



# **POLICY PROPOSALS FOR OPEN AND ACCOUNTABLE GOVERNMENT**

A COMPREHENSIVE PLAN TO IMPROVE GOVERNANCE AND PUBLIC OVERSIGHT

**ACT NOW!**





# Foreword

**ACT NOW! has been campaigning for action to combat corruption for almost a decade.**

We have been championing the case for an Independent Commission Against Corruption since 2010 and have urged for the implementation of the recommendations of various Commission of Inquiry, including those into the Department of Finance and the Special Agriculture Business Lease land grab.

However, these campaigns have largely fallen on deaf ears and what we have seen is that the mismanagement and fraud within government, rather than abating, has only increased.

As a consequence, corruption is now so entrenched and pervasive that many people feel hopeless and overwhelmed by the scale of the problem.

In these circumstances, it is clear there can be no single silver bullet that cures all our ills; even an ICAC needs to part of a much more comprehensive and far-reaching set of reforms.

At the moment though there is no clearly articulated and comprehensive plan of what is required.

It is in this context that ACT NOW! set about developing a program of reforms that aims to empower the whole nation in the fight against corruption. Ordinary citizens, the business community, churches and the institutions of government, all need to be given the tools to play an active oversight role.

It is only together that we can combat the crippling issue of corruption and ensure we can have an open and accountable government.

In developing these proposals we have consulted widely, both in Papua New Guinea and internationally, and we thank all the organisations and individuals who have contributed their knowledge and insights during this process.

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## COMMENTS AND FEEDBACK

Comments and feedback are welcome.

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## ABOUT ACT NOW!

ACT NOW! is a community advocacy organisation. Our mission is to ensure ordinary people have a strong voice in demanding a 'gutpela sindaun blong olgeta' (a just and equitable society). We organise public campaigns; commission research; publish innovative awareness and education materials; and empower people to make their voices are heard through the media and lobbying. ACT NOW! is a registered, independent not-for-profit organisation and is not affiliated with any corporation, political party, government, or other non-government organization.

[www.actnowpng.org](http://www.actnowpng.org)



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# INTRODUCTION

Corruption is widely recognized as a crippling problem in Papua New Guinea. Corruption is undermining our democracy, draining our public services, killing our children's education and mothers and babies are dying from easily preventable health issues. Corruption is increasing poverty and inequality and destroying our natural environment and unique cultures.

The economic, social and environmental costs of corruption for Papua New Guinea as a nation and for individual communities and families is huge. In this paper we estimate that only a marginal, 1 point, improvement in governance standards could boost the economy by more than US\$3 billion a year.

If we could go further, and improve governance in PNG to match the levels in our nearest neighbours, Indonesia or the Solomon Islands, that could be worth between USD 30-48 billion a year. That is equivalent to PGK12,000 to PGK20,000 for every man, woman and child in the country and would more than double the size of our economy.

And this is just the economic benefit; controlling corruption would also bring massive social and environmental benefits.

Given these potential benefits, it is perhaps surprising to reflect that over the past 40 years there have been so few attempts at meaningful governance reform, despite the frequent scandals that have rocked the nation.

With the exception of the short-lived Task Force Sweep and the relatively new Financial Analysis and Supervision Unit in the Bank of Papua New Guinea, the institutions tasked with preventing, identifying and punishing corruption and the laws that empower them are essential the same as they were in 1975.

The only thing that has changed is that many of the institutions are much more ineffective now than

they have ever been, whether as a result of political interference, under resourcing or mismanagement.

So, how can we bring corruption under control and start to realize some of the economic gains that research shows should follow?

ACT NOW! has spent the last two-years researching and consulting widely to try and identify some answers.

After more than forty years of decline, it is perhaps not surprising we have found there is no one silver bullet that can cure all ills. However, the number of essential reforms that have been identified is relatively modest.

We have found there are four key areas that need to be addressed; civic participation, access to information, government integrity and constitutional authority. These four focus areas cut across the seven 'cluster groups' that have been identified by the international Open Government Partnership (OGP) as essential to ensure government transparency, accountability and responsiveness to citizens.<sup>1</sup>

In each of the four key areas we have identified four or five key reforms, nineteen in total.

Together, these changes would promote greater openness and transparency, improve integrity and accountability, enforce standards of professional behaviour, empower citizens, and harness new technologies all with the aspiration to make government more effective and accountable and help ensure we achieve our National Goals.

The changes would also ensure improvements in the quality and delivery of public services, greater equality and prosperity, safer communities and greater well-being and human dignity for all our citizens. Values we could then promote in our interconnection with the global community.

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1. The seven OGP clusters are 1. Public Participation – Engaging Citizens in Policymaking; 2. Government Integrity – Fighting Corruption and Strengthening Democratic Institutions; 3. Freedom of Information – Guaranteeing Public Access to Government Information; 4. Fiscal Transparency – Helping Citizens Follow the Money; 5. Public Service Delivery – Making Services Work for the People; 6. Extractive Resources Transparency – Ensuring Extractive Revenues Are Used for Public Benefit; 7. Open Data – Digitizing and Opening Up Government Data for Access to Information and Transparency.

# POLICY PROPOSALS FOR OPEN AND ACCOUNTABLE GOVERNMENT



## CIVIC PARTICIPATION

## ACCESS TO INFORMATION

## GOVERNMENT INTEGRITY

## LEGAL PROTECTION

Public Participation

Freedom of Information

Freedom of Information

Freedom of Information

Freedom of Information

Fiscal Transparency

Government Integrity

Government Integrity

Fiscal Transparency

Public Service Delivery

Public Service Delivery

Fiscal Transparency

Public Service Delivery

Open Data

Open Data

Extractive Resource Transparency

Open Data

Extractive Resource Transparency

Extractive Resource Transparency

## OPEN GOVERNMENT PARTNERSHIP CLUSTERS

# THE COST OF CORRUPTION

Corruption impacts societies in a multitude of ways. In the worst cases, it costs lives. It can also cost people their health, education, freedom and money. It can destroy families and communities, undermine our culture and cause environmental destruction.

Below, we present an economic analysis of how much corruption is costing Papua New Guinea, but the costs of corruption are not only economic, they are also political, social, and environmental.

On the political front, corruption is a major obstacle to democracy and the rule of law. The offices and institutions of government lose their legitimacy when they're misused for private advantage. Corruption undermines and erodes the effectiveness of government departments and service delivery and undermines accountability. Those in power become focused on retaining office and personal gain rather than making decisions that benefit the nation as a whole.

Corruption corrodes the fabric of society. It undermines people's trust in the political system in its institutions and its leadership. This occurs at both the national level and at a community level where traditional laws and customs are diminished. A distrustful or apathetic public can become yet another hurdle to challenging corruption.

Environmental degradation is another consequence of corruption. Land grabbing and the non-enforcement of environmental regulations and legislation means that precious natural resources are carelessly exploited, and entire ecological systems are lost. Loss of land also further undermines social and cultural systems. Mining, logging, and large agricultural plantations, such as oil palm, can all cause widescale destruction if not properly regulated.

Economically, corruption depletes our national wealth. Corrupt politicians invest scarce public resources in projects that will line their pockets rather than benefit communities, and prioritize high-profile projects such as new mines, dams, power plants, pipelines and refineries over less spectacular but more urgent infrastructure projects such as schools, hospitals, rural roads and small-scale, renewable energy generation. Corruption also hinders the development of fair market structures and distorts competition, which in turn deters investment.

The global financial services company, Price Waterhouse Coopers (PWC), has developed a simple arithmetic formula that can be used to estimate the economic cost of corruption in any given country.

By analyzing global economic data and cross-referencing it with the annual Corruption Perception Index (CPI) published by Transparency International, PWC economists have calculated that a one point movement in a country's CPI score is worth about US\$380 for each person in the country's population.

*“Our analysis shows that a one notch-increase in perceived corruption levels is associated with a \$380 decrease in GDP per capita and so lower standards of living”. PWC<sup>2</sup>*

Papua New Guinea's current population is estimated to be over 8 million. Multiplying US\$380 by 8 million, we find that a one point movement in CPI score could be worth US\$3 billion every year.

These figures suggest that when PNG's CPI score slipped in 2018 from 29 the previous year, to 28, the economic cost for the country would have been around US\$3 billion (K10 billion).

If we relate this figure to the overall size of Papua New Guinea's economy we see that a one point change in the CPI score is equivalent to a 14% change in the economy:

Gross Domestic Product 2017:	US\$21 billion (\$2,600 per person)
Impact of a one point CPI change:	US\$3 billion (\$380 per capita)
Percentage change:	14%

We can use these figures to compare Papua New Guinea with some of our nearest neighbours like Australia, Indonesia, New Zealand, the Philippines, and the Solomon Islands

Amongst these countries, PNG's current CPI score of 28 is the lowest (see Chart #1).

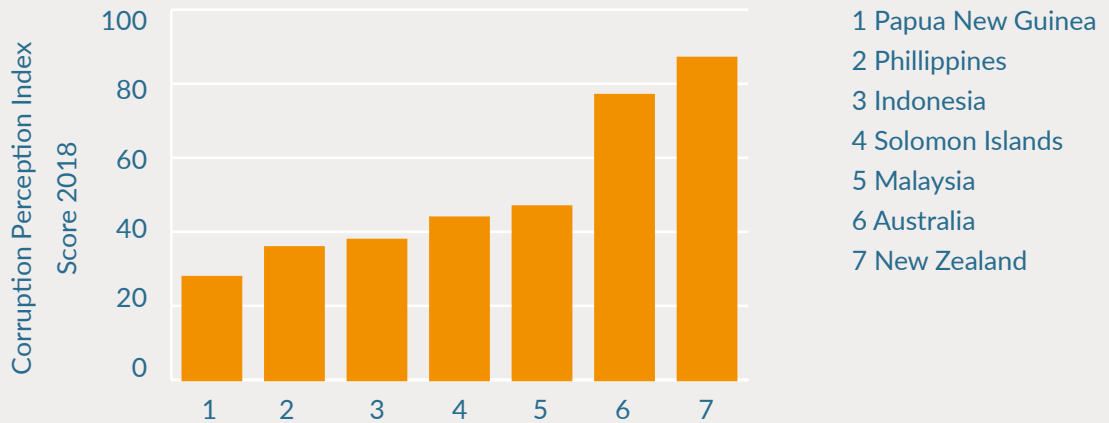
Increasing PNG's CPI score to that of our nearest neighbours could have a dramatic impact on our economy.

Increasing our CPI score to match that of the Philippines, which is 36 (8 points higher than PNG), could be worth US\$24 billion or \$3,000 per person each year.

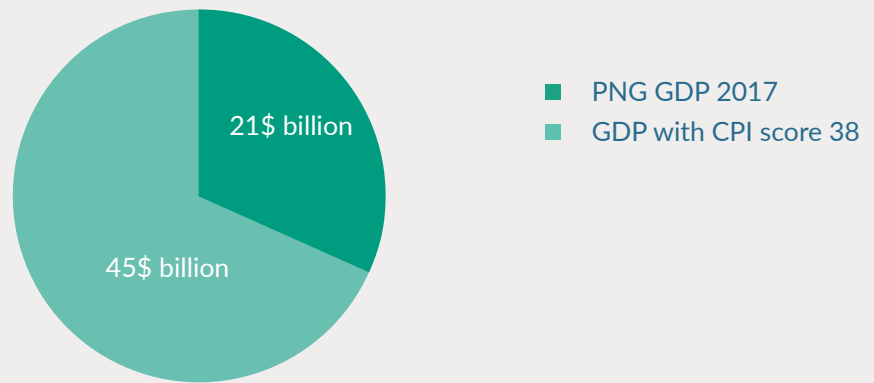
This would more than double the size of our current economy to \$45 billion (or \$5,600 per person) (see Chart #2').

2. *The cost of corruption – too big to ignore?* Accessed on 12 June 2019 at <https://pwc.to/2Z966kR>

**Chart #1: CPI scores of PNG and some of its nearest neighbours**

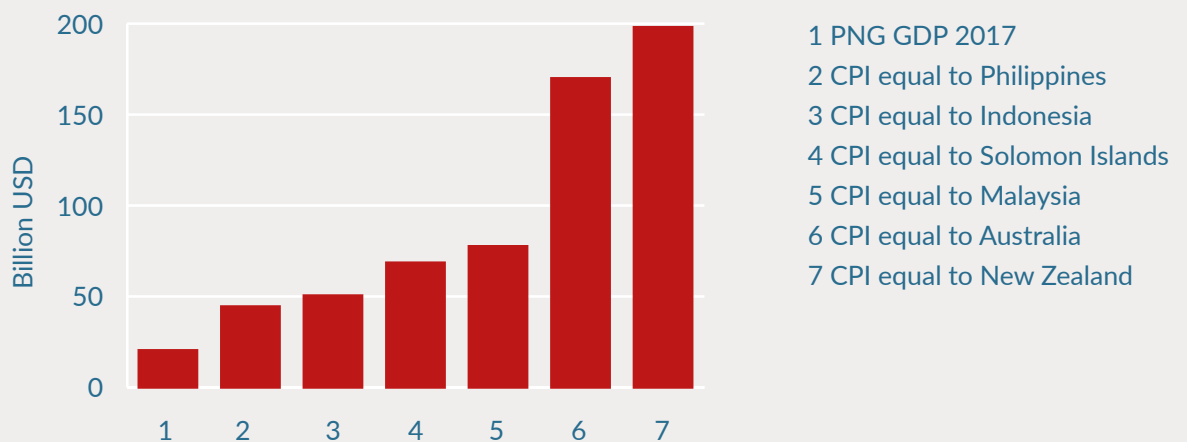


**Chart #2: Impact on GDP of increasing CPI to match the Philippines (USD)**



The chart below shows how increasing PNG's CPI score to match the scores of Indonesia, 38, the Solomon Islands, 44, Malaysia, 47, or even Australia, 77, and New Zealand, a top ranking 87, could totally transform the value of our economy and our standard of living.

**Chart #3: Impact on GDP of increasing CPI to match neighbouring countries**



This analysis provides a compelling economic rationale for immediate and serious efforts to be made to tackle corruption. Although, of course, such dramatic economic transformations cannot be achieved overnight, and the full impacts will take time to accrue, the effects will be permanent and the sooner we start to implement some serious reforms the sooner we will begin to see and feel positive change.

# POLICY PROPOSALS

The policy proposals presented below have been developed through an in-depth review of the reports from many of the anti-corruption investigations that have been conducted by a range of institutions including the Ombudsman Commission, various Commissions of Inquiry, the Public Accounts Committee and the Auditor General's office.

We have analyzed the reports to identify how corruption has been able to operate and thrive and the reasons why there has been a general failure to implement recommended reforms or take follow up action. We have also looked overseas for examples of best practice and evaluated how those ideas can complement our existing Papua New Guinean systems, processes and structures and be integrated with our own unique Melanesian

customs, practices and political culture.

We have also consulted widely, both within Papua New Guinea and internationally. Earlier iterations of these proposals have been shared publicly and with government, civil society, academics and multilateral agencies. The feedback received has been incorporated into the proposals.

Taken together, we believe the set of reforms presented below provide a comprehensive framework to improve governance and public oversight, ensure we have an open and accountable government and begin to deliver the economic transformation that can improve the livelihoods and wellbeing of all Papua New Guineans.

*Industries like coffee are a mainstay of the rural economy but corruption deprives them of government support*  
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# 1. CIVIC PARTICIPATION

Open and accountable government depends on empowering citizens to be full involved in decision making processes.

## 1A. Devolution of powers to the Provinces

**What:** Devolution of centralised powers from Port Moresby to the Provinces so there is greater autonomy and more localized decision making together with an enforceable revenue sharing arrangement based on population numbers.

**Why:** Port Moresby is physically remote from most centres of population and the majority of people have no access to decision makers or public records. Decentralizing powers and decision making to the Provinces, together with other policy proposals, will allow much greater public participation and scrutiny. Also geographical and cultural variations throughout the country mean 'one-size-fits-all' centralised decision making is often inefficient.

**Who:** Constitutional and Law Reform Commission / Department of Justice and the Attorney General / Department of Provincial and Local Level Government / all government departments.

**How:** Laws and policies will need to be revised to give Provincial governments more decision making powers and greater revenues and budgetary control. Individual government departments should review their own staffing and governance structures to decentralize power and resources to the provincial level. At the same time there will need to be civic education and improved sub-national levels of accountability.

## 1B. Publication of Service Improvement Program acquittals

**What:** Online publication of all District and Provincial Service Improvement Program (D/PSIP) grant acquittals presented to the Department of Finance by District and Provincial administrators.

**Why:** D/PSIP grants are a mechanism designed to improve the provision of services at the Provincial and District levels. These sizeable grants, over K1 billion in total was allocated in 2016, have attracted much controversy and have often been the subject of complaint and allegations of corruption. There is a very poor level of acquittal for the funds by the various development authorities. Publishing the acquittals will allow better citizen oversight, more 'social auditing' by the intended recipients of the services and increase transparency and accountability.

**Who:** Department of Finance / Department of

Implementation and Rural Development.

**How:** Digitization and publication of the records will require a number of steps including systemization of data templates, data entry and website design, construction and maintenance.

## 1C. Public registers of documents relating to land use decision making

**What:** Online publication of all documents relating to land use change, including:

1. all applications for changes to land use, including, but not limited to, resource extraction projects and industrial developments, including:
  - all supporting documentation;
  - maps showing the proposed boundaries, the communities impacted and key geographical features;
2. all documents related to identification of affected communities/clans/landowners, the information given to them on expected impacts and benefits, details of the consultation process and how consent was reached;
3. all the documents submitted or produced during of the decision making process, including but not limited to social and environmental impact studies, feasibility studies, proposed contracts etc;
4. all decisions made relating to changes in land use, including but not limited to any leases / licenses / permits / authorities or other legal instruments and final maps of the boundaries;
5. all relevant commercial contracts (with only commercially sensitive details redacted).

**Why:** Land is a key asset in Papua New Guinea. It is the centre of life for rural communities and for many people living in or around urban centres. Customary landholders and anyone occupying land, whether informally or not, is legally entitled to be involved at every stage of the decision making process in relation to changes to land use and any large-scale activities.

For customary landowners, free, prior and informed consent depends on complete transparency in planning and decision-making processes and the interaction of three key rights - the right to access information, the right to participate in decision-making, and the right to challenge such decisions. Disclosure of contracts is in line with Papua New Guinea's commitments to the Extractive

Industry Transparency Initiative and has been adopted in, for example, the Democratic Republic of Congo.

This proposal is also consistent with the existing commitment to centralize public datasets into an open data portal accessible to the public as part of a Government Open Data Portal as set out in the OGP Action Plan.

**Who:** Department of Lands and Physical Planning / Mineral Resource Authority / Department of Agriculture / PNG Forest Authority / Conservation and Environment Protection Agency / Department of National Planning and Monitoring.

**How:** The Mineral Resource Authority's Online Cadastral Portal provides an example of what can be achieved and a useful starting point. What it does not currently provide though is access to the underlying documents that have been listed above. The Department of Lands and Physical Planning needs to take the role of lead agency and design an implantation plan in conjunction with other key departments.

#### **1D. Investment in public broadcasting**

**What:** Increased government investment in the public broadcasting service and support for investigative skills

training for journalists and civil society.

**Why:** Most of the population is rural based and many rely on public broadcasting to obtain news and information. However, funding constraints mean the National Broadcast Commission has become rundown and in some areas services have closed. There is also a very low level of investigative journalism and journalists and civil society organisations lack investigative and research skills. A well-resourced public broadcaster will mean the public are much better informed and more able to contribute positively to decision making and development in general. While a cohort of skillful professionals probing public integrity and reporting their findings to the public will help expose poor governance and encourage better standards of performance.

**Who:** Department of Finance / National Executive Committee / Foreign donors and aid organisations / Media Council of PNG.

**How:** Annual budget allocations to the NBC must be increased and the NBC needs to formulate its own long-term organizational plan to rejuvenate its operations. The Media Council needs to be financially supported by media organisations and other donors. International partners should support more media training and professional development.

*Corruption starves our schools of desperately needed funding © ACT NOW!*





## 2. ACCESS TO INFORMATION

Open and accountable government and empowered citizen oversight depend on the public access to information on decision making and policy implementation. However, despite Constitutional rights and protections, access to this information in PNG is currently almost non-existent.

### 2A. Freedom of Information law

**What:** A law that allows public access to data held by the national and provincial governments and which gives statutory effect to the right to freedom of information contained in Section 51 of the Constitution. The law should establish a ‘right-to-know’ legal process by which requests may be made for government-held information which must be provided freely or at minimal cost, barring standard exceptions<sup>3</sup>, and within a reasonable but short period.

**Why:** The Constitution [Section 51(3)] requires for a law that establishes procedures by which citizens may obtain ready access to official information, but such a law to give effect to the right to freedom of information has never been enacted. A freedom of information law will help lift the veil of secrecy behind which corruption thrives and allow greater public engagement in decision-making processes and governance oversight.

**Who:** Constitutional and Law Reform Commission (CLRC) / Department of Justice and the Attorney General (DJAG).

**How:** A Freedom of Information law is already one of three commitments the government has made under the Freedom of Information cluster in its OGP Action Plan. The CLRC and DJAG must be resourced to draft a Bill through an open and transparent process that allows for public consultation and expert input.

### 2B. Company registry search function

**What:** The Investment Promotion Authority online company registry database to be searchable by director and shareholder / owner name.

**Why:** A lot of corruption in PNG is hidden behind a veil of corporate secrecy. The Investment Promotion Authority has taken a commendable and important step in making information about individual companies freely accessible online. But while its register of business names can be searched by individual name, its register of companies cannot, meaning companies cannot be identified through shareholder or director names. Making the register searchable by director or shareholder name would provide much greater transparency.

**Who:** Investment Promotion Authority.

**How:** The IPA online register already exists and it should be a relatively straightforward task to update the portal to make it searchable by name.

### 2C. Public access to official governance reports

**What:** Governance institutions make copies of all their annual and published investigative reports, including all past reports, available online so they can be publicly accessed for free.

**Why:** The investigations and reports of governance institutions provide an important record of past abuses, the actors involved, the schemes they have used and their culpability. Unfortunately many of the reports that have been published are not available to the public, either in libraries or online. Publishing the reports online will increase accountability and transparency, inform policy development, lead to better decision making and assist other measures to tackle corruption.

**Who:** Auditor General / Department of the Prime Minister / Ombudsman Commission / Public Accounts Committee / Department of Justice and the Attorney General / Department of Communication and Information (DCI).

**How:** The DCI should take a lead role in designing and publishing a new online portal which should provide access to the reports from all government agencies. Individual agencies should be consulted as part of the design process and commit to providing access to all existing reports, including those that need to be digitized.

### 2D. Public access to the National Gazette

**What:** The National Gazette is published online at the same time physical copies are printed so it is publicly accessible and information in the public domain is up-to-date. The online platform should include a search function allowing the user to search the gazettes using any keywords.

**Why:** The National Gazette is the official medium by which decisions of the Government are announced. These include public service appointments, issuing of land leases, decisions relating to boards and commissions, and calls for tenders and awarding of contracts by the Government. Currently the Gazette is only available by collection from the office of the Government Printer in Port Moresby which means most people have no access to the important information it contains.

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3. National security, personal privacy, trade secrets, privileged communications, fair trial, endangerment to life.

**Who:** Government Printer / Department of Communication and Information.

**How:** The Government Printer should make the National Gazette available in digital format to its existing subscribers and should provide copies to both the Department of Communications and Information for publication on its online portal [see 2C above] and to the Pacific Legal Institute (PacLi), hosted by the University of the South Pacific, for publication through their existing online portal.

## 2E. Public register of public procurement

**What:** A public sector procurement website that provides access to information and documents on all government contracts. The website should include tender documents, tender evaluation reports, including name of bidders, the terms and date of contracts and the details of the successful bidder. Data should be searchable by procurer or bidder name and search results should be filterable by province / type of work and year.

**Why:** Government procurement is a major area for corruption. Greater transparency will assist detection and prevention, including through 'social auditing', and provide an effective deterrent.

**Who:** Department of Works / National Department of Health / Department of Communications and Information / Department of Finance.

**How:** Short-term implementation could focus on critical government departments like Works and Health as pilot projects. The Department of Communications and Information and Department of Finance should work with the Departments of Works and Health to develop an online portal that can later be expanded to include all government procurement.

## 2F. Public register of beneficial ownership

**What:** A duty on companies to investigate and declare any beneficial ownership or control of their company as part of their annual reporting obligations. The declarations would be published by the Investment Promotion Authority (IPA) on their website.

**Why:** The use of proxy directors and individuals or companies as proxy shareholders, particularly when based overseas and in tax-havens, can be used to hide real (beneficial) ownership and corrupt transactions including tax-avoidance, reduction or evasion and other unlawful behaviour. A public register was introduced in the United Kingdom in 2016 to assist financial institutions and other businesses with due diligence exercises and to support law enforcement agencies.<sup>4</sup> A public register would also be congruent with PNG's Extractive Industry Transparency Initiative (EITI) beneficial ownership obligations.

**Who:** Department of Justice and the Attorney General / Constitutional Law Reform Commission / Investment Promotion Authority.

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4. See <https://www.bdo.co.uk/en-gb/insights/business-edge/business-edge-2016/beneficial-ownership-register>





### 3. GOVERNMENT INTEGRITY

Sometimes politicians and public servants fail to meet the high standards of honesty and integrity expected of them. Robust measures are needed to investigate and bring to justice those who may have erred, to reduce the opportunities and incentives for wrongdoing, and to make it easier for the authorities and the public to identify possible corruption.

#### 3A. Independent Commission Against Corruption

**What:** A fully funded and autonomous Independent Commission Against Corruption (ICAC) to investigate complaints of corruption, prosecute offenders and initiate and support education and awareness programmes aimed at prevention.

**Why:** Current institutions have been proven to be ineffective in tackling endemic corruption and are susceptible to political interference. The Ombudsman Commission has a mandate that is too limited and easily circumvented. An ICAC type body has proven to be effective in other jurisdictions. The power to prosecute offenders is necessary to address the historical experience with other governance oversight bodies where investigations and recommendations for prosecution have often not been actioned.

**Who:** Department of Justice and the Attorney General.

**How:** The Constitutional amendment allowing for an ICAC has already been passed by Parliament and a draft Bill to establish an ICAC has already been drafted. The DJAC should publish the draft bill and engage in an open and transparent round of public and expert consultation on the text before it is presented to Parliament.

#### 3B. Reboot the national integrity system

**What:** Increased resourcing, independence and capacity building for existing anti-corruption and governance oversight institutions.

**Why:** Papua New Guinea already has a well-established national integrity system with various organisations<sup>5</sup> that historically have performed important functions but that have fallen into various different states of dysfunction or been hobbled by a lack of resources. Reviving and properly resourcing these institutions will be an effective and efficient way to improve governance.

**Who:** National Executive Committee (NEC) and the Ombudsman Commission, Auditor General's Office, Public Accounts Committee, Royal PNG Constabulary Anti-Fraud and Corruption Division and the Financial Analysis and Supervision Unit.

**How:** NEC should ensure the budget allocations for the frontline agencies is substantially increased. Each agency should develop its own organizational development plan setting out how it will increase capacity and effectiveness, improve management systems and the resources required.

#### 3C. Permanent appointments to senior public service posts

**What:** All senior public servants should be employed on fixed term permanent contracts with no short-term contracts or repeated 'acting' appointments. All appointments should be made following proper transparent processes and all appointments should be published in the National Gazette.

**Why:** Short term or 'acting' appointments can create an unhealthy dependency and unwillingness to report or act on allegations of corruption or to stand up to political interference. By creating transparency through publishing appointments, the risk of nepotism and cronyism can also be reduced.

**Who:** Department of Personnel Management / National Executive Council.

**How:** The Department of Personnel Management should review all current senior service positions and ensure that any 'acting' or short-term appointments are regularized as soon as possible. The National Gazette should be used to publish an annual list of senior positions, the incumbent and their contract dates.

#### 3D. Public register of Members of Parliament's interests.

**What:** A public online registry of the share ownerships, directorships and other interests declared to the Ombudsman Commission by those subject to the Organic Law on the Duties and Responsibilities of Leadership as part of their Section 4 annual returns. These declarations to include immediate family members [spouses and children].

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5. These include the Ombudsman Commission, Auditor General's Office, Public Accounts Committee, Royal PNG Constabulary Anti-Fraud and Corruption Division, internal auditing divisions within government Departments and state enterprises, and the Financial Analysis and Supervision Unit with the Bank of PNG.

**Why:** There is a lot of evidence of Members of Parliament and public servants benefiting, directly or indirectly, from contracts given to their own companies or companies owned by family members, and causing a conflict of interest with their decision making roles. A lot of this abuse goes undetected because either leaders interests are not declared or they are not acted on as there is no public disclosure. A public register will allow wider scrutiny, reduce the opportunities for abuse and increase pressure to enforce applicable laws. Such public registers exist in many other countries including United Kingdom, New Zealand and Australia and provide transparency and strengthen public trust and confidence in parliamentary processes and decision-making.

**Who:** Ombudsman Commission.

**How:** The Ombudsman Commission should design and publish a public online registry of Members interests and regularize the format of the annual returns so they can be easily digitized or even submitted directly through the online portal.

## 4. LEGAL PROTECTIONS

Legal protections need to be strengthened for the victims of corruption and those who risk their livelihoods and wellbeing and expose it and to reduce the impunity that offenders often enjoy.

### 4A. Whistleblower Protection law

**What:** A law that protects all employees, in both the public and private sectors, from any civil or criminal action, including disciplinary proceedings, for disclosing in good faith information about dishonest or illegal activities. The protection should apply to any person, whether or not subject to a confidentiality provision or duty or any other prohibition or restriction on disclosure. The law should prevent any person or agency from taking action, or threatening to take action, against an employee or applicant for disclosing information about dishonest or illegal activities.

**Why:** There are many loyal and hard-working public and private sector workers who see abuses occurring but are afraid to speak out because of the fear of losing their job or being demoted. A whistleblower protection law will help increase the level of reporting and decrease the impunity enjoyed by wrongdoers.

**Who:** Constitutional and Law Reform Commission / Department of Justice and the Attorney General.

**How:** The CLRC and DJAG should collaborate on the drafting of a new law that is then published for public consultation.

### 4B. Justiciable National Goals and Directive Principles

**What:** Constitutional amendment to make the National Goals and Directive Principles justiciable.

**Why:** The lack of enforceability of social and economic rights as enshrined in the Constitution means the vision of the National Goals has been lost and replaced by the very demons the Constitutional Planning Committee warned against. The non-justiciability is structural to the over-centralism of the current system of government. In 1985, the General Constitution Review, required after a decade of Independence, recommended that the National Goals and Directive Principles be made justiciable. The recommendation has not yet been implemented.

**Who:** Constitutional and Law Reform Commission / Department of Justice and the Attorney General.

**How:** The CLRC and DJAG should collaborate on the drafting of a Constitutional amendment.

### 4C. Criminal liability for unlawful alienation of customary land

**What:** An amendment to the Criminal Code that makes it a criminal offence to aid or assist in the alienation or occupation of land or interference with user rights without following the full process as laid out in law and without ensuring the free, prior and informed consent of all customary or other landowners.

**Why:** Land is a key asset in Papua New Guinea. It is the centre of life for rural communities and for many people living in or around urban centres. Unfortunately there are many examples of public servants and politicians being actively involved in the unlawful alienation of land, sometimes on a grand-scale, or failing to stop it occurring. An amendment to the Criminal Code would have a deterrent effect and assist in ensuring those culpable face justice.

**Who:** Constitutional and Law Reform Commission / Department of Justice and the Attorney General.

**How:** The CLRC and DJAG should collaborate on the drafting of a new law that is then published for public consultation.

### 4D. Asset recovery

**What:** Legislation to introduce asset-recovery tools and other measures such as unexplained wealth orders.

**Why:** Existing legislative mechanisms are not preventing public officials and politicians from enjoying



the proceeds from corrupt activities even where those activities are exposed. Strengthening the suite of available asset-recovery tools and forcing public officials to explain their wealth will lead to greater recovery and act as a deterrent.

**Who:** Constitutional and Law Reform Commission / Department of Justice and the Attorney General.

**How:** The CLRC and DJAG should collaborate on the drafting of a new law that is then published for public consultation.

#### 4E. Professional standards

**What:** Professional bodies to be assisted to ensure appropriate professional standards are set and upheld and complaints are dealt with expeditiously.

**Why:** Professional people such as lawyers, accountants, auditors, engineers, bankers, valuers, surveyors, foresters etc. can play an important role in identifying

and preventing corruption. Unfortunately, sometimes they can also facilitate or turn a blind eye to illegal activities. Generally, the professional bodies responsible for ensuring standards are maintained and dealing with complaints are under-resourced and overwhelmed by their workloads. This means errant behaviour is not being identified and standards are not enforced. The few 'bad eggs' are allowed to continue to operate with impunity.

**Who:** Government, professional bodies and their overseas counterparts.

**How:** Each professional body should audit its own performance to identify weaknesses and resourcing requirements. Each body should publish a plan to ensure professional standards are set, upheld and enforced. Government should encourage overseas bodies and foreign governments to support these processes and review legislation to ensure bodies are obligated to set and maintain standards.





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