

# THE PARLIAMENTARY COMMITTEE SYSTEM IN PAPUA NEW GUINEA, 1975-1997

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*Cet article porte sur les différentes commissions chargées de préparer le travail parlementaire en Papouasie-Nouvelle-Guinée. L'auteur étudie sur une période de six mandatures (de 1975 à 1997), leurs règles de formation et de fonctionnement pour souligner le rôle fondamental qu'elles jouent dans la vie institutionnelle de la Papouasie-Nouvelle-Guinée.*

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In recent years Parliaments in the Pacific Islands have received considerable development assistance. The effective operation of legislative processes is considered, after all, one of the essential foundations of the rule of law. Parliamentary committees strengthen the deliberative aspect of these legislative processes, and their performance and effectiveness is therefore regarded as an important indicator of the overall health of a parliament. There has been little scholarship, on the other hand, concerning the foundations of parliaments in the Pacific Islands, let alone detailed examination of the structure and operation of their committee systems.

This paper examines one of the newer parliaments in the Westminster tradition, established in Port Moresby, Papua New Guinea at independence in 1975 (on the foundations of a Legislative Assembly created during colonial rule), through to completion of its sixth term, in 1997. It sets out the origin of these committees in the constitutional framework, reviews the range of committees established, and provides an initial evaluation of the role they have played in the parliamentary process.

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## **II COMMITTEES IN THE PARLIAMENTARY PROCESS**

The committees of the Papua New Guinea Parliament are established by the Constitution, by the Standing Orders of Parliament, or by legislation. The pre-independence Constitutional Planning Committee (CPC) recommended constitutional recognition of six permanent parliamentary committees: the "First, Second and Third Parliamentary Committees", Public Accounts Committee, General Parliamentary Committee, Private Business Committee', and 'such further Permanent Parliamentary Committees as may be provided for by law or in the Standing Orders of the parliament."<sup>1</sup>

The First PPC was to consider constitutional matters, foreign relations, trade and investment, defence, police, public employment, Ombudsman Commission. The Second PPC was to examine Finance, Industry, Natural Resources; and the Third PPC, Social Welfare (including health and education), and justice. The First, Second and Third committees would each have 10-12 non-ministerial members who were 'broadly representative of opinion in the National Parliament' and whose membership was 'approved by resolution of the parliament'. Committees other than the General Parliamentary Committee would elect their own chair and deputy chair. It was understood that the chief purposes of these committees were to facilitate scrutiny of government activities, vet new legislation, maintain the dignity of the parliament itself, ensure accountability for public expenditure, and inquire into matters on behalf of the parliament as a whole.

Although this scheme was not adopted in full it offered a useful model, and the first parliaments, perhaps reflecting the experience of Australian Parliaments, relied on four types of committees: House Committees, Permanent Parliamentary Committees, Permanent Referral Committees, and Select Committees. House Committees, as their name suggests, consider issues relating to the operation of the parliament, and cover such matters as Broadcasting of Parliamentary Proceedings, the progress of Legislation, the initiatives of Private members, and Standing Orders. Permanent Parliamentary Committees and Permanent Referral Committees include some committees established in the Constitution or in Legislation, as well as other committees established by the Parliament. Select Committees are generally established to examine a particular issue before the parliament, and are disbanded at the conclusion of the inquiry. Each of these committee types will now be examined in brief.

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1 Constitutional Planning Committee, Final Report of the Constitutional Planning Committee, 1974, 6/27.

## II THE CONSTITUTIONAL FRAMEWORK

The Constitution establishes "Permanent Parliamentary Committees" and allows for the establishment of other committees.<sup>2</sup> Permanent Parliamentary Committees should cover "...all major fields of the activities of the National Government" and should allow "...full and active participation by backbenchers in the work of the Parliament and of government". The section specifically establishes the Public Accounts Committee, and the formation of 'such other committees as are determined by the Parliament from time to time.'

The terms of the establishment, membership, jurisdiction, functions, powers and procedures of the Permanent Parliamentary Committees are found in Organic Laws, Acts of the Parliament, and Standing Orders. Ministers cannot be members of Permanent Parliamentary Committees and membership of these Committees, 'in principle', should be 'spread as widely as practicable among the backbenchers.' The Constitution is silent, however, as to how committee membership is determined.

The Constitution requires that the chair of a committee should be, 'in principle', '... a member of the parliament who is recognised by the parliament as being generally committed to support the government in the parliament', and that the deputy chair be "... a member of the principal party or group, or coalition of parties or groups, that is recognized by the Parliament as being not so committed among the backbenchers'.<sup>3</sup>

The chairman and Deputy Chair of each Permanent Parliamentary Committee should have full access to the Ministers and head of the Ministers departments 'having responsibilities relevant to the jurisdiction and functions of his committee' and, by arrangement with the Minister, to the head of the Minister's department, and they are entitled to be 'briefed and consulted on major policy issues'.<sup>4</sup> Any information provided to them during such consultations is subject to both laws and

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2 Section 118(1). Schedule One of the Constitution implies that committees may establish subcommittees having similar powers: "'committee', in relation to the parliament, includes a subcommittee of a committee of the parliament."

### Schedule 1.11 – DETERMINATION OF APPROPRIATE AUTHORITY:

Where a Constitutional Law refers to 'the appropriate Permanent Parliamentary Committee', the Parliament shall determine which Permanent Parliamentary Committee is the appropriate committee for the purse and where the Parliament fails to do so the Speaker may so determine.

3 Section 119(2). S 119(3) grants the rights of chair to the deputy, in case the former is unavailable, but this is 'subject to an act of parliament and standing orders.

4 Section 120. The chair has a right of access to the minister which is not given to the committee as a whole.

conventions of confidentiality, although the Chairman or Deputy Chairman may still brief the members of their Committee on major policy issues.

The parliament can also establish Sessional or Select Committees or other committees for any purpose, and it can constitute itself as a "Committee of the Whole".<sup>5</sup> The business of the Parliament is to be arranged in such a way as allows the committees 'reasonable time' to perform their functions adequately, either within or outside the sitting hours of the parliament,<sup>6</sup> and while the committees of the Parliament are to consist of 'only members of the Parliament,' the Parliament remains free to establish 'by statute or otherwise... commissions or committees of any other kind.'<sup>7</sup> The proceedings of committees are non-justiciable.<sup>8</sup>

Responsibilities of Parliamentary Committees include offering advice on appointments made by the Head of State on the advice of the NEC to offices relevant to the Committee's subject areas,<sup>9</sup> and the right to be consulted by the NEC on relevant subjects during preparation of the budget.<sup>10</sup> In 1979 the Parliament established the Plans and Estimates Committee to consult the NEC on budgets and appropriations as required by s209(3) of the constitution.<sup>11</sup>

The Constitution establishes functions for the Public Accounts Committee and the Emergency Committee, but leaves all other details of Committee responsibilities to the parliament. The functions of the Public Accounts Committee are found in section 216 Constitution, and Section 86 of the Public Finances (Management) Act 1986.<sup>12</sup> S216(1) grants the Public Accounts Committee power

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5 Section 121.

6 Section 122.

7 Section 122(1).

8 Section 134. "Except as is specifically provided by a Constitutional Law, the question, whether the procedures prescribed for the Parliament or its committees have been complied with, is non-justiciable."

9 Section 193.

10 Section 209(3): "Before any Budget or appropriation is prepared for submission to the Parliament, the NEC shall consult with any appropriate Permanent Parliamentary Committee, but this subsection does not confer any right or impose any duty of consultation after the initial stages of the preparation of the Budget or appropriation."

11 Section 209(3): "Before any Budget or appropriation is prepared for submission to parliament, the National Executive Council shall consult with any Permanent Parliamentary Committee, but this subsection does not confer any right or impose any duty of the preparation of the Budget or appropriation."

12 Prior to the 1986 Act the Committee was directed by s 72 of the Public Finances Control and Audit Act. The PAC inspected Reports of the Auditor General on provincial governments Decentralisation in accordance with section 74(2)(a) of the Organic Law On Provincial Governments.

"... to examine and report, in accordance with an act of parliament, on the public accounts of PNG and of the control of and transactions with or concerning, the public moneys and property of Papua New Guinea." Section 216(2) says that this power "extends to any accounts, finances and property that are subject to inspection and audit by the Auditor General under s 214 (2) (functions of the Auditor General), and to reports by the Auditor General under that subsection or s 214 (3) (functions of the Auditor General)", and s 216(3) says "An act of the parliament may expand, and may provide in more detail for, the functions of the committee under subss (1) and (2), and may confer on the Committee additional functions and duties not inconsistent with the performance of the functions and duties conferred and imposed by those subsections."

The Auditor-General (and hence the PAC) has power to inspect and audit the "accounts, finances and property of all arms, departments, agencies and instrumentalities of the National Government; and all bodies set up by an Act of the Parliament, or by executive or administrative act of the National executive, for government."<sup>13</sup> The Audit (Amendment) Act 1995 increased the role of the Parliamentary Accounts Committee in approving the estimated expenditure of the Auditor-General.<sup>14</sup>

Whether or not s 209 of the Constitution places a mandatory requirement on the government to confer with a committee such as the Public Accounts Committee in the process of formulating its annual budget has been asked since independence. Constitution s 209(3) states 'Before any Budget or appropriation is prepared for submission to the Parliament, the NEC shall consult with any appropriate Permanent Parliamentary Committee, but this subsection does not confer any right or impose and duty of consultation after the initial stages of the preparation of the Budget or appropriation.' When, for instance, the legality and legitimacy of the Somare government's 1978-79 budget was challenged on the basis that it was formulated without consultation with the relevant parliamentary committee, the Prime Minister replied that the speaker had not ruled on whether parliament should have a committee which budget matters could be referred to, and that the function

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13 Section 212(2).

14 The provision in the 1989 Act stated "21. FINANCE. (1) The State shall pay each year to the Auditor-General such sum as is determined by the NEC after consideration of estimates submitted by the Auditor-General as is sufficient to enable the performance of the functions of the Auditor-General." The Audit Amendment Act 1995 added a new section 20B: "20B ESTIMATES. The Auditor-General shall prepare annually estimates of the sums that will be required for the payment of salaries, allowances and expenses of his office during the next ensuing financial year for consideration by the Permanent Parliamentary Committee on Public Accounts for recommendation to the Prime Minister for approval in conformity with Section 225 of the Constitution."

of the Public Accounts Committee was to 'check on the day to day spending of the government' rather than involvement in budget formulation.<sup>15</sup> This was despite the fact (as MP Tom Dutton pointed out) that Prime Minister Somare had 'called upon committees of this House to play a bigger part in the preparation of budget' when introducing the national expenditure plan the previous February.<sup>16</sup>

In April 1994 PAC deputy chair Napoti Buu called for the Committee's powers to include the capacity to recommend dismissal and prosecution of 'departmental heads to fail to comply with expenditure ceilings.' Bernard Narokobi also called for the PAC's powers to be increased, to give them the power to jail people who failed to appear before it, to be able to inspect the Finance department, and to deal with state-owned banks.<sup>17</sup>

Another committee established by the Constitution is the Emergency Committee.<sup>18</sup> The Constitution states that this Committee should be "...broadly representative of the various parts of the country and of parties and groups in the Parliament", and be able to meet "...at all times during the period in respect of which it was appointed'. When parliament is not in session then the emergency is called a Temporary Emergency Committee can be appointed, but it expires at the end of the first meeting of the Parliament after its establishment. The Emergency Committee must report at each meeting of the Parliament during the period of emergency on whether the period of declared national emergency should continue; the justification for and the operation of the emergency laws; and whether or not an emergency law should be altered.<sup>19</sup> Emergency Committees have reported approximately twenty times since 1975.

### **III COMMITTEE POWERS AND FUNCTIONS ESTABLISHED IN LEGISLATION**

The Parliament enacted legislation establishing a number of Parliamentary Committees. The Public Works Committee, appointed in accordance with the Public Finances (Management (Amendment No. 2) Act 1991, is one of the most important committees of scrutiny after the Parliamentary Accounts Committee. Its functions include reporting to the Parliament its views on the stated purpose of new projects, their necessity, their potential revenue-earning capacity, and the present

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15 *Hansard* 27 November 1978.

16 *Hansard* 27 November 1978.

17 *Hansard* 20 September 1995.

18 Section 240-243.

19 Section 242(2).

and prospective value of the work.<sup>20</sup> The Public Works Committee (Amendment) Act 1995 repealed section 17 of the Public Works Committee Act to remove delays which (until then) had required capital works costing in excess of K200,000 to be approved by the Permanent Parliamentary Committee on Public works.

The Provincial Government Suspension Committee was established in February 1984 to fulfil the requirement of section 91D of the Organic Law on Provincial Government that called for establishment of a Committee to investigate and report on matters giving rise to the provisional suspension of a provincial government. Motions concerning the suspension of Provincial Governments had to be referred to the committee, which had the power to summon witnesses, persons and papers.<sup>21</sup>

The Permanent Parliamentary Committees Act 1994 was required by Constitutional s 118(B) to define, regulate and give powers to the committees of parliament. The Parliamentary Service Act 1995<sup>22</sup> provides for provision of advisory services to Committees of the parliament and the Parliamentary Powers and Privileges Act, together with Standing Orders of Parliament, defines the powers of the Privileges Committee. The Emergency Committees Act (1979) was passed to satisfy Constitution s 240. The Emergency (General Powers) Act 1994 was legislated to deal with the emergency in East New Britain province that resulted from the volcanic eruption of Mt Tavuver. It established a controller, Deputy Controller, and Assistant Controllers, but did give any express recognition to the role and responsibilities of the parliamentary emergency committee. The Pensions and Retirement Benefits Committee has responsibilities under the Parliamentary Members Retirement Benefits Act 1979. Foreign Affairs and Defence Committee was established by legislation in 1991.

#### ***IV STANDING ORDERS***

Rules governing the operation of parliamentary committees, where were are not provided in the constitution and in legislation, to be found in the Standing Orders of Parliament. Thus the powers of the Permanent Parliamentary Committee on Constitutional Laws and Acts appear in Standing Orders 24C, those of the Foreign Affairs and Defence Committee (SO 25), and the Subordinate Legislation Committee (SO 26).

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20 Set out in ss 13 and 17 of the Public Works Committee Act.

21 The grounds for suspension of provincial governments were set out in s 187E of the Constitution.

22 This repealed the Parliamentary Service Act (chap 26) 1980.

## **V COMMITTEES ESTABLISHED BY RESOLUTION OF PARLIAMENT**

Committees established by Resolution of parliament included the Plans & Estimates Committee (1979), the Pensions and Retirement Benefits Committee (1980), the Permanent Parliamentary Committee on Law and Order (1980), and the Legislation Committee (1988).

## **VI OTHER COMMITTEES**

In addition to Permanent, Statutory and Policy committees, other committees - generally referred to as 'select committees' - were established for special purposes. In 1988, for example, a Private Legislation Committee established to assist private members prepare legislation and assist its passage through the Parliament introduced reforms to the Parliamentary process, including amendments to the Constitution to grant the Legislature and the Judiciary their own Appropriation Acts, and amendments to the Salaries and Remuneration Commission Act.

In addition to constitutional provisions, the powers and functions of parliamentary committees were established in the Standing Orders of Parliament, and in subsidiary legislation.<sup>23</sup>

While most committees emerged from constitutional requirements, or from various initiatives of the executive, others were proposed by individual members keen to promote a particular reform agenda, or in some other way frustrated with the processes of the parliaments a whole. Proposals by individuals include those of John Noel (1978) to establish a committee on Foreign Affairs; by John Jaminan (1979) to form a parliamentary action committee to ensure that more happened following discussion in the parliament; by Roy Yaki (1988) to investigate the Talair aircraft business; by Tenda Lau (1988) to monitor the mining industry; and by John Momis (1991) to "to be responsible for creating unity" in Papua New Guinea.

## **VII COMMITTEES IN THE FIRST TO FIFTH PARLIAMENTS – A BRIEF OVERVIEW**

Given the range of committees available to Parliament, which types were activated, and to what ends? The First Parliament (1972-1977) established three

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<sup>23</sup> The Constitution also establishes non-Parliamentary Committees and other bodies to which members of parliament are appointed. These include the Citizenship Advisory Committee, the Power of Mercy Committee, the Council of the University of Papua New Guinea, the Council of the University of Technology, and the Judicial and Legal Services Commission. In 1985 Parliament established an 8-member National Parliament Boundaries Review Committee, chaired by Electoral Officer, Mr Kila Ralai. (*Post Courier*, 23 October 1985). Members of Parliament also sat on the Salaries and Remuneration Commission, chaired by the Parliamentary Speaker.



Standing Committees,<sup>24</sup> five Permanent Committees<sup>25</sup> and two Select Committees ("Expatriate involvement in Business activities" and "War Damage Compensation"). The first of these Select Committees, concerning expatriate involvement in business, was one of the longest running (it convened for four years, 1977-1981) – yet one of the least effective, having little tangible result.

By the time of the Second Parliament (1977-1982), the impact of PNG politics on parliamentary proceedings became apparent, and a pattern was established that was to be repeated several times over the next two decades. In 1979 Prime Minister Michael Somare suggested: 'The Parliamentary Committees must be reorganized to involve more members of parliament in the decision making process ...The Constitution stipulates that the Parliamentary Committees may be consulted on major policy issues. They could provide inputs to the National Planning Committee and the National Executive Council at the policy formulation stage'.<sup>26</sup> However, the Somare government subsequently faced political instability and changed coalition partners before eventually succumbing to a no-confidence motion in March 1980 that brought Julius Chan to the premier's position. The formal hand-over of power included a change of Parliamentary Speaker and the reappointment of committees.

The Third Parliament (1982-1987) commenced with a coalition government (Pangu and the United Party) once more headed by Michael Somare. Committee appointments were announced on 6 August 1982 but once again changes to committee membership resulted from a motion of no confidence, as government members who sided (unsuccessfully) with the opposition in March 1985 replaced by more loyal members.<sup>27</sup> The PPC on Provincial Government Suspensions, one of the more significant committees agreed to by the parliament, was established on 28 February 1984, and in November 1985 Paias Wingti became Prime Minister when a split in the Pangu party resulted in the creation of PDM and the League for National Advancement.

The work of the Fourth Parliament (1987-1992) was yet again disrupted by a series of no-confidence motions – one of which resulted in a change of government – and by a series of manoeuvres designed to forestall the possibility of even further changes. The threat of confidence votes and the proroguing of parliament for

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24 National Parliament, Private Business, and Standing Orders.

25 Broadcasting of parliamentary proceedings, Public Accounts, Public Works, Subordinate Legislation, and Statute law revision.

26 Quoted in Permanent Parliamentary Committee on Plans and Estimates Report Relating to the 1980 National Budget, November 1979, p 3.

27 Those who lost committee seats were Legu Vagi (Appointments), David Tul (Plans and Estimates) and Thomas Neggints (Pensions and Retirement Benefits).

extended periods impinged on the continuity and effectiveness of committee functioning. At one period the Wingti government sat for one day in a period of seven months, before being replaced a vote of no-confidence on 4 July 1988 by the Namaliu government. Changes to committee membership were made on 2 October 1988. Namaliu survived a no-confidence motion in March 1989 and in November 1990 prorogued parliament until 16 July the following year in order to avoid facing yet another confidence vote. In May 1991, after 13 Members of the People Action Party withdrew from the coalition government, the memberships of all committees were reconsidered,<sup>28</sup> whilst additional committee changes were made on 27 November 1991.

Despite this political instability, Parliaments committees functioned to a certain degree. In November 1987 Parliament established Permanent Parliamentary Committees on Economic Affairs, and Law and Order, and a Select Committee on Electoral Matters, and in 1988 the Standing Orders Committee proposed to Parliament re-classification of all committees as being either a standing Committee or a Permanent Parliamentary Committee (there were at the time four standing committees<sup>29</sup> and thirteen permanent Committees).<sup>30</sup> By the end of the parliament Select Committees had been established for Bougainville (1989-1991), Government Review (Hesingut, 1990-91), and Provincial Government (Bi-Partisan Committee on Provincial Government Review, 1992-93).

When the Fifth Parliament (1992-1997) convened on 17 July 1992 Paias Wingti once more became Prime Minister and Michael Somare leader of the Opposition (Somare resigned as leader of the Opposition and as a member of the Pangu Pati the following March).<sup>31</sup> Wingti attempted to extend his term as Prime Minister by resigning on 23 September and having himself re-elected to the position the following day but the Supreme Court upheld a legal challenge, and Sir Julius Chan became Prime Minister for a second time. Following his election on 30 August, 1994, Chan appointed a 26-member Cabinet and parliamentary committees were established with responsibility for most of these ministerial portfolios (see appendix one). On 8 September 1994 parliament established fourteen Permanent

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28 Parliament increased the size of the Public Works Committee to 14 members.

29 National Parliament, Private Business, Privileges, and Standing Orders.

30 Appointment, Broadcasting of Parliamentary Proceedings, Constitutional Laws and Acts, Economic Affairs, Foreign Relations and Defence, Law and Order, Pensions and Retirement Benefits, Plans and Estimates, Provincial Government Suspensions, Public Accounts, Public Works, Subordinate Legislation.

31 He was replaced by Jack Genia, who died on 18 July 1993, and was replaced by Chris Haiveta.

Referral Committees<sup>32</sup> and a similar number of Permanent Parliamentary Committees.<sup>33</sup>

### **VIII COMMITTEE FUNCTIONING**

An analysis of reports by committees to the first five parliaments shows that the most active committees were those for Constitutional Laws and Acts (later the Justice Committee), Provincial Government Suspensions, Public Accounts, and Public Works.

Table A: Reports to Parliament by Statutory and Standing Committees in the First to Fifth Parliaments:<sup>34</sup>

	<b>Number of Reports to Parliament</b>				
	1972- 1977	1977- 1982	1982- 1987	1987- 1992	1992- 1997
<b>Statutory and Standing Committees</b>					
Administrative Services					
Appointments		-	2	-	-
Broadcasting	5	1	-	1	?
Constitutional Laws & Acts	3	24	17	15	7 <sup>39</sup>
Culture and Tourism					-
Disciplined Services					-
Economic Affairs	7	-		9	-
Emergency	-	3 <sup>36</sup>	3 <sup>37</sup>	8 <sup>38</sup>	3 <sup>40</sup>
Finance					-
Foreign Affairs & Defense			2	-	
Justice					3
Law & Order					
Legislation				1	
National Parliament					1
Parliamentary					
Pensions & Retirement Benefits		1	3	1	-
Plans and Estimates	-	1	1	-	1
Private Business					
Privileges	?	9	5	10	?
Provincial Gov. Suspension		4	3	7	13
Public Accounts	4	20	56	43	45

32 Health and Family Welfare, Foreign Affairs and Trade, Finance, Justice, Education, Disciplined Services, Communications, Administrative Services, Industry and Industrial Relations, Village Development and Local Level Government, Primary Resources, Minerals and Energy, Transport and Civil Aviation, and Lands and Environment. See Appendix.

33 Broadcasting of Parliamentary Proceedings, Culture and Tourism Development, Legislation, National Parliament, Pensions and Retirement Benefits, Plans and Estimates, Private Members Business, Privileges, Provincial Government Suspensions, Public Accounts, Public Works, Standing Orders and Appointments. See Appendix.

34 These figures reflect indicate the number reports the author was able to find in the Parliamentary Library.

Public Works	5 <sup>35</sup>	53	57	63	10
Standing Orders				2	
Statute Law Revision					
Subordinate Legislation	16	1	1	1	-
Transport & Civil Aviation					

Table B: Reports to Parliament by Select Committees

## Number of Reports to Parliament

	1972-1977	1977-1982	1982-1987	1987-92	1992-97
<b>Select Committee</b>					
Bougainville				1	
Electoral Matters					?
Expatriate Involvement in Business	2				
Local Government Finance		?			
Plantation Management Agency			2		
Provincial government			-		
Provincial Government (Bi-partisan Committee)				2	2
Provincial Government Review					
War Damages Compensation		?			

One of the major shortcomings of the committee system during the period under review was the inability of parliament to examine each committee report before its adoption. Because Parliamentary procedures concerning the tabling of committee

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36 *Statement to the National Parliament Relating to the Declaration of a State of Emergency of Monday 23rd July, 1979, for the five Highlands Provinces, Reports 1 & 2; and Third report (final), 25 February 1980.*

37 1st Interim Report. *State of National Emergency in NCD* (undated); Statement No 2. *Restoration on 14 June 1985 in NCD*; and Statement No 3, *Restoration on 14 June 1985 in NCD*.

38 Six of these related to the state of emergency in North Solomons Province, and two to a curfew in the National Capital District: *State of Emergency in the North Solomons Province Statement No. 1 1989; Report relating to the declaration of a state of emergency on Monday, 26 June 1989 in the Bougainville Province. Statement No 2. 1989; Report relating to the declaration of a state of emergency on Monday, 26 June 1989 in the North Solomons Province Statement No. 3 1989; Report on the State of Emergency Bougainville Province Parliament Session Tuesday 4th June 1989; Fifth Report on the Bougainville State Emergency to the National Parliament. 1 Nov-31 December 1989; The Sixth Report on the Bougainville State of Emergency to the National Parliament 1 Jan-12 Mar 1990; and First Curfew Report to the National Parliament. National Capital District. Western Highlands. Momase Region, 13 March - 19 April 1991; Second Curfew report to the National Parliament. National Capital District, Western Highlands, Momase Region 20 March - 5 June 1991.*

39 In 1994 this became Permanent Parliamentary Committee on Justice.

40 Statement No: 1 of the Temporary Parliamentary Committee on National Emergency. *East New Britain State of Emergency*, 4th October, 1994; Statement No 2; Report No. 3 *East New Britain 7 March 1995*.

35 The exact number is yet to be determined. The reports cited are: 14 Feb 1977; 15 February 1977; 17 February 1977; 18 February; and 1 March 1977.

reports allow for immediate resolution that they be voted on, MPs frequently voted on committee reports before having considered them in full. Of course, the greater the number of reports tabled by a committee at a particular sitting, the less thorough their perusal by members prior to a vote being taken: the Public Works Committee, to give one instance, tabled 14 reports (numbers 45-58) on 21 May 1991 on such important projects as the Misima Gold Mine for the period 1991/95, the Porgera Gold Mine (1991-95), the Hospital Improvement and Renovation Program (1991), a Rural Health Project (1991-93), an Investment Program for National Airports (1991-95), and Provincial and Minor Transport Assistance Programs – all of which reports were noted by the parliament without consultation.

This process prompted some Committee members to chide the parliament for failing to complete its obligations. MP Joseph Aoae said when parliament merely noted the Parliamentary Accounts Committee's reports 29 and 30 in 1988:<sup>41</sup>

Point of order! Mr Assistant Speaker, both reports presented by the Chairman of the Public Accounts Committee disclosed very disturbing news about our accounting system. By adjourning debate we are softening the impact, as the reports are presented we should debate them while the matter is fresh in the minds of members. And I think the Minister for Finance and Planning should also be here. It is a very disturbing report and Parliament should take a very serious note of them.

The 31st report, based on the Auditor-General's report on the 1986 Minor Roads Program referred to PAC on 24 August 1988, detailed payments that the PAC wished referred to the Minister for Justice for future examination:<sup>42</sup>

The PAC is not the proper authority to determine if the work done in several instances cited by the Auditor-General justified the tens of thousands of kina paid in respect of it. The PAC is anxious that the instances cited by the Auditor General be urgently investigated to determine if these instances are in fact criminal misappropriation of public money and if so that persons involved face criminal prosecution.

A second major problem with the operation of the committee system, particularly the operation of the PAC, was the long period between receipt of reports by parliament and receipt of the PAC's subsequent report. During the third parliament, for instance, reports from the Auditor General's office into the 1984 Accounts of various provincial governments were only tabled in November 1987, and reported on by the PAC in 1991 and 1992 – by which time neither parliament

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41 *Hansard* 8 September 1988.

42 *Hansard* 8 September 1988.

nor government could expect action on their recommendations concerning criminal liability or incompetence.<sup>43</sup> In February 1989 the Parliamentary Accounts Committee had before it for consideration 34 reports from the Auditor General, another from the Department of Finance, and yet another from the National Housing Commission, making a total of 36 Reports, some of which had entered parliament in September 1987. As MP Masket Iangolo explained to his fellow Parliamentarians:<sup>44</sup>

I think over the last four years I have heard the Chairmen of the PAC presenting reports on the performance of provincial governments. We seem to be wasting our time talking about something that happened some years ago.

Efforts to clear a backlog of reporting during the third parliament brought associated problems: up to twenty-two reports were tabled in a single day, clearing the delayed reports, but minimizing the possibility that their contents would be read and absorbed by members of parliament as intended.<sup>45</sup> Parliamentary form had been followed, at the cost of genuine parliamentary accountability.

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43 Sample committee report dates: Auditor General. Report on Public Accounts of Milne Bay Provincial Government, 1984, tabled in parliament 9<sup>th</sup> November 1987, PAC report noted by parliament 17<sup>th</sup> July 1991. Auditor General. Report on Public Accounts of Central Provincial Government, 1984, tabled in parliament 9<sup>th</sup> November 1987, date of PAC report to parliament unknown. National Housing Commission - Annual Reports 1982 & 1983, tabled in parliament 16<sup>th</sup> November 1987, date of PAC report to parliament unknown. Auditor General. Report on Public Accounts of Fly River Provincial Government 1983, tabled in parliament 26<sup>th</sup> November 1987, PAC report to parliament noted 17<sup>th</sup> July 1991. Auditor General. Report on Public Accounts of Fly River Provincial Government 1984 tabled in parliament 26<sup>th</sup> November 1987, PAC report to parliament noted 17<sup>th</sup> July 1991.

44 *Hansard* 11 July 1990.

45 To give one instance, the following reports were tabled on the 11<sup>th</sup> August 1983: 144 Auditor-General. Report on Public Accounts of Central Provincial Government, 1990; 145 Auditor-General. Report on Public Accounts of Central Provincial Government, 1991; 146 Auditor-General. Report on Public Accounts of East New Britain Provincial Government, 1991; 147 Auditor-General. Report on Public Accounts of Sepik Provincial Government, 1989; 148 Auditor-General. Report on Public Accounts of East Sepik Provincial Government, 1990; 149 Auditor-General. Report on Public Accounts of Eastern Highlands Provincial Government, 1990; 150 Auditor-General. Report on Public Accounts of Central Provincial Government, 1990; 151 Auditor-General. Report on Public Accounts of Enga Provincial Government, 1991; 152 Auditor-General. Report on Public Accounts of Gulf Provincial Government, 1990; 153 Auditor-General. Report on Public Accounts of Madang Provincial Government, 1989; 154 Auditor-General. Report on Public Accounts of Madang Provincial Government, 1990; 155 Auditor-General. Report on Public Accounts of Manus Provincial Government, 1990; 156 Auditor-General. Report on Public Accounts of Manus Provincial Government, 1991; 157 Auditor-General. Report on Public Accounts of Milne Bay Provincial Government, 1991; 158 Auditor-General. Report on Public Accounts of Morobe Provincial Government, 1989; 159 Auditor-General. Report on Public Accounts of Morobe Provincial Government, 1990; 160 Auditor-General. Report on Public Accounts of New Ireland Provincial Government, 1990; 161 Auditor-General. Report on Public Accounts of New Ireland Provincial Government, 1991; 162 Auditor-General. Report on

## **IX THE PUBLIC ACCOUNTS COMMITTEE**

The work of the PAC in reviewing the expenditure of government departments, and particularly provincial governments, was one of the most significant areas of parliamentary activity during the period 1975-1997. Its major themes were lack of financial controls over provincial government spending, and the poor quality of financial record keeping at all levels of government. In the performance of its parliamentary duties, moreover, the PAC complained from the time of independence about the difficulties encountered in obtaining information from government agencies.

Martin Tovadek, presenting the PAC's third annual report on expenditure of allowances for the year ending 31 December 1978, explained that the committee faced several problems in obtaining submissions from departments, including failure by departments to follow the committee's directions, the uncooperative attitude of many public servants, and the inaccuracy of information on numerous submissions. There was also dissatisfaction with the quality of departmental reports:<sup>46</sup>

Some of the Department of Finance Minutes to the Committee's recommendations and conclusions simply state the Committee's remarks are noted or contain vague statements which are almost meaningless. This is unacceptable to the Committee. The Finance Minutes are necessary and are a vital aid in oversighting of departmental operations. The Minutes contain details of executive action proposed or initiated following the recommendations and conclusions of the Committee. The Committee is considering asking the departments that is finance, public services commission and the Attorney General's office to follow up the statements contained in the Minutes and to report to the Committee either separately or during the inquiries to ensure that actions as noted in the Minutes have actually been undertaken and are effective.

The Committee said delays in obtaining the necessary information had delayed its program for 1979 and increased its expenditure, through the need for additional meetings to consider late submissions, and wondered whether:<sup>47</sup>

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Public Accounts of North Solomons Provincial Government, 1990; 163 Auditor-General. Report on Public Accounts of Simbu Provincial Government, 1991; 164 Auditor-General. Report on Public Accounts of Southern Highlands Provincial Government, 1990; 165 Auditor-General. Report on Public Accounts of Western Highlands Provincial Government, 1990.

46 Parliamentary Accounts Committee, -4th report on Attorney General's report on the public accounts of Papua New Guinea for year to 31 December 1978.

47 *Hansard* 21 May 1979.

... such careless work is indicative of the general output of the various departments or whether it illustrates the general indifference held by the departments to the committee and to this parliament.

The Parliamentary Accounts Committee played a significant role in exposing the financial condition of Provincial Governments and their business arms. This inevitably had an impact on the thinking of parliament influenced the initiative by parliament in the early 1990s to 'review' the provincial government system and eventually to completely revise it.

## **X SELECTION OF COMMITTEE MEMBERS**

It was noted above that the constitution is silent on the method for selecting members of committees. In practice, committee appointments were the prerogative of the executive, and were regarded as part of the political process as much as the parliamentary. Appointments were generally been made in consideration of political strategy rather than parliamentary effectiveness. Following each change of government, membership of all committees was declared open, and the opposition presented to government a new list of names for committee membership. On many occasions members of parliament questioned the lack of consultation concerning committee appointments, and in successive parliaments the government announced the names of new committee members without first checking on their willingness to serve.<sup>48</sup> Even appointments as committee chair and vice-chair were allocated without consultation, and MPs not securely aligned with the major parties were far less likely to be appointed to the more significant committees.<sup>49</sup>

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48 In December 1978 Julius Chan said 'when the leader of the government business announced the names of the members of this committee [standing orders], most of them were not aware of this. It would be best for the government to ask the members' opinion as to whether they want to be on the committee or not. ...the standing orders committee is one of the most important committees because they determine parliamentary procedures. We only have statutory members amongst the opposition, and our vote against the motion was to uphold our say in the constitution'. (*Hansard* 1 December 1978). Following a change of government in 1988 Toni Ila refused nomination to the Standing Orders Committee. "Point of Order! - Mr Speaker, it is disgusting to know that I was never being consulted to be on the Committee. I had to say that, but it has been my principle since I entered this Parliament, I have rejected any Committee appointment since 1972." (*Hansard* 12 July 1988).

49 "Aron Noaie – Point of order! I have been here since 1977 and this Parliament does not recognise me. Why have I not been appointed to any committee.

Speaker: So, can you state your point of order Please, member?

Aron Noaie - I do not know why I am never appointed to any committee.

Speaker - It is not a point of Order. Could you take it up with your party Leaders?" *Hansard*, 29 March 1990.



Serving at the will of the executive rather than the parliament, Committee members lacked security of tenure in their positions, and were subject to removal for taking their role too seriously. Members of the Public Accounts Committee were particularly liable to raising the ire of the government through too close scrutinisation of expenditure by government departments. Thus Paul Torato, in December 1978, stated his belief that he had been removed from the PAC for pointing out "the dangerous signs contained in records of expenditure".<sup>50</sup>

## ***XI THE USE OF COMMITTEE POWERS***

Since most parliaments experienced a change of executive and membership of parliamentary committees was consequently greatly affected by such change of government, there was little continuity on committees and this rapid turn-over of MPs hindered the maturation and effectiveness of the committee system as a whole. Moreover, each newly elected parliament included a considerable number of members serving their first term, such that up to half of the committee members serving at any one time had little training in parliamentary affairs and committee procedures.

By the time of the Fourth and Fifth Parliaments there were few members entering their fourth or fifth parliamentary term and many of the longer-serving parliamentarians were precluded from committee service through occupation of ministerial positions. Furthermore, because the executive took little interest in developing the capabilities of parliamentary committees, knowledge of their roles remained minimal.<sup>51</sup>

Despite these limitations, and even though many members of parliament expressed the opinion that committees were "impotent", the findings of the Public Accounts Committee in particular were influential. Its reporting on the lamentable financial administration of provincial governments, for instance, played a significant role in shaping attitudes toward provincial government reform. Similarly, the Select Committee on Provincial Government reform, which reported in 1991, was instrumental in initiating an inquiry that led to constitutional change

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50 ".but for this, we have been removed. We did our best but were removed. I take this opportunity to give a warning: if control is not exercised over our expenditure then the country will continue on a road of corruption and bankruptcy", *Hansard* 5 December 1978.

51 In December 1987, for instance, Bernard Vogae threatened to resign from the Parliamentary Law and Order Committee unless Prime Minister Wingti showed some interest in its work, and explained to committee members their functions. Vogae, had defected from Pangu to the government about September 1987 'to get into a position where he could help his constituents', said he could not find anyone in government to clarify his committee's functions: *Post Courier*, 30 December 1987.

## ***XII REFORM OF THE COMMITTEE SYSTEM***

The dynamics of the committee system mirror those of the parliament itself. The desire of MPs to be in Cabinet rather than on the 'back-bench', led to pressures on successive governments to either increase the size of the Cabinet or to find other means to retain their loyalty: allocation of committee appointments has thus at times been a vehicle for patronage. The cost of the committee system has inevitably increased, and payments to members became more substantial.

In 1983 the General Constitutional Commission suggested reforms to the committee system in the context of its overall recommendations concerning the working of the constitution. It suggested that Permanent Parliamentary Committees be established for Defence and Foreign Affairs, Internal and External Trade, and Social Services including Health, Education and Housing, and that as many MPs as possible be appointed to them on the basis of their 'experience or working knowledge of the subject'. The Commission referred to the need for adequate support for committees by the parliamentary service, and for adequate funding, and suggested that the constitutional and legislative powers of committees be increased so as to ensure that their recommendations could be carried out, implemented or acted upon. Finally, it recommended that the status of committee chairs be increased to ministerial rank, and that a committee be established to review standing orders.<sup>52</sup>

A 1994 report on the Committee system prepared for the Speaker and the House Committee concluded that the system was "not working as the Constitutional founders envisaged" and that some Committees were "moribund":<sup>53</sup>

Apart from the Public Accounts and Public Works Committees the only other Committee which is active is the Provincial Government Suspension Committee. The Constitutional Laws and Acts, Subordinate Legislation and Privileges Committees all respond to needs as they arise but cannot be said to involve backbench members in the major work of Government.

The Report did not recommend, it should be noted, reconsideration of the CPCs original proposals concerning the parliamentary committee system. The general response of the government was to expand rather than reduce the number of committees, such that in the fifth parliament there were a total of 18 Permanent

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52 Papua New Guinea. General Constitutional Commission. *Final Report*, Port Moresby, 1983, 109-110.

53 *Report to the National Parliament on a Committee System to Meaningfully Involve Backbench members in the Legislative Processes of Parliament and the Major Activities of Government*, 1994, p 9.

Parliamentary Committees: Only 48 of Parliament's non-Cabinet members sat on these committees, with some members sitting on as many as five.<sup>54</sup> The general feeling in the fifth parliament was that the committee system was under-resourced, in terms of manpower and finances, and that the committee system had either to be reformed or disbanded as a waste of time and money. There remained no compulsion for the government or the public service to adopt committee recommendations.

### *XIII CONCLUSIONS*

This consideration of the operation of the Papua New Guinea Parliament's committee system during the period 1975-1997 has suggested the existence of a fundamental tension between the responsibilities of parliamentarians as trustees of parliamentary democracy, constitutionalism and the rule of law, and the imperatives they face as political actors. When political conditions were conducive, committees became "proving grounds" for the capabilities of members of parliament and a source of accountability for the activities of executive government. When less conducive, by way of contrast, the committee system reverted into a patronage network which the executive adroitly used to harness the loyalty of potential political foes. Concerns were expressed about methods of appointment of committee members (and chairs of committees).

The volatility of parliamentary membership (with many members being replaced at each election), and the volatility of the executive branch of government – especially through the use or threat of use of no-confidence motions – have had an impact on committee performance and the continuity of committee membership.

Although committees were instrumental in initiating such changes as the reform to the system of provincial government, the time lapse before the tabling of most committee reports severely limited their impact. Committees were seldom able to check the activities of the executive, were generally ineffective as a means of ensuring accountability within the bureaucracy, and generally lacked the legal powers to ensure that findings of their reports were acted on. However, despite all such reservations, the committee system of the Papua New Guinea Parliament survived as one of the Papua New Guinea Constitution's persistent champions, and one of the system's sturdier pillars of democratic governance.

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54 Report to the National Parliament on a Committee System to Meaningfully Involve Backbench members in the Legislative Processes of Parliament and the Major Activities of Government, 1994, p 9.

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## **APPENDIX**

### **26 MEMBER CABINET AND PARLIAMENTARY COMMITTEES ESTABLISHED UNDER THE CHAN ADMINISTRATION, AUGUST 1994**

<b>Chan Ministry</b> (Appointed Sept 1994)	<b>Parliamentary Committee</b>
Prime Minister and Foreign Affairs and Trade (Chan)	Foreign Affairs and Trade
Deputy Prime Minister and Finance and Planning (Haiveta)	Finance
Communications (Momis)	Communications
Education and Culture (Onguglo)	Education (1)
Civil Aviation and Tourism (Pora)	Transport and Civil Aviation
Agriculture and Livestock (Narokobi)	Primary Resources
Commerce and Industry (Mai)	Industry and Industrial Relations
Defence (Ijape)	Disciplined Services
Energy Development (Tulapi)	Minerals and Energy
Environment and Conservation (Zeipi)	Lands and Environment
Fisheries and Marine Resources (T. Philemon)	Primary Resources
Forests (Posai)	Lands and Environment
Health (Barter)	Health and Family Welfare
Higher Education, Science and Technology (Avei)	Education
Home Affairs (Konga)	
Housing (Mune)	
Justice (Marsipal)	Justice
Labour and Employment (Nalau)	
Lands and Physical Planning (Kipalan)	Lands and Environment
Mining & Petroleum (Giheno)	Minerals and Energy
Police (Mambei)	Disciplined Services
Provincial Affairs & Local Level Government (Maibawa)	Village Development and Local-Level Government
Public Services (B. Philemon)	
State Affairs and Administrative Services (Tohian)	Administrative Services
Transport (Baing)	Transport and Civil Aviation
Works & Supply (Yama)	Public Works