Papua New Guinea

The year 2014 marks another period in Papua New Guinea’s political history that saw a number of unprecedented challenges facing the government of Prime Minister Peter O’Neill. An accountant by profession who has held various senior ministerial portfolios in previous governments, O’Neill is the leader of the People’s National Congress (PNC) Party and was sworn in as prime minister on 4 August 2012 after a period of political impasse that saw the deposition of the government of Sir Michael Somare, the country’s founding prime minister, who had enjoyed the prodigious feat of almost ten years in power.

After the 2012 election, the O’Neill government made a number of significant domestic investments and regional commitments, exhibiting Papua New Guinea’s clout as the rising regional power. As Papua New Guinea expects to host the Pacific Games in July 2015 and the Asia Pacific Economic Cooperation (APEC) meeting of world leaders in 2018, the government looked toward China’s construction industry, awarding a bulk of the construction contracts to major Chinese companies to fulfill its endeavor of having the necessary infrastructure in place to cater for these major events. China’s investment in the country has expanded exponentially; in 2014, almost 80 percent of China’s EximBank loan and project financing component in the Pacific region was dedicated to Papua New Guinea (Middleton 2014). This goes to show the country’s economic prominence among Pacific Island nations, owing much to its mineral, forestry, and fisheries resources.

Although Papua New Guinea ranks as the second-biggest recipient of Australian Aid (AusAID) after Indonesia, Prime Minister O’Neill continues to make aid commitments to other Pacific Island countries. The PNG government declared at the September 2013 Pacific Islands Forum meeting in Majuro that in 2014 it would introduce a special budget allocation to fund a regional development assistance program. The announcement was followed by O’Neill’s proclamation of “ongoing support to the Government of Marshall Islands, with a US$1 million grant to assist with Forum costs” and to assist with droughts and flooding that affected the atoll nation (Macellan 2013).

Noting that Papua New Guinea had provided assistance to Sāmoa after Cyclone Evan in 2012, O’Neill also announced the allocation of K5 million each to Tuvalu and Tonga for programs in climate change assistance and cyclone relief, respectively. (In 2014, one PNG kina [K] averaged US$.38.) In addition to these direct grants, Papua New Guinea was also supporting smaller Pacific nations through regional agreements such as the Parties to the Nauru Agreement on regional fisheries (Macellan 2013).

In May, Exxon Mobil PNG Ltd sent the first shipment of 80,000 tonnes of liquefied natural gas (LNG) to Japan. Prime Minister O’Neill stated that Papua New Guinea has been elevated to the exclusive club of nations that produce and export LNG. The economic growth of the project resulted in the employment and training of thousands of locals, more than
K10 billion spent on the project, and hundreds of millions of kina invested in infrastructure and community programs. It was expected that the benefits would flow to landowners through the payment of royalties (O’Neill 2014; The National, 15 May 2014).

Although the first LNG shipment marked a milestone for Papua New Guinea, the government acknowledged that the country would not see actual profits from LNG export immediately, but rather in the next few years. As revenue trickles in, it is crucial that the government not lose sight of the value of the PNG Sovereign Wealth Fund initiated by the last government. The organic law establishing this fund “was designed to ensure that all government revenues from minerals and petroleum passed through a stabilisation fund prior to flowing through to the National Budget in accordance with a specified formula, and that PNG LNG dividends accruing to the PNG Government would be paid into a development fund for PNG’s economic and social development” (Osborne 2014).

Among the many issues that haunted the government were the prime minister’s arrest warrant as a result of a letter supposedly signed by him authorizing illegal payments to one of the biggest PNG law firms, Paul Paraka Lawyers, and O’Neill’s signing of a K3 billion Union Bank of Switzerland (UBS) loan purportedly without following the Public Finance Act procedures and seeking the endorsement of the National Executive Council (NEC).

The investigation of the prime minister by the Investigation Task Force Sweep (ITFS), which was established by the National Executive Council in 2011, became one of the most controversial issues of the year. The ITFS investigation looked into a letter signed by the prime minister authorizing a payment of K71.8 million to lawyer Paul Paraka’s firm. The prime minister, however, claimed that the signature on the letter authorizing the payment was a forgery. In late 2013, the principal of the law firm had been charged with eighteen counts of allegedly receiving A$30 million (US$29 million) in fraudulent payments from the PNG government (Radio Australia 2013).

In June 2014, police attempted to arrest Prime Minister O’Neill after the Investigation Task Force Sweep received the findings of an analysis of the prime minister’s signature by a Sydney forensic analysis company, confirming that the signature was O’Neill’s (Cochrane 2014). The attempted arrest of the prime minister spiraled into a flurry of court injunctions challenging the process by which the referral was made and questioning the impartiality of the police fraud squad, labeling the move as “politically motivated”; this became the catchphrase used by other members of Parliament who were also referred to the Ombudsman Commission or accused of other instances of alleged misconduct.

The prime minister was served a warrant of arrest and ordered to present himself to the Police Fraud Squad for an interview. Police Commissioner Toami Kulunga at that time had recently taken leave, after the court found him guilty of contempt for having failed to follow a National
Court order to reinstate another police officer, Geoffrey Vaki, who himself was suspended for a disciplinary case (Papua New Guinea Today 2014).

In a dramatic turn of events, the National Executive Council replaced Kulunga, who had voluntarily stepped down after his conviction, with Geoffrey Vaki as acting police commissioner (The National, 17 July 2014). As soon as Vaki was appointed, he immediately suspended Assistant Police Commissioner for Crimes Thomas Eluh, who was leading the Police Fraud Squad, along with other members of the squad. This action raised doubts as to the impartiality of the new police commissioner. When Vaki allegedly failed to enforce the warrant of arrest for Prime Minister O’Neill, the fraud squad immediately instituted contempt proceedings against the police commissioner (PNG Post-Courier, 29 July 2014).

The National Executive Council is chaired by the prime minister and his cabinet ministers, who met soon after and resolved to have the Investigation Task Force Sweep disbanded. In July, the National Court issued a permanent stop order preventing the NEC decision regarding the ITFS disbanding. Sam Koim, the ITFS chairman, filed an application in court to review two NEC decisions, the first concerning the ITFS disbanding, and a second regarding the establishment of an Interim Office for Anti-Corruption to replace the Investigation Task Force Sweep (PNG Post-Courier, 29 July 2014).

The National Court also stayed the arrest of Prime Minister O’Neill pending the hearing of a constitutional reference at the Supreme Court. The Supreme Court reference was to establish whether Police Commissioner Vaki had standing to challenge the validity of a warrant of arrest obtained by a Police Fraud Squad officer for the arrest of the prime minister. The reference stemmed from a judicial review application filed by Vaki to challenge the District Court’s decision that issued the warrant for the arrest of O’Neill with regard to the letter approving an alleged fraudulent payment to Paul Paraka Lawyers (PNG Post-Courier, 21 July 2014).

After the disbanding of the ITFS, the prime minister also announced the setting up of a Commission of Inquiry, to be headed by retired Australian judge Justice Warwick Andrews, to investigate the controversial payments to Paraka Lawyers (Islands Business 2014a).

The prime minister’s decision not to step down and the ITFS disbanding led to growing calls from former Attorney General Kerenga Kua, Opposition Leader Belden Namah, and the general public for O’Neill to resign (Islands Business 2014c). In June, Prime Minister O’Neill had removed Kua and replaced him with Minister Ano Pala. The prime minister, in a meeting with Kua, explained that he was sacking him because of Kua’s unwillingness “to amend section 145 of the constitution to further restrict the rights of members of parliament to move a motion of no confidence, to restrict the nomination of an alternative candidate as PM to the ruling party, [and] for allegedly instructing the solicitor general to act against the interests of the Prime Minister” (PNG Facts website 2014).

In November, Attorney General and Minister of Justice Ano Pala
was charged with having conspired with others on 11 July to pervert the course of justice in relation to the Paraka Lawyers legal bills payments case. However, he obtained interim injunctions from the National Court “restraining the police from executing that warrant of arrest until his matter was heard and determined” (PNG Post-Courier, 14 Nov 2014).

The Pacific Islands Forum leaders at their retreat in July appointed Papua New Guinea’s Dame Meg Taylor as the new Forum secretary-general, the first female to be appointed to the position. Dame Taylor was serving as a senior official at the World Bank’s International Financial Corporation. The Pacific leaders also announced that Papua New Guinea would be hosting the 46th Pacific Island Leaders Forum in 2015.

Election petitions with the Court of Disputed Returns continued to haunt many members of Parliament (MPs) with challenges to 2012 election results. This has been one of the negative features of the PNG electoral system and has prevented MPs from fully performing their roles in delivering goods and services.

One of those election petition cases is that of the Madang Open electorate. In June 2013, the election of Nixon Duban was voided by the National Court due to allegations of bribery of potential voters. Duban is a member of Prime Minister O’Neill’s PNC Party and was minister for police (Albaniel-Evara 2013). A by-election was called, and Duban won the election, returning to his portfolio as police minister. The challenge was not over, however, as Madang businessman Peter Yama filed another petition, arguing that 6,116 ballot papers containing serial numbers at the back with bar codes were found at a public cemetery (PNG Post-Courier, 29 July 2014).

In July, the Office of the Registrar of Political Parties Dr Alphonse Gelu announced that there would be certain changes to the Organic Law on Integrity of Political Parties and Candidates that would also see constitutional amendments for the registrar’s office to access bank accounts of individual MPs and political parties. The changes will address party and candidates’ accounts, fundraising, and donations from businesses and other organizations (PNG Post-Courier, 25 July 2014). While this approach may be applauded as a way forward in holding MPs and political parties accountable and promoting transparency, particularly when it comes to election-related funding, it also raises issues of privacy and the constitutionality of accessing MPs’ private bank accounts. There is to be yet more consultation on the legal basis of this proposal as well as more discussions with other relevant stakeholders, such as banks and financial institutions, on laws regulating confidentiality and privacy.

In August 2014, the National Executive Council suspended the Clerk of Parliament Vela Konivaro over serious allegations of financial mismanagement (PNG Post-Courier, 8 Aug 2014). It surfaced that Konivaro also was involved in manipulating and changing the content of draft bills that came before the National Executive Council to be presented in Parliament. This was considered a very serious allegation, given Konivaro’s title.

The government takeover of the
PNG Sustainable Development Program (PNGSDP) emerged as another highlight of the year. In early 2014, the government discovered that PNGSDP, under the chairmanship of former Prime Minister Sir Mekere Morauta, had removed any representation by the PNG Government and the people of Western Province from its board when it met in Australia and had also amended its Articles of Association, specifically article 24(b), which provides for the appointment of directors by the PNG government (Islands Business 2014b).

The PNGSDP had been set up after the exit of mining company BHP from the Ok Tedi mine in Western Province. The main tasks of the PNGSDP were (1) to invest two-thirds of Ok Tedi’s dividends into a long-term fund to be available to the people of Western Province after the closure of the mine and (2) to spend the other one-third on development projects throughout Papua New Guinea (Howes 2013).

When the action taken by PNGSDP to allegedly remove PNG representation from its board was discovered, the government unanimously passed legislation in Parliament to give Papua New Guinea ownership of the country’s largest company, Ok Tedi Mining Ltd, and control over PNGSDP as the second-largest development organization. This also led to the sacking of Chairman Morauta. The PNG shares are in a trust fund registered in Singapore as a public company, and the government’s taking ownership of them did not go without a challenge from PNGSDP, which took action in the Singapore Supreme Court against the state for what it claimed was a continuing breach of court rules. Morauta argued that Prime Minister O’Neill was continuing to issue false statements (PNG Post-Courier, 4 Sept 2014). The PNGSDP commenced legal action against the state in the Singapore courts and also in the International Centre for Settlement of Investment Disputes. In May 2014, the Singapore High Court dismissed the state’s application to appoint a receiver to take control of PNGSDP assets.

As the country prepares to host major events such as the Pacific Games and the APEC meeting, national law enforcement and security agencies have been tasked to improve security and intelligence capacity to show that Papua New Guinea is capable of ensuring and having necessary security arrangements in place for these events. The country’s response to such reports is crucial to show that its national agencies are able to act swiftly to address any terrorist concerns in the country.

In September, in response to a headline article in the local newspaper, the PNG Post-Courier, the prime minister ordered national agencies to investigate alleged international terrorist links in the country. This followed media reports of a Middle Eastern family with alleged ties to terrorists that has invested in Papua New Guinea over the past ten years. The report stated that at least three companies with Australia-based principals had family members who were connected with terrorist activities (PNG Post-Courier, 4 Sept 2014). A task force led by the National Intelligence Organisation was set up to lead the investigations. The task force was given thirty days to conduct the
investigation, take appropriate action to dismantle the alleged terrorist network, and report on the outcome of actions taken (PNG Post-Courier, 12 Sept 2014).

Also in September, the National Executive Council approved the expenditure of a massive K2 billion over the next ten years for a complete overhaul of the police force’s operational activities. A committee will comprise top police hierarchy to look at all police needs and priorities (PNG Post-Courier, 4 Sept 2014).

As the government continues with major infrastructural developments in the capital, Port Moresby, it also endeavors to connect the capital to other provinces by road. The road network among most provinces is still nonexistent. However, the government’s proposed highway to connect the highlands provinces to Port Moresby and the Papuan region was met with stiff resistance from political leaders, especially from the latter region. This has somewhat rekindled secessionist sentiments in the Papua Besena movement of the 1970s by astute Papua secessionist leader and former MP Dame Josephine Abaijah (PNG Post-Courier, 3 Nov 2014).

In another controversy facing Prime Minister O’Neill, the government obtained a loan of K3 billion from the global finance service company Union Bank of Switzerland (UBS) to buy shares in the company Oil Search Ltd. Commentators say that not only is the loan economically unwise but the manner in which the loan was obtained also breached the relevant laws of the country. It was argued that the process of obtaining the loan breached section 209 of the constitution in that the Parliament, which authorizes such loans, did not do so in this case through the annual budget process. It was believed that the proceeds from the LNG project were mortgaged toward repaying the loan and that the country will not benefit from the project until years after the loan has been repaid (Yalo 2014). However, the prime minister maintains that there was nothing improper in obtaining the loan and the government had complied with all relevant laws. He also claimed that the purchase of shares would benefit the nation (Walton 2014).

In August, Public Prosecutor Pondros Kaluwin received the referral of Prime Minister O’Neill from the Ombudsman Commission to determine whether there was sufficient, credible, and cogent evidence to ask the chief justice to appoint a Leadership Tribunal. The referral was for alleged misconduct in office (PNG Post-Courier, 14 Aug 2014). The subject of the referral relates to allegations that (1) the prime minister had failed to comply with administrative and financial processes, including normal overseas borrowing processes in the approval of the UBS K3 billion loan; (2) the prime minister had sacked former Minister for Treasury Don Polye, accusing the minister in the media of causing instability in the government, when the actual reason was Polye’s refusal to sign the UBS loan deal, which the prime minister had unilaterally approved on 6 March 2014; and (3) the prime minister had made a misleading statement on local television station EMTV that he had obtained advice from state agencies
including Bank of Papua New Guinea on the UBS loan to purchase Oil Search shares, which was contrary to the evidence received (PNG Post-Courier, 14 Aug 2014).

The Ombudsman Commission investigated the prime minister’s alleged misconduct in office, which arose from his failure to uphold his duties and responsibilities of office as required under section 27 of the Constitution and the Organic Law on Duties and Responsibilities of Leadership. The Ombudsman Commission was satisfied that there was a prima facie case and consequently made the referral to Public Prosecutor Kaluwin.

Among the politicians charged for misappropriation was Komo-Magarima MP Francis Potape. The National Court found Potape has a case to answer in relation to alleged misappropriation of K60,000 (PNG Post-Courier, 14 Aug 2014). In October, the National Court found Potape guilty of misusing K330,000 in public funds, of which K60,000 was awarded to himself as an allowance. He was sentenced to thirty months in prison (The National 2014).

In October, Gulf Province Governor Havila Kavo was also found guilty of misusing K130,000 from a trust account belonging to the people of Kikori district for infrastructure, and he was sentenced to three years’ imprisonment (Mathias 2014).

Earlier in April the National Court had sentenced former Finance Minister and MP Paul Tiensten to nine years with hard labor for misappropriating K10 million in public funds. His sentence was the most severe penalty any PNG Court has given to a convicted corrupt public official since PNG independence.

In December, Kandep MP Don Polyce became the new Opposition leader when the six-member Opposition caucus called a meeting without the former leader, Vanimo-Green MP Belden Namah. Namah disputed the election of Polyce by Opposition caucus members; however, Polyce’s election was recognized by Speaker of Parliament Theo Zurenuoc (PNG Post-Courier 2014).

The Manus Island Regional Processing Centre, which was reopened in 2012, continues to raise the ire of human rights groups against Australia’s transfer of irregular maritime arrivals (or “boat people”) to Manus Island in Papua New Guinea. The Australian government aims to combat people smuggling by seeking PNG support in this regional approach. On 19 July 2013, the Australian and PNG governments entered into a Regional Resettlement Agreement, which states that Australia would transfer asylum seekers who have arrived by boat to Papua New Guinea for processing of their asylum claims, and that Papua New Guinea, not Australia, would settle, on a permanent basis, those asylum seekers who are determined to be refugees (PNG ICSA 2013). On 6 August 2013, the PNG and Australian governments entered into a new memorandum of understanding, which supports the resettlement agreement and supersedes the memorandum of understanding of 8 September 2012 (MOU 2013).

The operations of the Manus Regional Processing Centre and the Regional Resettlement Agreement policy brought the Australian immi-
igration policy on offshore processing centers to a low point and became a focus of controversy for the Australian and PNG governments on the treatment of asylum seekers after a riot at the processing center in February 2014 led to the death of Iranian asylum seeker Reza Barati, allegedly caused by security personnel working at the center (The Guardian 2015). Australian and PNG authorities commenced separate investigations into the death of Barati and have identified the alleged perpetrators, but they have yet to be prosecuted.

While the O’Neill government deserved praise for a number of important milestones in terms of meeting the government’s prioritized policies and development plans and the government’s commitment to investment and economic growth, there continue to be significant challenges to ensuring that major decisions affecting the country are made within defined procedures, policies, and the rule of law.

The fight against corruption is yet to be tangibly seen, when the disbanding of the ITFS team and delay in the establishment of institutions such as the Office of Anti-Corruption continue to engender a loss of confidence in the government in tackling corruption. There remain many unresolved cases involving the prime minister, ministers of government, and members of Parliament, with most of the cases often hampered by court processes.

As Papua New Guinea enters a period of economic boom from its mineral resources and enjoys the proceeds from the LNG project, the management of the country’s revenue and national purse will be critical to ensure that these dividends translate into tangible economic outcomes, not only changing the infrastructural face of Port Moresby but, most important, raising living standards and improving the livelihoods of those in rural areas by giving them the opportunity to participate in the country’s economic development.

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Solomon Islands

Solomon Islands sailed through another turbulent and attention-grabbing year in 2014. Natural disasters struck the country, arson and looting marred efforts to national unity, and a new government was formed. Notable events on which this review focuses are those leading up to and following the national general election. Indeed, this was a critical general election for a variety of reasons. It was the first election after the Regional Assistance Mission to Solomon Islands (RAMSI) announced the commencement of its transition and gradual handover of policing control to the Royal Solomon Islands Police Force (RSIPF). It was also an election after civil society organizations aired frustrations with a Parliament that had legitimated the channeling of state resources into the hands of legislators who were allegedly not very prudent in their decision making. Moreover, the election was the first to be conducted after new legislation on political parties’ integrity was passed and implemented, and it offers an opportunity to assess the impacts and effectiveness of that legislation. The election also offers the chance to comment on political stability and gender equality ideals in the country. Finally, the review should enable us to assess what the future holds for the newly elected Democratic Coalition for Change (DCC) Government.

I highlighted in the conclusion to the 2013 Solomon Islands review that there was anxiety and uncertainty over what 2014 had in store for the country (Nanau 2014). Certain events made 2014 seem like business as usual. Throughout the year, tertiary students from regional universities and local institutions continued to suffer from delayed allowances and stipends. At the University of the South Pacific and other Fiji-based tertiary institutions, students continued to be distressed by serious delays in their monthly stipends throughout the year (SSN 2014c). The same can be said for those studying in Papua New Guinea’s tertiary institutions as well as in the country’s own local university, the Solomon Islands National University (SSN 2014d). These students’ concerns highlight the fact that the government failed to work within budgetary provisions earmarked for