



Introduction

Bill Skate became the fifth prime minister of Papua New Guinea after the 1997 national elections. A two-term parliamentarian by then, much had already been written about his less-fortunate upbringing in the slums of Port Moresby as well as his reputation as an astute political strategist notorious for his single-mindedness. Skate's elevation to the top post in the country perhaps barely raised eyebrows among those who knew how the game was played in Waigani, but it certainly dismayed many ordinary observers. It was widely believed that a number of members of parliament (MPs) were bought off to form the Skate government.

His term in office, from mid-1997 to mid-1999, was marred by political instability and poor governance on such a scale that a sense of urgency emerged to avert a further slide into despair; 'something' had to be done (see Standish 2001:295). That was the intention of prime minister Sir Mekere Morauta, Skate's successor, when he announced his platform as a 'date with destiny'. Morauta's program was designed to stabilise politics and the economy (Gelu 2006:60).

One of the elements of this program was the introduction of the Organic Law on the Integrity of Political Parties and Candidates (OLIPPAC), aimed at stabilising politics in the national parliament by addressing the weaknesses of political parties. The OLIPPAC was first introduced to parliament for debate in 2000 and was enacted in 2001. But in July 2010 a five-member bench of Papua New Guinea's Supreme Court ruled that there were inconsistencies between the country's Constitution and sections of the OLIPPAC. Questions have now been raised about future directions of parliamentary politics in Papua New Guinea. The OLIPPAC has generated considerable debate (e.g. see Fraenkel 2004; Reilly 2006). Some claimed that it had failed (Gelu 2005); others claimed some

success (e.g. see Sepoe 2005). Some pointed out that in a Westminster parliamentary democracy such laws may prevent the removal of unpopular governments (e.g. see Fraenkel et al. 2008).¹ Generally, the implementation of the OLIPPAC since 2001 has been poor. Parliamentarians have behaved as they did before the OLIPPAC was adopted (Sepoe 2005; May 2008). Government agencies, in particular the Ombudsman Commission, appeared to lack commitment to apply the OLIPPAC against those who infringed it.

The OLIPPAC was ambitious, given the deep fragmentation of the country — a population of approximately 6.2 million people speaking more than 800 languages. The island of New Guinea, divided between Papua New Guinea to the east and Indonesia to the west, is among the most rugged in the world. Papua New Guinea is divided into four regions: the Highlands (interior of New Guinea), Papua (southern coast), Momase (northern New Guinea coast) and the New Guinea Islands. These regions are subdivided into 20 provinces, including the capital, Port Moresby (the National Capital District). The country's parliament comprises 109 seats — 20 provincial seats and 89 elected members from constituencies spread across the country.² A Westminster system of government with a unicameral house was retained after independence from Australia in 1975.

Since the 1980s 'yo-yo' politics, characterised by MPs jumping from party to party, has become the norm. The use, or threatened use, of a vote of no confidence against a government, after an 18-months grace period, was a feature of most parliamentary sittings. Consequently, government business was continually dominated by political games of survival. Prime ministers and

cabinets struggled to procure support to stay in office, while those outside did everything possible to dislodge the government. So great was the perpetual struggle that normal parliamentary debate of legislation received scant attention. The government changed three times through successful votes of no confidence, and seven times after national elections. Threats of a vote of no confidence were just as effective as an actual motion on the floor of parliament because a prime minister would do whatever he could, including reshape his coalition government and reallocate ministries, in order to remain in power.

Political and development challenges came to a head in the 1990s. The election of Mekere Morauta in mid-1999 as the country's sixth prime minister was widely welcomed. A former senior public servant, Morauta initiated reforms that included the introduction of the OLIPPAC, and replacement of the first-past-the-post electoral system with a limited preferential voting system. He also ensured the independence of the central bank and initiated the privatisation of some state-owned enterprises, a highly sensitive issue that had been mooted since the 1980s (see Turner and Kavanamur 2009:15).

Essence of the OLIPPAC

The text of the OLIPPAC was amended in 2003. It has three general sections which are aimed at institutional strengthening (see Baker 2005; Sepoe et al. 2008). First, an attempt was made to regulate the existence and activities of political parties and oversee the relationship between parties and MPs. Political parties were to be registered with the Office of the Registrar of Political Parties (subsequently renamed the Integrity of Political Parties and Candidates Commission), which was created under the OLIPPAC. Each party was required to have registered members and elected officials to perform specified duties. Provisions in the OLIPPAC enabled parties to amalgamate and MPs who were elected as independents to join parties.

Secondly, the OLIPPAC attempted to regulate MPs' relationships with political parties. Constant changes in MPs' party affiliations had been a problem affecting the cohesion of parties and continuity

of governments. From independence in 1975 until the 2002–2007 parliament, no prime minister had served out a full five-year term. Perhaps the most important provision in the law was that which stipulated that an MP's vote on the choice of a prime minister after an election was legally binding for the duration of that parliamentary term. MPs endorsed by political parties were obliged to vote for the prime ministerial candidate chosen by their party. Independent MPs were required to maintain their support to the candidate for whom they voted unless they had joined a party, in which case the party's choice now took precedence over the individual's choice. The legal commitment to a prime minister in a vote of no confidence extended to other important issues, including supporting the prime minister in a vote on the budget or a constitutional amendment.

Thirdly, there were provisions in the OLIPPAC to regulate funding of political parties. Annual budgetary allocations were to be made by the government as well as contributions from the public, both citizens and non-citizens. Incentives were also included to encourage parties to sponsor female candidates, provided they received at least 10 per cent of the total ballots cast.

Supreme Court Ruling

On 7 July 2010 Papua New Guinea's Supreme Court handed down its decision (NCR No. 11 2008) on an application from the Fly River (Western Province) Provincial Government. Broadly, there are three main bases upon which the court ruled that aspects of the OLIPPAC were invalid: (1) some of the amendments made to the national Constitution in order to authorise the OLIPPAC were ruled to be inconsistent with key prior provisions of the Constitution; (2) some of the sections of the OLIPPAC were deemed unconstitutional because they went further than the Constitution permitted; and (3) parts of the OLIPPAC were ruled unconstitutional as being unreasonable restrictions on rights and freedoms specified in Sections 37–39 of the Constitution as basic to a democratic society (A. Regan, pers. comm., 4 May 2011).³ The Supreme Court effectively rendered null and void a number of sections of the OLIPPAC, namely:

- Sections 57–59, which deal with a situation where an MP resigns from a registered political party. These sections point to the need to establish the ground(s) for the resignation, and whether or not this resignation is to be viewed as misconduct in public office. A resignation would be subject to scrutiny by the Ombudsman Commission (Section 60), which oversees the application of the Organic Law on the Duties and Responsibilities of Leadership (i.e. the Leadership Code). A guilty finding could lead to dismissal from office.
- Section 61, which says that an MP should remain a member of his/her party while he/she is being investigated.
- Section 65, the most controversial of all, which says that an MP who was endorsed by a registered political party cannot withdraw from that party, except on permissible grounds agreed to by the registrar of political parties, including that the party has broken its constitution, and the MP should not join another registered political party. As noted above, an MP must always comply with party resolutions and positions and critically in four areas: (i) a motion of no-confidence brought against the prime minister or a minister; (ii) a vote for the election of a prime minister; (iii) a vote for the approval of the national budget; and (iv) a vote to enact, amend or repeal a constitutional law proposed by the prime minister.
- Section 66, which says that the vote of an MP who votes against his party's resolution shall not be counted. MPs who act contrary to Section 65 shall be referred to the registrar of political parties and ultimately to the Ombudsman Commission.
- Section 70, under which an independent MP must vote in a no-confidence motion according to the requirements of Section 65 (an MP who voted for a prime minister at the start of a parliamentary term is committed to vote for that prime minister if there is a vote of no-confidence during that term).
- Sections 71–73, under which an independent MP who initially voted for the prime minister

is obligated to support that prime minister in a vote on the national budget or a vote to enact, amend or repeal a constitutional law (an independent who did not vote for the prime minister may vote for or against the budget or any amendments to a constitutional law).

- Section 81, which permits non-citizens to make contributions of up to PGK500,000 to political parties; the Supreme Court ruled that this provision contravenes Sections 129–130 of the Constitution, which, among other things, prohibits 'non-citizens from membership of, and from contributing to the funds of, any party or organization ...' (the underlying fear being that foreign involvement in and/or contributions to national parties and organisations might unduly influence decisions in favour of the donors).

In addition, the Supreme Court ruled that the restrictions placed by the OLIPPAC upon individual MPs as citizens of the country ran contrary to the following sections in the Constitution:

- Section 12, which defines and outlines the specificities of an Organic Law, which shall not be 'inconsistent with this Constitution ...'
- Section 111, which spells out the right of an MP to introduce Bills on the floor of parliament
- Section 127, which among other things seeks to protect the integrity of candidates and political parties from undue influence from outside (specifically foreigners) or sources of influence that could coerce decisions or outcomes in a pre-determined manner by those acting from outside the political setting
- Section 130, which specifies regulatory measures in the conduct of political parties.

At the core of the Supreme Court ruling is a fundamental right under Section 50 of the Constitution that the OLIPPAC was deemed to have violated. Subtitled Special Rights of Citizens, it reads in part, 'to take part in the conduct of public affairs, either directly or through freely chosen representatives; and to vote for, and to be elected to, elective public office as genuine, periodic, free elections; and to hold public office and to exercise public functions.' The section concludes by saying:

'[T]he exercise of those rights may be regulated by a law that is reasonably justifiable for the purpose in a democratic society that has a proper regard for the rights and dignity of mankind'. The challenge to the OLIPPAC argued that its aim to regulate party behaviour and entice orderliness in parliament had contravened a fundamental right that is enshrined in the Constitution.

Developments Under the OLIPPAC: 2001–2010

Evidence to date suggests that the impact of the OLIPPAC was mixed. Some of the outcomes from the organic law were contrary to those anticipated. Two developments are notable. First, there was an element of predictability with regard to which party was given the first opportunity to form a coalition government after the 2002 and 2007 national elections. The effect of Section 63(1) of the OLIPPAC was that the National Alliance, with the largest number of endorsed candidates elected in both the 2002 and 2007 national elections, was invited by the Governor-General to form the government. This was in contrast to government formation in the past, where coalition governments were formed according to which parties were most successful in wheeling and dealing. Consider Table 1 which shows that in 1997 the People's Progress Party won 16 seats and the Pangu Pati 15; Bill Skate's People's National Congress party was the fifth most successful party with six seats but that did not prevent Skate from becoming Papua New Guinea's fifth prime minister.

The principal factors deciding the composition of governments by 1997 were the use of threats, bribery, and activities such as locking up newly elected MPs in hotels and houses under armed guards. The Papua New Guinea and Australian public saw on television what was believed to have happened behind closed doors when a surveillance tape surfaced showing Skate and a cabinet colleague discussing pay-offs soon after the formation of his government (Standish 1999:13). The National Alliance and Michael Somare had meetings with potential coalition parties after the 2002 and 2007 elections. These were not the typical post-election meetings seen before the OLIPPAC

Table 1: 1997 National Elections

Political Party/Independent	Seats won
Independent	36
People's Progress Party	16
Pangu Pati	15
National Alliance	8
People's Democratic Movement	8
People's National Congress	6
People's Action Party	5
Melanesian Alliance Party	4
United Party	3
People's Resources Awareness Party	2
People's Unity Party	2
Christian Unity Party	1
Movement for Greater Autonomy	1
People's Solidarity Party	1
PNG National Party	1
Total	109

Source: Kaiulo (1997:14)

was introduced. Somare as the party leader of the National Alliance was at centre stage. He had no rivals outside his own party (in 2002 some members of the National Alliance were urging Somare to step aside and allow a new party leader to take the reins [Chin 2003:460]).

However, Section 63(1) of the OLIPPAC, which refers to the invitation of the party with the most elected endorsed candidates to form a government, has been questioned. The argument is that the leader of the biggest party (i.e. the likely prime minister) may not necessarily be the best person for the post of prime minister. The pre-independence (1972) election of Michael Somare as chief minister was a case in which a party (Pangu Pati) with fewer seats in parliament than the conservative United Party offered a leader capable to lead the country. It is hard to imagine, however, that the feat of Somare in the early 1970s could be repeated today when money politics has become entrenched.

Secondly, the Somare government that formed in 2002 became the first in Papua New Guinea's post-independence history to serve a full five-year parliamentary term,⁴ even though support for Somare was not uncontested in those years. Serious instability was evidenced, demonstrating that the OLIPPAC was disregarded for one reason or another. During much of 2003 Somare tried in vain to extend the grace period from 18 to 36 months. This was ironic given that he was supposed to have had the full backing of the OLIPPAC and hence his leadership was not under challenge for the entire parliamentary term. Some of Somare's key allies in the government were bitterly opposed to the extension of the grace period, an act that required an amendment to the national Constitution, and were simultaneously engaged in dialogue with members of the Opposition to topple the Prime Minister in a vote of no confidence. After failing to sell the idea of a 'grand coalition' (an inclusive union of all parliamentary parties) to both sides of the House, Somare moved swiftly and decisively by sacking a coalition party and several ministers for disloyalty. What ensued were confusing movements of parties and individual MPs between the government and Opposition, and some ministers who were initially sacked were reinstated (Chin 2005:191–92). Subsequently, Somare resorted to Papua New Guinea's time-tested survival tactics, such as the adjournment of parliamentary sittings and cabinet reshuffles, to remain a step ahead of his opponents (see Baker 2005; Gelu 2005). It was strongly rumoured that cash and kind were used from time to time to induce support for the government. In all, the ruthless tactics of survival that governments used before the OLIPPAC were still being invoked when necessary.

Continuity or Change? Political Parties and Independents Under the OLIPPAC

Sepoe (2005:4) and Reilly (2006) have pointed out that there were early encouraging signs from the implementation of the OLIPPAC. One set of data used to suggest a positive development was what appeared to be a reduction in the number of political parties during the 2002–2007 parliamentary term. In relation to both the OLIPPAC and the

limited preferential voting system, Reilly (2008:16) went further to say that 'political stability has increased significantly following the introduction of the new laws'. It is difficult to ascertain whether any element of political stability between 2002 and 2007 was the result of the two laws. In fact, results from the 2007 national elections do not give a clear demonstration that the OLIPPAC and the limited preferential voting system have made any significant difference (for a general observation of the 2007 national elections, see May 2008). The number of parties and independents, as discussed below, showed continuity with the past.

More generally, it is difficult to substantiate claims that political stability and the achievement of a first five-year term government resulted from the OLIPPAC. Other factors were in play. The use of money to purchase political support, for instance, could have ensured continuity of a government for five years. Moreover, what exactly was the essence of stability? According to Ladley and Williams (2007:15), 'to take the flagship argument of political stability, ... it needs an heroic extension of the meaning of "stability" to really argue that the 2002–2007 government was stable — surviving a term is not contested, but suggesting that the government was "stable" requires other measurements'. Between 2002 and 2007, there were five deputy prime ministers, several cabinet reshuffles, ministers sacked and parties divided — hardly a sign of political stability (Standish 2010).

Political Parties

It was expected that, over time, the OLIPPAC would reduce the number of political parties. This has not happened. In analysing trends, it is important that two factors are kept in mind. First, it may well be too soon to expect tangible results from a law that is expected to change the behaviour of elected representatives. Nonetheless, some degree of success has been claimed. Reilly (2006:191) says that the reduction of political parties 'from 42 in 2001 to 15 in 2004' demonstrates the intended impact of the OLIPPAC. Secondly, a distinction has to be made between the number of registered parties and the number of parties that win seats at the polls. In 2002, 43 political parties were registered

and contested the national elections; 21 of these registered parties won at least one seat in the 109-member parliament (Sepoe 2005:4). Reilly confuses the number of parties outside parliament (43) with parties in parliament (22 later reduced to 15). Section 52 of the OLIPPAC allows for the amalgamation of political parties, which can reduce the number of parties; Section 42 also permits the registrar of political parties to deregister political parties on certain specified grounds, which happened in 2005–2006. It is not convincing to say that the reduction in the number of political parties was due exclusively to the implementation of the OLIPPAC. Initially some major parties rose to prominence after the 1968 national elections, either in support of immediate independence for Papua New Guinea or to delay the process so as to allow ‘adequate development’ in the interior parts of mainland New Guinea. The number of parties remained steady until there was a spurt in the growth of parties by the late 1980s (see Okole forthcoming). Some of the smaller parties originally contested national elections while others rose from the floor of parliament (Saffu 1996). Tactically, a smaller party was easier to manoeuvre to join different parliamentary factions. With smaller parties switching between bigger parties and parliamentary factions, in the manner of loose independent MPs, it was difficult to identify their *raison d’être* and what they stood for, other than strategic positioning to capitalise on the perpetual struggle for parliamentary numbers to control government (see Okole 2005:198–99).

There is no reason to believe that the trend of an increasing number of parties will be reversed under the OLIPPAC. In fact, there was a proliferation of small parties in the lead up to the 2002 national elections. The cycle repeated itself when 34 political parties registered to contest the 2007 national elections. At the end of counting, 21 parties had won parliamentary seats, six of them as single-member parties and another three parties with two members each (May 2008:4–5) (see Table 3). The much desired amalgamation of parties into a few strong parties has not materialised. As of November 2010 only two parties have disappeared

from parliament, bringing the total number down from 21 to 19, including six one-member and three two-member parties (configuration is slightly different from the figures obtained directly after the 2007 national elections — see Table 2). It is worth noting also that the desire to amalgamate has little to do with the need to comply with the OLIPPAC. The creation and disappearance of political parties on the floor of parliament in the 1980s and 1990s, as discussed above, is no different from today because the existence of parties is guided by other factors. They can be motivated by money, values they stand by, a desire to be independent from big parties, the fear of association with maligned parties and MPs, or other reasons. Why would the six one-member parties in Table 2 choose to remain as they are?

Another aspect of amalgamation is what can be seen in the growth in membership of the National Alliance, the main party in the 2007–2011 coalition government, which had 39 MPs towards the end of 2010, 28 members more than the United Resources Party. It is unclear that this growth in membership was the sole responsibility of the OLIPPAC, even though ‘MPs flocked to [Somare’s] bandwagon in order to gain patronage for their electorates and themselves’ (Standish 2010). What is known as ‘money politics,’ or the use of money to induce favourable outcomes, perhaps exerts the most decisive impact in Papua New Guinea, especially before general elections.

Independents

A related assumption was that the OLIPPAC offered incentives that would reduce the number of independent candidates and independent MPs. Again, it is difficult to deduce any credible evidence that the OLIPPAC has made a difference in discouraging independent candidates over the past nine years. Apart from candidates who run under party labels solely for financial reasons, there is little incentive for individuals to value party membership at the electorate level. People’s ballot choices still depend on factors other than parties, such as candidates’ personality, local identification or ethnicity, Melanesian ‘big-man’ status, or even promises of projects and outright payments for votes. These factors were still decisive

Table 2: Political Parties and Independent MPs in Parliament, November 2010

	Political Party and Independents	No. of Seats 13 August 2007	No. of Seats 10 November 2010
1	National Alliance	27	39
2	United Resources Party	5	11
3	People's Action Party	6	6
4	Peoples National Congress	4	6
5	Peoples Democratic Movement	5	5
6	Papua New Guinea Party	8	5
7	Peoples Progress Party	4	5
8	Papua Niugini Union Pati (PANGU)	5	4
9	People's Party	3	4
10	New Generation Party	4	3
11	Rural Development Party	3	2
12	PNG Country Party	2	2
13	Melanesian Liberal Party	2	2
14	United Party	2	1
15	Melanesian Alliance Party	1	1
16	PNG National Party	1	1
17	Peoples First Party	1	1
18	Peoples Labour Party	1	1
19	PNG Labour Party	2	1
20	National Advance Party	1	
21	PNG Conservative Party	1	
	Independents	21	9

Sources: 2007: May (2008:4); 2010: Office of the Registrar of Political Parties and Candidates (10 November 2010)

in the by-elections that took place after the 2002 national election, that were held under the newly introduced limited preferential voting system (e.g. see Standish 2006). Having specific agendas to elicit goods and services for their respective electorates, some independent candidates take pride in their pragmatic lack of party affiliation.

While offering a caveat in relation to reading too much into the available data on independent candidacies, Reilly (2006:191) correctly points out

that 'there has been a sharp decline in the number of independent candidates elected to parliament, from 36 in at the first sitting of the 1997 parliament to 17 in 2002' (see Table 3). There were 21 successful independent candidates in the 2007 national elections (May 2008:4). Table 3 displays the data on independent candidates, MPs and political parties over the five national elections since 1987.

There was indeed a drop in the number of independent candidates in 2002, a difference of 425 from

the 1997 figure (row 2). This figure rose slightly to 1,284 in 2007. In percentage terms, this is significant because independent candidacy accounted for 70 per cent of the total number of candidates in 1997 after percentages of 63.4 and 74.1 respectively for 1987 and 1992. The 2007 percentage (46.5) is comparable to 2002 (42.9). Such figures suggest that independent candidacy became less popular than party affiliation after the late 1980s and early 1990s. The drop in the number of independent candidates in 2002 is also intriguing in that it happened in the year when the total number of candidates was the highest ever for the country — 2,878, which was 507 more than 1997 and 118 more than 2007. More candidates were willing to run for political parties in 2002, the last first-past-the-post election. This was the electoral system that saw the effective use of ‘bogey’ or dummy candidates, covertly supported by candidates in the strongholds of their main rivals in the hope of luring votes away from their rivals. Such dummy candidates often ran as independents. Article 54 of the OLIPPAC prevents parties from multiple endorsements of candidates in a single electorate. It may be that many of the candidates who would have contested under parties in the past saw a need to register their own political parties, and that some candidates who contested as independents were actually aligned with a party but could not reveal their association for fear of contravening the OLIPPAC, or for other reasons.⁵

However, to concentrate solely on the number of independent candidates misses the complete picture. There is essentially a converse relationship between the number of registered parties and the number of independent candidates. Table 3 (row 5) shows that the number of registered parties in 2002 (the year when independent candidacy dropped by 27.1 per cent) more than doubled the 1997 figure. What then are plausible reasons for this inverse relationship? Perhaps the most credible factor is that funding is earmarked for registered political parties under Article 75 of the OLIPPAC. Contesting elections in more recent times has become an expensive exercise for many candidates and political parties (see AusAID Review Team 2003:22–23). Another reason could be that many candidates

were not sure what their status would be under the OLIPPAC as independent candidates. The law was introduced with much fanfare and it generated a lot of discussion as well as confusion. To be on the safe side, it was best for candidates to avoid independent candidacy and either join existing political parties or register under newly created parties.

Another aspect of independent candidacy has to do with the reduction in the number of independent MPs in parliament as they decide to join political parties. Referring to the 2002–2007 parliamentary term, Reilly (2006:191) cites the 17 independents who had won seats in 2002 and were subsequently reduced in number to two by 2005 as the other 15 joined political parties. This is a picture consistent with the trend after the 2007 national election. Twenty-one successful independent candidates entered parliament in August 2007. This figure had dropped to nine in November 2010 (Office of the Registrar of Political Parties and Candidates 10 November 2010).⁶ Two points need to be made regarding such a trend. First, a few MPs remain independent because they choose not to be swayed by the attractions that come with ministries or government assignments. National Capital District Governor Powes Parkop stated after his 2007 election victory that a decision to join a political party would depend on the quality of a party’s leadership (*The National* 31 July 2007). He is one of nine independent MPs as of November 2010. Secondly, lest one credits the OLIPPAC for it, it has long been common for successful independent candidates to join political parties after they enter parliament; independent candidacy was often used as a strategy to allow successful independents maximum mobility at the start of each parliamentary term. Table 4 illustrates the situation immediately before and after the 1982 election. The first row shows how party membership stood during the final parliamentary sitting before the election. Pangu Pati had 33 members, but was the major party in the Opposition. The People’s Progress Party led the coalition government up to the election with only 20 members. The independent members totalled eight, a considerably lower number than the 13 members who had entered parliament after the

Table 3: Independent Candidates, 1987–2007

	Election year					Source
	1987	1992	1997	2002	2007	
Total number of candidates	1,513	1,655	2,371	2,878	2,760	1987, 1992, 1997, 2002: Baker (2005:109); 2007: May (2008:2).
Total number of independents	959	1,226	1,660	1,235	1,284	1987: Oliver (1989:2); 1992: Saffu (1996:30); 1997: May (2006); 2002: PNG Electoral Commission (29 July 2002); 2007: May (2008:4).
Independents as percentage of candidates (%)	63.4	74.1	70.0	42.9	46.5	1987, 1992, 1997: Baker (2005:109); 2002: PNG Electoral Commission (29 July 2002); 2007: May (2008:2).
Number of seats won by independents	22	39	36	17*	21	1987, 1992: Saffu (1996:30); 1997: Kaiulo (1997:14); 2002: PNG Electoral Commission (29 July 2002); 2007: May (2008:4). See also table note.
Number of registered political parties	14	19	20	43	34	1987: Oliver (1989: Appendix 3); 1992: Saffu (1996:30); 1997: May (2002:8); 2002: PNG Electoral Commission (28 April 2005); 2007: May (2008:5).

* Six Southern Highlands' electorates were declared void during the polling period in 2002 due to election-related unrest. Therefore the 2002 figure in row 4 excludes these seats.

1977 national election (see Hegarty 1983:11). After the June election, Pangu Pati emerged as the major party with 50 members. The Melanesian Alliance, with only eight members, posed the major challenge to Pangu for government leadership at this time. The Melanesian Alliance had the backing of the People's Progress Party and the National Party.

Pangu and the Melanesian Alliance could easily have formed a majority of 58, based on the June numbers. However, this did not happen because there was a personality clash between the party leaders and fears of doublecrossing. Thus, the Pangu Pati took on additional members from the independents and MPs who switched from other parties. By August the Pangu-led bloc claimed a total of 61 members. By then there were no independent members left, and the People's Progress Party, Melanesian Alliance and United Party had lost one, two and three members from their respective ranks. This ensured that the Pangu Pati leader,

Michael Somare, became prime minister again after an unsuccessful challenge from John Momis of the Melanesian Alliance (who is currently the president of the Autonomous Bougainville Government).

Vote of No Confidence

Votes of no confidence, in theory, constitute the 'safety valve' that releases political pressure during crises in lieu of other practices that may compromise the spirit and practice of parliamentary democracy and the ethos of good governance. Theory, however, does not always correspond to reality. As noted, Papua New Guinea governments have often been affected by threats of no confidence motions as well as actual votes. A grace period exists during which an incumbent government's leadership cannot be challenged. Initially after independence, the grace period was six months after an election; this was extended in 1991 to 18 months. Prime Minister Somare tried unsuccessfully to push for a

further extension to 36 months after his coalition got into power in 2002 (see Gelu 2005:90).

There have been cases where an actual or threatened vote of no confidence was instrumental in changing governments and therefore averting potentially serious situations, as was the case when Bill Skate resigned from the prime ministership in 1999 rather than face certain defeat on the floor of parliament the following day.

All things considered, a way had to be found to minimise the use and abuse of the vote of no confidence after the grace periods. The OLIPPAC in that regard was designed to 'fight fire with fire'.

The adoption of the OLIPPAC in 2001 generated discussion of how best to address the issue of no confidence motions, but the vote of no confidence appeared to be secondary to the higher goal of parliamentary stability, and the issue was not resolved. Part I(1) of the OLIPPAC referred to the vote of no confidence in spelling out the grounds for compliance of the law with Section 38 of the national Constitution (General Qualifications of Qualified Rights), and there were references to the vote of no confidence under Sections 65–73 of the OLIPPAC, which covered the grounds for MPs voting and abstaining. However, the concern here was to prescribe MPs' behaviour so as to avoid instability. It was left to MPs to devise how they would behave within the confines of the OLIPPAC. The vote of no confidence was thus 'collateral damage' in pursuit of the desired outcome, which was parliamentary stability.

In hindsight, it would have been better for the OLIPPAC not to restrict the use of the vote of no confidence, in spite of it having been used previously in unscrupulous ways. It was better to have regular changes of government for whatever reasons than to face the prospect of having unpopular governments in power for extended periods of time. The fact that Sir Julius Chan, a two-time prime minister and current Governor of New Ireland Province, used a popular public forum (the Waigani Seminar) in 2008 to brand Somare a legal 'dictator' indicated the unpopularity of the government and made a dramatic comment

on the state of democracy in Papua New Guinea (*The National* 15 August 2008).⁷ A better option would have been to consider alternative approaches to the vote of no confidence outside the OLIPPAC.

Tyranny of the 'Majority'

The search for greater parliamentary stability also ignored two trends that were very visible at the time the OLIPPAC was drafted: the heavy dominance of the executive arm over the legislature, and the ever-increasing intrusion of money politics. These trends were not unique to Papua New Guinea, but they were sufficient to frustrate the objectives of the OLIPPAC. A UNDP study conducted in 2003, partly under the auspices of the Papua New Guinea parliamentary Speaker's office, identified a number of areas of parliament that required urgent reform so that parliamentary business could be conducted with purpose and vibrancy (Okole et al. 2003). One of the areas identified was the predicament of a weakened opposition and the need to improve the oversight role of the legislature. Parliament at that time was considered a rubber stamp, used to usher in policies and directives initiated at the whim of the government of the day. The only female MP in the national parliament, Lady Carol Kidu, described the situation at the time of the UNDP study as one of 'parliamentary democracy with NEC dictatorship' (Okole et al. 2003:21). The OLIPPAC, under Section 64, provides for election of the Opposition Leader and for an office of the Opposition which shall have access to annual funding from the Consolidated Revenue Fund.

There have been 109 seats in the unicameral parliament since the first post-independence election took place in 1977. The national population has doubled since then, from about three million to over six million, and the demands placed on elected representatives have increased. The election of the Speaker is the first item on the agenda for the new parliament and whoever secures the support of at least 55 members (a simple majority) out of the remaining 108 MPs gets to control government. Buoyed by numerical support, the government can render ineffective the Opposition and the oversight role of the legislature in general. This was already the

case during the drafting of the OLIPPAC (see Okole 2002:39).⁸ Rather than having the prime minister seek and renew his leadership mandate on the floor of parliament, the OLIPPAC virtually accorded him a five-year lease of the post. The situation is further convoluted if the Speaker of Parliament fails to maintain impartiality, especially if he is supported by the government. The key oversight role of the legislature is then likely to be further undermined because the Opposition — which could just be the voice of reason — is susceptible to being continuously overruled.

Money Politics

Financial inducement, for the personal use of MPs or for projects in constituencies, was rife in Papua New Guinea well before the OLIPPAC. The position of prime minister was not spared the encroachment of money politics; a vote for the prime minister was seen to have a price tag on it. As noted above, the Skate government was believed to have been created by money in 1997. Other government changes in the late 1980s and 1990s involved exchanges in huge amounts of money, and governments have been sustained by money. An exasperated Sir Julius Chan once stated that, as prime minister,

[I am wasting time in] coping with requests for special favours of all kinds, financial and otherwise, from individual politicians. I will be even franker and say that if a Prime Minister is determined to stay in office he can do so quite easily if he is prepared to grant enough favours ... I can't speak for my predecessor, Michael Somare, but I would be most surprised if he didn't face the same problems and I cannot see how any alternative head of government could avoid them (quoted in Kavanamur 2006).

If money politics predated the OLIPPAC, there was a danger that restrictions on the movement of MPs could further entrench debilitating problems of corruption, nepotism and general maladministration of public institutions. Before the Supreme Court ruling of 2010 the OLIPPAC rendered the government almost immune to close scrutiny of its

behaviour on the floor of parliament. Those who dared to oppose decisions taken within government were dealt with harshly. Explaining his dismissal from the Somare government in 2006, former Treasury Minister Bart Philemon lamented that his removal was due to his refusal to implement a Somare order to issue \$200 million worth of bonds and release the 'slush funds' given to government MPs that were needed to build support ahead of the July 2007 general elections (Chin 2007:201). A similar situation occurred in 2010 when the secretary of the Department of Planning and Monitoring was suspended then claimed to have been ordered by the government to release PGK112 million to coalition members 'to honour certain government commitments' and in the process ward off an expected no confidence motion against Somare in November 2010 (*Post-Courier* 7 February 2011).

What is alarming about such payments is not just that public funds are flagrantly used for purely political reasons, but that the much-desired consolidation of political parties and continuity of governments is now subjected to monetary transactions.

The success of the National Alliance during the 2007 election — with 27 members elected — was remarkable. The next most successful political party (the People's Action Party) won only six seats. This may be compared with the National Alliance's success in 2002 when the party won 19 seats and the next most successful party, People's Democratic Movement, won 12 (AusAID Review Team 2003:9). With its membership increased to 39 members in November 2010 (even though some National Alliance MPs such as Puka Temu left the party), the National Alliance dominated parliament with 36 per cent of seats, including that of the Speaker.

Certainly, there is nothing illegal about wide disparities in party strengths, but what may offer grounds for concern to proponents of good governance is that implementation of the OLIPPAC has progressively facilitated the dominance of the executive arm by one political party. The process leading to dominance starts with Section 63 of the OLIPPAC, which invites the party that wins the highest number of seats in an election to form government. Subsequently, wheeling and dealing

comes into play and independent MPs and small parties are lured into joining the government by promises of cash, projects and similar benefits. Some resemblance of 'stability' is thus achieved in parliament, but it is not the type of stability that is sustainable over the long term.

By extension, there is a worrying scenario when one or two political parties become too dominant. What will become of the smaller parties if the bigger parties and their coalition partners use state resources to buy their way through the next elections? It would not be the first time that state institutions have been used and resources pillaged in this manner. The National Alliance was re-elected in this way in 2007, creating a precedent. Only if the other parties have the capacity and see the need to band together to minimise the influence of the largest party can this be countered.

Concluding Remarks

This paper has attempted a critical review of the OLIPPAC from its adoption in 2001 until the Supreme Court ruling in mid-2010 which rendered null and void certain sections of the OLIPPAC as being inconsistent with the national Constitution. What the national government does with the remaining sections of the law is yet to be seen. It is worth salvaging what is left of the organic law to ensure a way forward to strengthen political parties and facilitate parliamentary stability. The creation of the Integrity of Political Parties and Candidates Commission is one positive provision since it serves as the main interlocutor between parties and other relevant government agencies and a facilitator of party building and strengthening activities. It is also the most appropriate office to liaise with donor agencies and institutions that want to assist in processes of strengthening the country's party system.

While much of this paper has been about the outcome of the OLIPPAC, there is a serious broader issue that needs to be considered. Much of the concern relating to poor governance and administrative problems in Papua New Guinea, just as in any country in the world, is about

behavioural issues. Behaviour in this regard may reflect standards and pressures that derive from innate characteristics of culture. Thus, 'there may be a tendency in PNG to place too much emphasis on changes to political institutions when what lies at the heart of the problem are behavioural issues or issues of political culture' (Morgan et al. 2005:11). It is important to acknowledge this reality because no amount of legislation or regulation will be sufficient to address problems when the very people who are expected to abide by the remedial steps are bent on undermining them. Sepoe (2005:6) had this in mind when she said that the 'OLIPPAC is as good as the users who abide by it and are serious about political stability and the common good'. The same can be said about some of the problems relating to elections in Papua New Guinea, especially in terms of vote-rigging, violence and threats against candidates and voters, and bribery. The Papua New Guinea Electoral Commission and police can only go so far in terms of taking preventive measures. The goals of strengthening political parties and stabilising parliamentary politics are not dependent alone on laws such as the OLIPPAC. Their achievement also hinges on public behaviour and whether effective remedial steps are implemented and adhered to by those who are subjected to them.

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Endnotes

- 1 These debates on the success and failure of the OLIPPAC are best understood in the context of how the law was viewed during the early years of its implementation. The supposed failure of the law stemmed mainly from the continuity of political activities that were supposed to have been outlawed. The claims of success were more in line with some of the early indications that qualified a break from the past. The clearest example was how the OLIPPAC ensured that the most successful party after the 2002 national elections was given the mandate to form a coalition government. As this paper will show, however, some of the claims of success came out of misreading the situation on the ground.
- 2 Since the time of writing, two new provinces have been created: Hela and Jiwaka in the Highlands Region. Both provinces will be taking part in the 2012 national elections.
- 3 For an analysis of the Supreme Court ruling, see Wolfers (2010).
- 4 Michael Somare did serve a full term between 1972 and 1977, as chief minister until independence in 1975 and then as prime minister until the national elections in 1977. In 1972 Somare formed a coalition government which in effect was the first-ever indigenous government. This was part of the ongoing handing-over of state and public institutions in preparation for eventual independence.
- 5 It is widely rumoured that Patrick Tammur, the current member for Kokopo, contested this electorate in 2007 as a candidate for the National Alliance but was portrayed in the ballot paper as an independent candidate. The incumbent member for the electorate leading into the elections was the highly revered former prime minister, Sir Rabbie Namaliu, a five-term MP (1982–2007), leader of the Pangu Pati and a senior cabinet minister in Somare's coalition government. To avoid the unwanted situation of

the National Alliance being seen as a traitor by Sir Rabbie's many supporters, it was best that Tammur contested as an independent candidate.

- 6 Ideally, the best data to use should be from around May or June 2010, just before the July Supreme Court judgement.
- 7 Sir Julius Chan went as far as likening Somare to Zimbabwe's President Robert Mugabe, which in a Papua New Guinea perspective epitomises a third-world dictator in this day and age.
- 8 An important caveat concerns how independents were expected to vote under the OLIPPAC: independents had the options of voting with the prime minister or abstaining (see Sections 70–73 of the OLIPPAC), in contrast with MPs from parties who were expected to vote in line with party resolutions or positions. How the independents voted, whether to support or abstain, could have made a difference in terms of the numerical support (or lack thereof) on important issues — the numerical support accorded to a prime minister when he was initially voted in as prime minister is not guaranteed for all voting situations.

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