enforce OLIPPAC.

3. IMMEDIATE ACTION

Political Party Regulation

Most of the political party regulation provisions in OLIPPAC were not ruled invalid by the Supreme Court and, therefore, remain in force. They are described in:

- Part 3, which contains general provisions relating to party membership, party executive officers and registration of parties;
- Part 4, which contains provisions relating to party registration processes (including cancellation of registration) and the dissolution and amalgamation of parties;
- Part 5, which contains provisions relating to party endorsement of candidates, party expulsion of members, the invitation to form government and prohibition on interfering with members;⁶ and
- Part 6, which contains provisions relating to public funding for political parties.

A number of possible amendments to these provisions were discussed during the workshop, as were changes to the way that some of the existing provisions are administered.

⁶ Most of the provisions ruled invalid by the Supreme Court were in Part 5 of OLIPPAC. However, the above mentioned provisions remain intact.

Legislative Changes to Party Regulations

The proposed changes, along with brief statements of pros and cons, are summarized in the following tables.

<u>Payment to Party Executive (Part 3, s25)</u>		
Allows salaries and allowances of presidents, secretaries and treasurers of registered parties to be publicly funded		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Payment only be made to parties with MPs	Will reduce the costs for the Government May cause the dissolution of political parties without current MPs	Will disadvantage parties without MPs May place an obstacle to the emergence of new parties
1. Parties with multiple MPs receive increased payments 2. Payments be made to the party and not to MPs 3. Party receives the quota not the MPs 4. Merge political parties if necessary	Would recognize that parties with more MPs have comparatively greater management costs Would provide financial incentive for parties to attract and retain MPs Parties merge for strength & efficiency in admin	May provide comparative advantage to parties with more MPs Discontinue payment to members who resign and join another party Individual MPs and supporters may be forced may be forced to shift

<u>Qualifications for Registration (Part 3, s28)</u>		
Establishes criteria for party registration		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Membership requirement be increased from a minimum of 500 to 1000, or more	May encourage smaller parties to amalgamate May cause the dissolution of smaller political parties Increase popular support at the grass root level	Amalgamation or dissolution of small parties will reduce party diversity and therefore diversity of political representation Will require membership registers to be audited to guard against artificial inflation of party membership registers Increase in dummy members
Party constitutions specify democratic internal decision-making procedures, with clear	Will discourage personality-based parties and encourage membership-based parties,	Requiring such provisions in party constitutions will not guarantee outcomes, although they will

accountability to party members	with clear roles and responsibilities for members, officials and MPs	represent a statement of principle
Party constitutions specify clear financial control provisions	Will encourage financial probity and minimize financial mal-administration	Requiring such provision in party constitutions will not guarantee outcomes, although they will represent a statement of principle
Party constitutions require party policies to be developed and reviewed at annual general meetings and to be published before a general election	Will discourage personality-based parties and encourage policy-based parties Will encourage transparent policy-making processes, in which party members are involved Will allow supporters and voters to hold parties to account for their policy performance May encourage parties with similar policy platforms to consider amalgamation	Requiring such provisions in party constitutions will not guarantee outcomes, although they will represent a statement of principle
Party constitutions specify candidate selection processes, including fit and proper person and Leadership Code tests	Will encourage parties to focus on the integrity and qualities of candidates, not just their access to campaign resources	Requiring such provisions in party constitutions will not guarantee outcomes, although they will represent a statement of principle
Party constitutions reinforce the obligation of office bearers and MPs to comply with the Leadership Code	Will encourage parties to focus on integrity in their operations and in the behavior of MPs	Requiring such provisions in party constitutions will not guarantee outcomes, although they will represent a statement of principle
Party constitutions specify disciplinary procedures in the event of a breach of party rules	Will strengthen the focus of parties on integrity in their operations and in the behavior of MPs	Requiring such provisions in party constitutions will not guarantee outcomes, although they will

		represent a statement of principle
<p>1. Party constitutions specify rules governing the relationship between party organization and MPs, specifically requiring that MP's parliamentary votes are consistent with party decisions and policies</p> <p>2. Party constitutions include penalties from members moving from one party to another</p> <p>3. Penalty Fees be imposed by parties consistent with OLIPPAC</p>	<p>1. Will strengthen the connection between MPs and their parties, encouraging consistency in MP voting behavior</p> <p>2. Create more stability and strengthen party solidarity</p> <p>3. Enforcement of penalty fees acts as a deterrent for unpredictable MPs</p> <p>4. Makes enforcement work easier for IPPCC</p>	<p>1. Requiring such provisions in party constitutions will not guarantee outcomes, although they will represent a statement of principle</p> <p>2. Enforcement by parties could restrict individual MPs freedom to part if they do not like the leader.</p>

<u>Application for Registration (Part 4, s29)</u>		
Describes format and content of applications for party registration		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Prescribed application fee be increased from K10,000 to K50,000.00	May discourage small parties from seeking registration	<p>1. May be seen as discouraging political participation</p> <p>2. Money is not the issue but compliance and enforcement</p>
Membership register to be submitted in support of applications	<p>May require parties to pay increased attention to maintaining valid party memberships (and have effective systems for registering and updating membership details)</p> <p>Will allow the IPPCC to consider the credibility of party membership lists when assessing registration applications</p>	<p>May give rise to privacy concerns</p> <p>Will require membership registers to be audited, posing an administrative challenge for the IPPCC</p>

<u>Inspection of Register (Part 4, s37)</u>		
Allows any person, on payment of a fee, to inspect the register of political parties		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
<p>1. Any person be allowed to inspect documents submitted in support of applications to register a party, including party constitutions and financial statements (but not membership registers, which should be retained by the IPPCC as confidential documents)</p> <p>2. allow political parties a grace of 2 years to grow and properly establish themselves</p>	<p>1. Such transparency will provide incentive for parties to operate with integrity, in the knowledge that most information submitted to the IPPCC will become public, including to political opponents</p> <p>2. Parties to build up administrative and financial capacity.</p>	<p>-Opposing individuals could use information to their own advantage (possibility)</p> <p>-if a party is not established within the 2year grace period the Registrar must consider deregistering it</p>

<u>Grounds for Cancellation of Registration (Part 4, s42)</u>		
Allows for cancellation of registration if a party, without reasonable justification, fails to file financial returns for two consecutive years		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Remove the two year grace period, allowing registration to be cancelled on any failure to provide financial returns as required by the law	May increase the number of parties at risk of deregistration	May increase the number of parties at risk of deregistration Returns either by one month or no payment to party

<u>Invitation to Form Government (Part 5, s63)</u>		
Allows the Governor-General to invite the political party with the greatest number of MPs after an election to form a government		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
<p>1. Remove this provision and allow a Prime Minister to be elected on the floor of the Parliament;</p> <p>2. there has to be flexibility and order from both sides of parliament when electing a PM;</p> <p>3. The Speaker should</p>	<p>Will demonstrate the pre-eminence of Parliament in determining government, emphasizing Parliament's power in relation to the Executive (and to parties)</p> <p>Will avoid the 'bandwagon' effect, when after an election MPs flock</p>	<p>The negotiation of coalitions can cause instability (or at least create perceptions of instability)</p>

equally be elected by parliament.	to join the party with the greatest number of MPs	
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<u>Distribution of Moneys from Central Fund (Part 6, s82)</u>		
Allows registered political parties to be paid K10,000 (K100,000) per year in respect of each MP		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Increase this amount to a minimum of K20, 000 and no more than K100, 000.00 and require that the payment be made into a training and development account maintained by parties and be used for training and development activities for party members and officials. The account should be identified separately in annual financial returns from parties	1.Will make it clear to MPs that this payment is not for them personally Will encourage parties to devote resources to party training and development (including training on the importance of citizens' political participation) 2.Funds be channeled to IPPCC for the development of political parties	In the absence of audit and investigation powers, there is a risk that funds will not be used for the intended purpose
Change the basis of public funding for political parties from MPs elected to first preference votes received in each electoral division (i.e., the Australian system where parties and candidates who receive more than 4% of formal first preference votes receives funding calculated by multiplying the number of first preference votes received by an indexed rate of payment applicable at the time)	Will widen the pool of parties and candidates who receive public funding Will reward political participation not just winning	Is likely to cost the Government more money (depending on the calculation rate used) May encourage more parties to contest elections
Change the basis of public funding for political parties (as above) and require that payments be used for party	See comments in both sections above	See comments in both sections above Allow public scrutiny of income for political parties and allow private sector

development		funding to be transparent too
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Recommendation 4

That the IPPCC consider and decide upon each of the above listed options for legislative change.

Administrative Changes to Party Regulation

In addition to general administrative lessons identified earlier, a number of specific suggestions were made about changes which could be made to the way in which OLIPPAC is currently administered.

<u>Cancellation of Registration (Part 4, s42)</u>		
Describes the circumstances in which party registration can be cancelled		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
IPPCC should enforce s42(d) more rigorously – in the first instance by giving all parties notice that where, without reasonable justification, they fail to file financial returns for two consecutive years their registration will be cancelled	Will demonstrate that the law has teeth Will encourage greater compliance with the law (and require officials to earn their keep)	Will lead to some parties being de-registered

<u>Double Endorsement & Political Party Endorsed Candidates (Part 5, s54 & s 56)</u>		
Prohibits parties from endorsing more than one candidate in an electorate and ‘providing any form of support to another candidate in that election’		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
The Registrar should liaise with other relevant government agencies (including the Ombudsman Commission, the Department of Justice and Attorney General, the Office of the Public Prosecutor, the Office of the Solicitor General and	1 Will enable the IPPCC (and others) to clarify their administrative and enforcement responsibilities 2. IPPCC to be mindful of the LPV where parties may endorse 3 candidates 3. Selection of candidates be thoroughly screened by	-

the Office of the State Solicitor) to clarify responsibility for administration and enforcement of these provisions	parties before being endorsed to contest	
The Registrar should publish the results of these consultations, by way of advice to political parties before the next election. The advice should give examples of the type support, including gifts and in-kind assistance that is prohibited.	Will signal to parties that it is an offence to provide support to 'undercover' candidates	-
1.The Registrar should establish and advertise a complaints handling mechanism, to allow members of the public to report concerns about 'undercover support' 2.Candidates should not be told by anyone who to affiliate with other than their party	1.Will allow complaints to be made Will emphasize to parties that it is an offence to provide support to 'undercover' candidates 2.Party candidates other than independents should stick to party rules and policies.	Will require enforcement action to be fully effective any enforcement action may involve difficult decisions about which electorates to focus on
Increase penalty for double endorsement (see s54(3)) from a minimum of K10,000 to a maximum of K50,000.00	Will encourage greater compliance with the law	-

<u>Financial Returns by Political Parties (Part 7, s88)</u>		
Describes the requirement for political parties to provide annual financial returns		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
The Registrar should insist upon timely submission of such returns by parties	Will encourage greater compliance with the law	-
The Registrar should investigate financial returns from parties more thoroughly, using his powers under s88(3) to	1.Will demonstrate that the law has teeth 2.Will encourage greater compliance with the law, strengthening the	-

require further information, under s91 to inspect relevant records, and under s90 to refer false and defective returns to the IPPCC	legitimacy of parties which are compliant 3. Will help Proper enforcement process to be established by IPPCC	
Increase penalties for failure to submit financial returns (see s88(4)) by deleting default fine of K50 and increasing fine to K5,000 and not exceeding K100,000.00	1. Will encourage greater compliance with the law 2. Stabilize political parties in terms of commitment and loyalty. 3. IPPCC must come up with an appropriate formula	
The Registrar should publish financial returns from parties, as allowed by s92 (which excludes returns from confidentiality provisions)	Such transparency will provide incentive for parties to operate with integrity and allow greater public insight into the financial operation of parties	-

<u>Financial Returns by Candidates (Part 7, s89)</u>		
Describes the requirement for successful candidates to provide financial returns disclosing campaign contributions and expenditure		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
The Registrar should insist upon timely submission of such returns by successful candidates	Will encourage greater compliance with the law	-
The Registrar should investigate financial returns from successful candidates more thoroughly, using his powers under s88(3), s91 and s90	Will demonstrate that the law has teeth Will encourage greater compliance with the law	-
Increase penalties for failure to submit financial returns (see s89(4)) by deleting default fine of K20 and increasing fine from an amount not exceeding K2,000 to an	Will encourage greater compliance with the law	

amount not exceeding K50,000.		
The Registrar should publish financial returns from candidates, as allowed by s92 (which excludes returns from confidentiality provisions)	Such transparency will provide incentive for candidates to operate with integrity	-

<u>Interference with MPs (Part 5, s74)</u>		
Prohibits any person (including a party, party official or MP) from forcing, threatening, detaining or otherwise interfering with the free movement of an MP		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
The Registrar should liaise with other relevant government agencies (including the Ombudsman Commission, the Department of Justice and Attorney General, the Office of the Public Prosecutor, the Office of the Solicitor General and the Office of the State Solicitor) to clarify responsibility for administration and enforcement of these provisions	Will enable the IPPCC (and others) to clarify their administrative and enforcement responsibilities	-
The Registrar should publish the results of these consultations, by way of advice to political parties before the next election	Will signal to parties, party officials, MPs and others that it is an offence to interfere with an MP (e.g., to 'lock-up' MPs in order to induce/secure their support) While acknowledging the legitimacy of post-election political negotiations, will reassure the public that exercising undue influence is an offence	May require enforcement action to be fully effective and enforcement action on such issues may be so politically charged as to be impractical

Recommendation 5

That the IPPCC consider and decide upon each of the above listed options for administrative action.

Funding for Female Candidates

It was widely acknowledged that the OLIPPAC provisions for funding women candidates had been ineffective and that more significant incentives are needed to encourage parties to nominate and support women candidates.

It was also acknowledged that, while the introduction and passage of a Bill establishing Reserved Seats for women in Parliament would be a significant milestone in political representation for women in PNG, neither introduction nor passage was yet assured. Moreover, it was argued that the OLIPPAC provisions should be enhanced as a means of encouraging female candidates in open electorates, to overcome perceptions that women are entitled only to contest Reserved Seats.

The following options were suggested as ways of clarifying and enhancing the existing OLIPPAC provisions.

<u>Funding of Female Candidates (Part 6, s83)</u>		
Allows parties which nominate female candidates who receive at least 10% of the 'votes cast' to be paid up to 75% of K10,000 as election campaign expenses		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Replace 'votes cast' with 'formal first preference votes'	Will clarify the circumstances in which the provision is activated	-
Replace 'votes cast' with 'formal votes after distribution of preferences'	Will clarify the circumstances in which the provision is activated May allow more parties to qualify for reimbursement	-
Reduce threshold from 10% to 5% of formal first preference votes or of formal votes after distribution of preferences	Will allow parties to recoup election expenses for more candidates May encourage parties to nominate more female candidates	Will cost the Government more money

Increase the amount to 75% of K20,000	1.May encourage parties to nominate more female candidates 2.Reflects that IPPCC is committed to assisting women stand for elections	
Reduce threshold, increase amount and include independent candidates in the provision	May encourage more female candidates	May encourage more independent, rather than party-endorsed female candidates

<u>Distribution of Moneys from Central Fund (Part 6, s82)</u>		
As noted above, allows registered political parties to be paid K10,000 per year in respect of each MP		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
As well as changing the basis of public funding for political parties from MPs elected to first preference votes received in each electoral division (as described above), allow a higher rate calculation rate to be applied in respect of female candidates ⁷	1.Will provide greater incentive to parties to nominate female candidates than to nominate male candidates 2.Will reward those parties that nominate female candidates 3.Assist registered political parties in their development and growth	Will cost the Government more money

<u>Double Endorsement (Part 5, s54)</u>		
Prohibits a party which has endorsed a candidate in an electorate from supporting another candidate in that electorate		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Allow parties to endorse three candidates in an electorate, providing one of the candidates is female	May encourage parties to nominate more women candidates (possibly giving rise to the ‘contagion’ factor, where if one party acts, another will follow suit) May encourage parties to	Parties may choose not to spread their campaigning resources between two candidates

⁷ An alternative suggestion is to delete s83(2) which states that parties are not entitled to receive payments in respect of winning female candidates. Because s83 applies a discount to the K value of the reimbursement, it is likely that the approach described above will be more beneficial to parties with winning female candidates.

	<p>promote the advantages of LPV voting system (and encourage preference swapping between the two endorsed candidates in an electorate)</p> <p>May give rise to stronger party engagement with women generally (internally and within an electorate)</p> <p>May deter parties from the practice of supporting second ‘undercover’ candidates</p>	
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Recommendation 6

That the IPPCC consider and decide upon each of the above listed options for legislative change.

Parliamentary Behavior and Operations

The Supreme Court was clear in its ruling that OLIPPAC’s attempt to control the behavior and conduct of MPs was not ‘reasonably justifiable in a democratic society’ and, accordingly, that the provisions which sought to regulate parliamentary behavior are unconstitutional.⁸

While some workshop participants argued Parliament should assert its supremacy and re-enact the provisions struck-out by the Court, most regarded this as a futile approach, believing that the Court would again find the provisions to be invalid.⁹

As a result, much of the discussion focused on other ways of promoting parliamentary stability and effectiveness.

There was a clear consensus that, in recent years, politics in PNG has been heavily weighted towards the Executive at the expense of Parliament. This is most clearly evident in the inability (or unwillingness) of the Speaker to act independently of the Executive. As a result, Parliament

⁸ Supreme Court Decision, paragraphs: 180-189

⁹ As noted above, the Court’s conclusion that the Constitutional provisions upon which OLPPAC was based are themselves unconstitutional indicates strongly that any future legislative attempt to limit the behaviour of MPs will, if challenged, again be found to be unconstitutional.

has not been able to perform its legislative, scrutiny or representational duties with any integrity or effectiveness.

The measures summarized below can be seen as a conscious attempt to re-assert the role of Parliament and to rebalance the relationship between Parliament and the Executive. The suggestion made earlier that Parliament’s right to determine a Prime Minister after an election be restored (i.e., that OLIPPAC s63 be repealed) is also directed at this objective.

<u>Office of Speaker and Deputy Speaker (Constitution, s107)</u>		
Provides that Parliament shall have a Speaker and Deputy Speaker and these offices shall be elected by secret ballot in accordance with Standing Orders		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Amendment to provide that Speaker must be independent from all parties and groupings (i.e., must resign their party membership and exclude themselves from political debate). Speaker’s tenure to be fixed for the life of a Parliament, to avoid political competition for a desirable position [corresponding changes required to Standing Orders of Parliament]	Will allow the Speaker to act independently, in the best interests of the Parliament and independently from Executive influence Will demonstrate Parliament’s separation from the Executive	-

<u>Sittings of Parliament (Constitution, s124(1))</u>		
Specifies that Parliament shall sit a certain number of days every twelve months ¹⁰		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
The IPPCC should liaise with other relevant government agencies (including the Ombudsman Commission, the Department of Justice)	Will signal to the Executive that the Court’s ruling has force and should be complied with	May require enforcement action to be fully effective

¹⁰ The Supreme Court has ruled that s124 means that sittings of the Parliament are mandatory and that Parliament must sit for at least 63 days per year.

and Attorney General, the Office of the Public Prosecutor, the Office of the Solicitor General and the Office of the State Solicitor) to clarify responsibility for giving effect to the Supreme Court's ruling		
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<u>Sittings of Parliament (Constitution, s124(2))</u>		
Provides that an Organic Law for the calling of meetings of the Parliament can be enacted		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Organic Law be enacted giving effect to the Supreme Court ruling that the Constitutional provisions relating to sittings are mandatory and require Parliament to sit at least 63 days (<i>and a cut off mark of 65dys</i>) every 12 months	Will confirm the Constitutional requirements Will create offence provisions if the mandatory sitting day requirements are not satisfied Will allow the Parliament to sit, thereby demonstrating its separation from the Executive	-
Organic Law also to provide that if Parliament does not sit for the specified number of days every 12 months, it shall be dissolved and a general election called as a last resort should all possible options are exhausted.	Will provide significant incentive for the Executive to encourage Parliament to sit	-

<u>General Elections (Constitution, s105)</u>		
Describes the circumstances in which a general election shall be held		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
A general election be held if Parliament successfully passes a motion of no-	Deters the capricious or frivolous use of no confidence motions, but	Constrains a legitimate parliamentary power

confidence in the Prime Minister at any time after the 18 month 'grace' period following his or her appointment [requires corresponding changes to other clauses in the Constitution]	acknowledges Parliament's power to remove a government	
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<u>Determination of Order of Parliamentary Business (Standing Order 106)</u>		
Allows the Prime Minister or a Minister to advise the Speaker of the daily order of business for Parliament not 'later than two hours before the Parliament meets'		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Prime Minister or a Minister must advise the Speaker of the order of business no later than 24 hours before the Parliament meets	Will allow MPs (and their parties) more time to consider and prepare for the business of Parliament Will bring greater order and predictability to parliamentary proceedings	Will reduce somewhat the flexibility of the Government to schedule urgent business

Recommendation 7

That the IPPCC consider and decide upon each of the above listed options for legislative change and administrative action.

Training for Political Parties and Parliamentarians

There was strong support for the proposition that the IPPCC should take an active role in educating political parties about their registration and disclosure obligations under OLIPPAC and, more generally, in providing training for party officials on the management and operation of political parties and on policy development.¹¹

¹¹ It was suggested that such training could encompass questions such as: do parties engage with the public to gauge their views, especially members, on party policies and strategies? Do members influence party policy and candidate selection? Are parties' effective membership organizations? Are parties inclusive in terms of accommodating women candidates? Does party financing prevent subordination of parties to special interests? Do parties cross ethnic, religious and linguistic divisions?

There was consensus also that the IPPCC should develop and implement an annual plan to guide the delivery of this training. Arguably it is already within the IPPCC’s power to do so, as evidenced by the fact that the Commission has, in recent times, worked with development partners to provide such training. However, it was suggested a legislative amendment would clarify that this is a legitimate IPPCC function.

<u>Functions and Powers of the Commission (Part 2, s12)</u>		
Establishes the functions and powers of the IPPCC, including ‘full powers to do all things necessary and incidental to its functions’		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
1.IPPCC be responsible for the training of political party officials and candidates 2.Nationwide training programs be conducted by IPPCC	Will provide legislative basis for activities that the IPPCC already undertakes May provide additional rationale for increased budgetary allocation to the IPPCC	May not be necessary, given IPPCC can already do ‘all things necessary and incidental’

It was also suggested that more could be done to educate members of parliament about their responsibilities as legislators and the role of parliament in holding the Executive to account. At present confusion about these responsibilities contributes to the poor performance of Parliament.

<u>Training for MPs</u>		
-		
<i>Suggestion</i>	<i>Advantage</i>	<i>Disadvantage</i>
Clerk of Parliament and IPPCC develop and implement a leadership training program for MPs and Party Officials	Will increase MP awareness of their legislative, oversight and representational responsibilities Will strengthen the capacity Parliament and its committees to perform these responsibilities	-

Recommendation 8

That the IPPCC consider and decide upon each of the above listed options for legislative change and administrative action.

4. LONGER-TERM AND OTHER OPTIONS

A number of longer-term reform options were also discussed at the workshop, some of them proposing quite significant changes to the system of government and the electoral laws in PNG. Some of these options require deeper consideration and wider consultation than was possible at the workshop. Others were suggested as alternatives to measures outlined above.

They are listed below to allow the IPPCC to consider whether or not any of the options should be included as part of its current policy review. This list also includes some suggestions which were not widely supported (on the grounds that they would be difficult or costly to implement) or which provoked contrary views.

System of Government

PNG should adopt a Presidential system of government – to allow a clearer distinction between the Executive and the legislature, albeit with a risk of regional domination.

The Presidential system of government should include a system of regional primary elections in which party members select party candidates for the Presidential election – to strengthen the role of political parties. The NRI be assigned to research and lead a Nationwide Consultative Group on the possibilities of a change of government system. Options that ought to be explored are:

- (a) Presidential system, and
- (b) Other systems

Prime Ministerial Term

Prime Ministerial tenure be limited to two consecutive parliamentary terms and Prime Ministers be prohibited from serving again as Prime Minister after serving two terms – to reduce the risk of a Government becoming entrenched. The Prime Minister's Tenure of Office must be reduced to

Two Terms only and no more. Appropriate law must be designed to be inserted into the Constitution to cater for this provision.

Removal of Speaker

Allow Registrar to recommend to the Governor-General that a Speaker be dismissed, in situations where the Registrar determines that a Speaker's conduct is inconsistent with Standing Orders and the spirit of the Constitution – to allow non-parliamentary intervention to remove a Speaker whose behaviour is inconsistent with the requirements of the position, is demeaning to the integrity of Parliament and undermines the quality of democracy. Again an appropriate law must be designed to cater for this provision

Electoral System

PNG should adopt a multi-member list proportional representation electoral system with closed lists and a 'zipper system' of quotas for female candidates – to allow more diverse representation, to strengthen political parties and to enable gender equality in representation.

Allow recall elections where voters can remove an elected representative from office through a direct vote, initiated when sufficient voters sign a petition – to enhance MP accountability to voters.

As a refinement to recall elections, allow recall elections if an MP changes party allegiance during a term of parliament – to discourage party hopping, strengthen party allegiance and enhance MP accountability to voters. Similarly, MPs who are elected as independents and subsequently join a political party should be recalled to face another election.

Women's Representation

Require that 50% of the candidates endorsed by a political party be women - to ensure equal participation in the electoral process and encourage greater representation of women in parliament

Require that a party which contests an election with a certain percentage of women candidates (say over 20%) and which has at least one MP after the election, be invited to form government along with the party with the most MPs – to provide incentive for parties to nominate women candidates (and to increase the possibility of women being appointed to ministerial positions)

Citizen's Engagement

Allow citizen initiatives (or ballot initiatives) where a petition signed by a certain minimum number of registered voters can bring about a parliamentary consideration of a proposed law or issue, to enhance community engagement in governance

Candidate Requirements

Require independently conducted and publically-funded candidate screening processes – to ensure that candidates are fit and proper

Require candidates to attest that they have certain educational qualifications or they meet certain community service, residency and leadership quality tests – to encourage candidates who are fit and proper

Prohibit independent candidates and require that all candidates be endorsed by a political party – to strengthen political parties and encourage parliamentary stability

Party Registration Requirements

Require parties to submit detailed policy platforms when seeking registration – to encourage policy-based parties

Registrar to publish, as soon as practicable after a general election is called, the detailed policy platforms from parties – to encourage voters to consider policy objectives not just local and personal allegiances when casting their vote

Require political parties to have national branch structures, with offices in each region or province – to encourage the emergence of broad-based national parties and discourage/prohibit small parties

Budget Allocation for OLIPPAC Administrators

Annual budget allocation for IPPCC (and for PNG Electoral Commission and Ombudsman) should be increased – to allow OLIPPAC (and electoral law) compliance auditing to be undertaken, to allow breaches to be investigated and to allow educational and training services to be provided

5. NEXT STEPS IN THE POLICY REVIEW PROCESS

Recommendation 10

That the IPPCC consider each of the recommendations in this paper and decide upon a package of preferred policy options.

6. PRIORITY OR KEY AREAS FOR ACTION

The Registry of Political Parties, as the Secretariat of the Integrity of Political Parties and Candidates Commission (IPPCC), has **identified key areas for immediate action** as reflected in the above stated recommendations. The most immediate being:

- (a) Introducing revised legislation for OLIPPAC based on the **Gaire Dialogue**;
- (b) Restructuring of the functions and operations of IPPCC and the Secretariat;
- (c) Training for IPPCC Staff and Staff of the registered Political Parties;
- (d) Strengthening of Political Parties through appropriate and / or necessary funding;
- (e) Managing proper Accountability of the Central Fund; and finally,
- (f) Improve and strengthen enforcement processes for the implementation of OLIPPAC.

The key identified areas for immediate action will now be:

- 1. Discussed further with relevant Government agencies;
- 2. Subjected to further analysis to ensure internal coherence and consistency; and
- 3. Included in the proposed **Gaire Dialogue**, to be presented to the annual OLIPPAC conference scheduled for 11 to 15 July 2011 in Kokopo, East New Britain.

Conclusion

Recommendations contained herein the **Gaire Dialogue** reflect the strenuous efforts of OLIPPAC Workshop to identify avenues within the Organic Law of the Integrity of Political Parties and Candidates that needed amendment or insertion of new legal provisions to enhance and strengthen OLIPPAC.

The Policy issues identified should become the basis for instituting additional provisions or reviewing of OLIPPAC. These policy issues are not conclusive but rather charting out a pathway in which OLIPPAC should be administered in the years ahead. Any legislative changes to OLIPPAC must be based on the **Gaire Dialogue** and the Kokopo Communiqué which give legitimate foundation to the future of OLIPPAC and its consequent amendments.

In a nut shell I recommend to the Kokopo Conference that it endorses this **Gaire Dialogue**.

Sir Kina Bona
Registrar of Political Parties
22nd June 2011