Module 2.2 Government in PNG
Resource Documents

Additional Support Material
Acknowledgements

Materials compiled by Sue Lauer (PASTEP).

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## Unit outline

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Constitution of PNG

CHAPTER No. 1

CONSTITUTION
of
THE INDEPENDENT STATE OF PAPUA NEW GUINEA

PREAMBLE.

Adoption of Constitution.

WE, THE PEOPLE OF PAPUA NEW GUINEA-

• united in one nation
• pay homage to the memory of our ancestors - the source of our strength and origin of our combined heritage
• acknowledge the worthy customs and traditional wisdoms of our people - which have come down to us from generation to generation
• pledge ourselves to guard and pass on to those who come after us our noble traditions and the Christian principles that are ours now.

By authority of our inherent right as ancient, free and independent peoples

WE, THE PEOPLE, do now establish this sovereign nation and declare ourselves, under the guiding hand of God, to be Independent State of Papua New Guinea.

AND WE ASSERT, by virtue of that authority

• that all power belongs to the people - acting through their duly elected representatives
• that respect for the dignity of the individual and community interdependence are basic principles of our society
• that we guard with our lives our national identity, integrity and self respect
• that we reject violence and seek consensus as a means of solving our common problems
• that our national wealth, won by honest, hard work be\textsuperscript{1} equitably shared by all

WE DO NOW THEREFORE DECLARE that we, having resolved to enact a Constitution for the Independent State of Papua New Guinea

AND ACTING through our Constituent Assembly on 15 August 1975

HEREBY ESTABLISH, ADOPT and GIVE TO OURSELVES this Constitution to come into effect on Independence Day, that is 16 September 1975.

\textsuperscript{1} Semble, “ought to be” was intended.
National Goals and Directive Principles

IN SO DOING WE, THE PEOPLE OF PAPUA NEW GUINEA, SET BEFORE OURSELVES THESE NATIONAL GOALS AND DIRECTIVE PRINCIPLES THAT UNDERLIE OUR CONSTITUTION:

National Goals and Directive Principles

WE HEREBY PROCLAIM the following aims as our National Goals, and direct all persons and bodies, corporate and unincorporate, to be guided by these our declared Directives in pursuing and achieving our aims:

1. Integral human development.

We declare our first goal to be for every person to be dynamically involved in the process of freeing himself or herself from every form of domination or oppression so that each man or woman will have the opportunity to develop as a whole person in relationship with others.

WE ACCORDINGLY CALL FOR-

(1) everyone to be involved in our endeavours to achieve integral human development, of the whole person for every person and to seek fulfilment through his or her contribution to the common good; and
(2) education to be based on mutual respect and dialogue, and to promote awareness of our human potential and motivation to achieve our National Goals through self-reliant effort; and
(3) all forms of beneficial creativity, including sciences and cultures, to be actively encouraged; and
(4) improvement in the level of nutrition and the standard of public health to enable our people to attain self fulfilment; and
(5) the family unit to be recognized as the fundamental basis of our society, and for every step to be taken to promote the moral, cultural, economic and social standing of the Melanesian family; and
(6) development to take place primarily through the use of Papua New Guinean forms of social and political organization.

2. Equality and participation.

We declare our second goal to be for all citizens to have an equal opportunity to participate in, and benefit from, the development of our country.

WE ACCORDINGLY CALL FOR-

(1) an equal opportunity for every citizen to take part in the political, economic, social, religious and cultural life of the country; and
(2) the creation of political structures that will enable effective, meaningful participation by our people in that life, and in view of the rich cultural and ethnic diversity of our people for those structures to provide for substantial decentralization of all forms of government, activity; and
(3) every effort to be made to achieve an equitable distribution of incomes and other benefits of development among individuals and throughout the various parts of the country; and
(4) equalization of services in all parts of the country, and for every citizen to have equal access to legal processes and all services, governmental and otherwise, that are required for the fulfilment of his or her real needs and aspirations; and
(5) equal participation by women citizens in all political, economic, social and religious activities; and
(6) the maximization of the number of citizens participating in every aspect of development; and
(7) active steps to be taken to facilitate the organization and legal recognition of all groups engaging in development activities; and
(8) means to be provided to ensure that any citizen can exercise his personal creativity and enterprise in pursuit of fulfilment that is consistent with the common good, and for no citizen to be deprived of this opportunity because of the predominant position of another; and
(9) every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community; and
(10) all persons and governmental bodies of Papua New Guinea to ensure that, as far as possible, political and official bodies are so composed as to be broadly representative of citizens from the various areas of the country; and
(11) all persons and governmental bodies to endeavour to achieve universal literacy in Pisin, Hiri Motu or English, and in “tok ples” or “ita eda tano gado”; and
(12) recognition of the principles that a complete relationship in marriage rests on equality of rights and duties of the partners, and that, responsible parenthood is based on that equality.


We declare our third goal to be for Papua New Guinea to be politically and economically independent, and our economy basically self-reliant.

WE ACCORDINGLY CALL FOR-

1. our leaders to be committed to these National Goals and Directive Principles, to ensure that their freedom to make decisions is not restricted by obligations to or relationship with others, and to make all of their decisions in the national interest; and
(2) all governmental bodies to base their planning for political, economic and social development on these Goals and Principles; and
(3) internal interdependence and solidarity among citizens, and between provinces, to be actively promoted; and
(4) citizens and governmental bodies to have control of the bulk of economic enterprise and production; and
(5) strict control of foreign investment capital and wise assessment of foreign ideas and values so that these will be subordinate to the goal of national sovereignty and self-reliance, and in particular for the entry of foreign capital to be geared to internal social and economic policies and to the integrity of the Nation and the People; and
(6) the State to take effective measures to control and actively participate in the national economy, and in particular to control major enterprises engaged in the exploitation of natural resources; and
(7) economic development to take place primarily by the use of skills and resources available in the country either from citizens or the State and not in dependence on imported skills and resources; and
(8) the constant recognition of our sovereignty, which must not be undermined by dependence on foreign assistance of any sort, and in particular for no investment,

2 Semble, “relationships” was intended
military or foreign-aid agreement or understanding to be entered into that imperils our self-reliance and self-respect, or our commitment to these National Goals and Directive Principles, or that may lead to substantial dependence upon or influence by any country, investor, lender or donor.

4. **Natural resources and environment.**

   We declare our fourth goal to be for Papua New Guinea’s natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.

   WE ACCORDINGLY CALL FOR-

   1. wise use to be made of our natural resources and the environment in and on the land or seabed, in the sea, under the land, and in the air, in the interests of our development and in trust for future generations; and
   2. the conservation and replenishment, for the benefit of ourselves and posterity, of the environment and its sacred, scenic, and historical qualities; and
   3. all necessary steps to be taken to give adequate protection to our valued birds, animals, fish, insects, plants and trees.

5. **Papua New Guinean ways.**

   We declare our fifth goal to be to achieve development primarily through the use of Papua New Guinean forms of social, political and economic organization.

   WE ACCORDINGLY CALL FOR-

   1. a fundamental re-orientation of our attitudes and the institutions of government, commerce, education and religion towards Papua New Guinean forms of participation, consultation, and consensus, and a continuous renewal of the responsiveness of these institutions to the needs and attitudes of the People; and
   2. particular emphasis in our economic development to be placed on small-scale artisan, service and business activity; and
   3. recognition that the cultural, commercial and ethnic diversity of our people is a positive strength, and for the fostering of a respect for, and appreciation of, traditional ways of life and culture, including language, in all their richness and variety, as well as for a willingness to apply these ways dynamically and creatively for the tasks of development; and
   4. traditional villages and communities to remain as viable units of Papua New Guinean society, and for active steps to be taken to improve their cultural, social, economic and ethical quality.

   **Basic Rights.**

   WE HEREBY ACKNOWLEDGE that, subject to any restrictions imposed by law on non-citizens, all persons in our country are entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever their race, tribe, places of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the legitimate public interest, to each of the following:

   i. life, liberty, security of the person and the protection of the law; and
   ii. the right to take part in political activities; and
   iii. freedom from inhuman treatment and forced labour; and

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3. *Semble*, “those” was intended
4. *Semble*, “place” was intended
iv. freedom of conscience, of expression, of information and of assembly and association; and
v. freedom of employment and freedom of movement; and
vi. protection for the privacy of their homes and other property and from unjust deprivation of property,

and have accordingly included in this Constitution provisions designed to afford protection to those rights and freedoms, subject to such limitations on that protection as are contained in those provisions, being limitations primarily designed to ensure that the enjoyment of the acknowledged rights and freedoms by an individual does not prejudice the rights and freedoms of others or the legitimate public interest.

**Social Obligations**

**WE HEREBY DECLARE** that all persons in our country have the following basic obligations to themselves and their descendants, to each other, and to the Nation

(a) to respect, and to act in the spirit of, this Constitution; and
(b) to recognize that they can fully develop their capabilities and advance their true interests only by active participation in the development of the national community as a whole; and
(c) to exercise the rights guaranteed or conferred by this Constitution, and to use the opportunities, made available to them under it to participate fully in the government of the Nation; and
(d) to protect Papua New Guinea and to safeguard the National wealth, resources and environment in the interests not only of the present generation but also of future generations; and
(e) to work according to their talents in socially useful employment, and if necessary to create for themselves legitimate opportunities for such employment; and
(f) to respect the rights and freedoms of others, and to co-operate fully with others in the interests of interdependence and solidarity; and
(g) to contribute, as required by law, according to their means to the revenues required for the advancement of the Nation and the purposes of Papua New Guinea; and
(h) in the case of parents, to support, assist and educate their children (whether born in or out of wedlock), and in particular to give them a true understanding of their basic rights and obligations and of the National Goals and Directive Principles; and
(i) in the case of the 5 children, to respect their parents.

IN ADDITION, WE HEREBY, DECLARE that all citizens have an obligation to themselves and their descendants, to each other and to the Nation to use profits from economic activities in the advancement of our country and our people, and that the law may impose a similar obligation on non-citizens carrying on economic activities in or from our country.

\[\text{\textsuperscript{5}}\text{ Semble, “the” should be omitted}\]
Integrity of Political Parties Law

PROPOSED ORGANIC LAW ON THE INTEGRITY OF POLITICAL PARTIES AND CANDIDATES

While we are endeavouring to embark on a major Constitutional development, we must not forget the Founders of the Constitution for having the wisdom to have ensured that the Provision of Integrity of Political Parties and Candidates was provided for in the Constitution.

Over the years, we have witnessed the formation of governments after general elections and through votes of no confidence. Such process have taken place through both Constitutional and democratic means. So far we have not had any major problems. However, there is no guarantee that we will continue to form governments through constitutional means given the very fluid nature of PNG politics. In recent times, the country has witnessed two unsuccessful attempts by institutions to secure political power through unconstitutional means.

As a nation, PNG can achieve the much-needed political stability by formulating firm laws to regulate the existence and operations of political parties. As responsible leaders, we must ensure that the people elect their representatives to the National Parliament without fear and favour and without undue influences. We need to institute integrity into the political system to safeguard the national interest. Also, we need to introduce legislation to ensure that there are minimal questions about the conduct of elective office and the elections are conducted fairly in line with the existing laws.

The Constitutional mandate and the overall purpose of this proposal are to implement sub-division 6.2H of the National Constitution. This provision purports to protect elections and prevent candidates from being improperly or unduly influenced by hidden agendas. Section 129 of the Constitution creates an obligation on us, the members of Parliament to enact an Organic Law on the integrity of political parties. The Government has a duty, a legal and moral obligation to ensure that the Constitution reflects the needs of the country and the desires of its people.

The Government lives a hand to mouth existence. Business investment has declined dramatically and all income-earning opportunities for PNG are disappearing. Foreign investors want to know PNG is stable before they can bring their investments. PDM firmly believes that long-term political stability can only come about if the Organic Law on the Integrity of Political Parties and Candidates is enacted now.

We therefore propose the following:

1. INTEGRITY OF POLITICAL PARTIES:
Since Independence, we have had more than 20 political parties in the country. Parties have come and gone, others have developed as offshoots from the main parties due to leadership struggles or differences in ideologies. To date, there are more than ten political parties in operation, including four major ones and two that have survived since Independence. Many of the current political parties were either formed in Parliament as a result of political lobbying towards the formation of Government or were formed because of a political agenda. Other political groupings have come about because leaders are seeking more autonomy, seeking more development and equal distribution of the country's resources.
Political parties in PNG become active only during elections where officials travel the country and announce the party policies, or during formations of governments when members group themselves to provide the numbers to either remain in government or to form the new Government.

After such an exercise the parties remain silent with no activities either on the national or provincial front. This has had a serious impact on party policies and many times supporters of political parties become frustrated and angry. The Organic Law must therefore clearly set out procedures in the formation and registration of political parties and ensure that political parties function and operate as political entities in line with the national goals and directive principles.

Therefore, we in PDM propose that
- All registered political parties must have a registered office, a constitution, a secretariat and a national policy.
- All registered political parties must receive some funding from the State to enable the organisation to operate and function.
- If the party is able to raise its own funds through commercial ventures then such funds must be clearly shown.
- All funds raised externally must be subject to tax and scrutiny.
- The financial affairs of all registered parties must be audited and tabled in Parliament annually.

2. GENERAL ELECTIONS:
On general elections, we propose that the preferential voting system be re-introduced into the electoral process because it is more democratic and representative in terms of electing the most popular candidate for public office. We further recommend that after a general election the party that scores the highest number of seats is given the mandate by the Constitution to form the new Government.

3. PROVISION FOR VOTE OF NO-CONFIDENCE
PDM recommends that the provisions for the Vote of No Confidence in the Constitution is amended to ensure that if a vote of No Confidence succeeds then Parliament is dissolved and general elections are immediately conducted. This will eliminate the horse-trading that takes place to form governments, minimise political instability and the people are given the mandate to elect their new government through the ballot boxes. Governments must only be installed after general election and not through Votes of No-Confidence.

4. INTEGRITY OF CANDIDATES.
It is equally important that we now introduce measures to set standards and bring integrity to candidates contesting general elections. This will not only elevate the status of our Members of Parliament, but will create stability. PDM therefore proposes that only citizens over the age of 25 with no criminal record or conviction are eligible to stand for public office.

We further propose that in future persons dismissed from Parliament for Leadership Code breaches should never be eligible to contest national elections again. All candidates contesting National elections must either stand under a registered political party or run as independents. This means a leader who is elected under the banner of a political party must by law remain loyal to that party for the full life of that Parliament. We are fully aware of the Constitutional provisions of freedom of speech, association etc. However if certain qualifications can be applied to enforce movements of members it must be done.

We strongly recommend that any Member of Parliament who switches allegiance from one political party to another in the life of one Parliament must be made to face severe penalty. We propose that the particular MP automatically loses his or her seat as Member of Parliament.
Over the past, we have seen political parties formed in Parliament and also MPs switching allegiance for personal reasons. This as we all know has caused so much political instability. It is absolutely necessary for us to install political stability in the political system to ensure good governance, and the Governments elected into office after general elections run for the full five-year term and leaders become accountable and perform to the expectations of the voters and electorates.

5. **FUNDING OF POLITICAL PARTY**

We believe the Government must fund all political parties in accordance with the Organic Law but that funding must be limited and political parties raise the bulk of the revenue through:

- Parliamentary appropriation;
- Contributions by citizen;
- Contributions by non-citizens; and
- Proceeds from investments,

The Organic Law must determine the type of funding and how much a registered political party must receive.

PDM believes that funding of political parties by the State will minimise the risk of outside influence into the internal political affairs of the country and strengthen governments. As a party we believe that we have proposed a genuine and realistic system to bring about greater political stability. We have participated in more than four Governments since Independence. A lot of resources and energy have been wasted because of lack of political stability in all the governments we have been part of.

Not long ago, our Parliament made some significant changes to the Constitution to improve the delivery of services and equitable distribution of resources to the provinces in particular to the rural section. The enactment of the Organic law on Integrity of Political Parties and Candidates must be seen as a major development in the Constitution to bring about stability. And, as a major political party, the People's Democratic Movement supports the CDC in this vital endeavour and we commend the Chairman and the CDC staff for their hard work.

Papua New Guinea has an enviable record in constitutional development. Unlike the constitutions of many countries, ours is constantly evolving to meet the changing needs of our people. We have seen similar democracies elsewhere developed because they were able to ensure that there was political stability in their systems and governments. Papua New Guinea must have now move to institute that stability into our political system and government, if we are to prosper socially, economically and politically.

**HON. MAO ZEMING, MP**

*Deputy Parliamentary Leader of People’s Democratic Movement & Minister for Works*

(Printed in *The National*, 1 November 1999)
PNG-Australia Relations

Joint Declaration of Principles Guiding Relations Between Australia and Papua New Guinea
1987, as amended by exchange of letters 1992

Australia and Papua New Guinea are immediate neighbours, with close traditional and historic ties between their peoples which both countries are determined to maintain and strengthen. Australia and Papua New Guinea have many common interests which both Governments seek to advance with full regard for one another's distinct national characteristics.

Both Governments

- respect and seek to build on existing bilateral, regional and other mutually beneficial arrangements in accordance with their shared commitment to independent and constructive neighbourly co-operation and to co-operation between developing and developed countries.
- are strongly committed to regional co-operation in the South Pacific and to co-operation with other neighbours.
- are committed to promoting a stable regional environment in which the aspirations of the peoples of the region for security, peace, equity and development can best be realised.

BASIC PRINCIPLES

(1) The Governments and peoples of Papua New Guinea and Australia reaffirm their commitment to the maintenance and strengthening of close and friendly relations between their two countries.

(2) The various elements which make up the over-all relationship between the two countries should be viewed together, and each of the elements should be conducted with due regard for the relationship as a whole.

(3) Relations between Papua New Guinea and Australia will be conducted in accordance with the principles of mutual respect for one another's independence, sovereignty and equality.

(4) Both Governments are committed to peaceful settlement of international disputes and to non-interference in the internal affairs of other countries.
(5) Both Governments seek to avoid, reduce, contain and, where possible, to remove the causes of, international tensions.

(6) Citizens of either country will be accorded fair and just treatment in the other in accordance with law.

(7) The maintenance and strengthening of close and friendly relations between the two countries is an integral part of both Governments’ independent foreign policies.

(8) Co-operation and exchanges between the two countries will be mutually beneficial and based on full participation by both countries, with due regard to the capacity, resources and development needs of both countries, and on mutual respect.

(9) Development co-operation will comprise a wide-ranging combination of agreed measures designed to contribute to development and self-reliance, including capacity building, in Papua New Guinea.

**CO-OPERATION**

(10) Promotion of Understanding: Both Governments will seek to promote knowledge and understanding of the other country.

(11) Diplomatic Co-operation and Consular Representation: The two Governments will seek to co-operate in pursuing shared national, regional and global interests through diplomacy and will assist one another in consular representation as far as practicable.


(13) Defence

(a) Recognising that each Government has primary responsibility for its own security, the two Governments undertake to continue to maintain and develop their respective defence capabilities.

(b) Conscious of their unique historical links and shared strategic interests, the two Governments will continue to engage in defence co-operation through consultation and in such areas as agreed exchanges, consultancies, combined projects, military training and combined exercises as would be decided by them from time to time.

(c) The two Governments reaffirm the existing agreement and arrangements between the two countries covering the status of Service personnel from either country present in the other, the provision of supply support and consultations on politically sensitive situations in which Australian loan personnel might be involved.

(d) The two Governments will consult, at the request of either, about matters affecting their common security interests. In the event of external armed attack threatening the national sovereignty of either country, such consultation would be conducted for the purpose of each Government deciding what measures should be taken, jointly or separately, in relation to that attack.

(14) Trade, Investment and Private Sector Co-operation

(a) Both Governments desire to strengthen trade, investment and private sector co-operation between the two countries.
(b) The two Governments recognise their commitments under the agreement covering trade and commercial relations between Papua New Guinea and Australia.

(c) Trade between the two countries will be on at least most-favoured nation terms and as free of both tariff and other restrictive regulations of commerce as may be consistent with both countries' domestic requirements and international commitments.

(d) The two Governments will consult on ways in which Australian investment can contribute to the development of Papua New Guinea. The two Governments will accord to Papua New Guinea and Australian companies and individuals resident in either country investment treatment no less favourable than that accorded to those of any third country.

(e) The two Governments will encourage co-operation between the private sectors of their two countries in trade, investment and related areas.


(15) Financial, Transport and Other Services

The two Governments will, in accordance with the laws and policies of both countries and having regard to Papua New Guinea's development needs, co-operate to encourage the efficient supply of financial, transport and other services between the two countries.

(16) Development Assistance

Development assistance will be provided as part of an agreed program of co-operation which contributes to development and self-reliance in Papua New Guinea, allows for forward planning and implementation in accordance with policies and priorities set by the Papua New Guinea Government, and takes due account of both Governments' policies on development co-operation.

(17) Communication and Travel

The two Governments will seek to promote and facilitate communications and travel, including tourism, between the two countries, with due regard for one another's national interests and policies.

(18) Border Administration

The two Governments will reinforce their co-operation under the Torres Strait Treaty in the administration and development of their common border area, with due regard for the rights and interests of the traditional inhabitants and conservation of the natural environment.

(19) Legal Co-operation

The two Governments will co-operate, in accordance with their international legal obligations 'and respective laws, in the area of law enforcement and seek to increase co-operation in other areas of the law, including taxation law, business law and family law.

(20) Crime, Terrorism and Smuggling

The two Governments will co-operate, in accordance with their respective laws and international obligations, to prevent, detect and prosecute crime, terrorism and smuggling, including, especially, illegal drug trafficking.
(21) Exchanges

(a) The two Governments will promote educational, scientific, cultural, sporting and other exchanges between individuals, groups and public office-holders with common interests.
(b) The two Governments will facilitate exchanges which contribute to the development of human resources, research capacity and technology in the public and private sectors.

(22) Consultations

(a) The two Governments will establish a Ministerial forum to meet regularly, under arrangements co-ordinated by the two Ministers responsible for foreign affairs, alternately in either country.
(b) The two Governments will endeavour to consult promptly and at an appropriately high level of representation at the request of either.
(c) The two Governments will hold such other consultations as may be agreed.

GENERAL PROVISIONS

(23) Resolution of Disputes

Disputes between the two Governments will be settled peacefully through consultation, negotiation, or such other means as may be agreed and are consistent with the United Nations Charter.

(24) Other Arrangements

(a) Commitments made under existing arrangements between the two countries will be respected, and developed in accordance with this Joint Declaration,
(b) The two Governments will endeavour to interpret and implement agreements and arrangements between them in the spirit of the principles and commitments contained in this Joint Declaration, without prejudice to commitments entered into under existing agreements between Papua New Guinea and Australia.
(c) The two Governments may give effect to this Joint Declaration in such further agreements and arrangements as may be agreed.

(25) Review

The two Governments will review the operation of this Joint Declaration at the request of either party.

Signed at Canberra the ninth day of December 1987.

(signed) R. J. L. HAWKE
Prime Minister of Australia

(signed) PAIAS WINGTI
Prime Minister of Papua New Guinea
## Members of the Commonwealth

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Abbreviations:
- **M** - Monarchy under Queen Elizabeth
- **NM** - National Monarchy
- **R** - Republic
- **RE** - Republic with Executive President