



NATIONAL INTEGRITY SYSTEM STUDY

POLITICAL PARTIES

DISCUSSION PAPER 8
March 2014
Author: Anita Jowitt

Transparency Vanuatu: PO Box 355, Port Vila, Vanuatu. Ph 25715. Fax 25617. Email transparency@vanuatu.com.vu. Website www.transparencyvanuatu.org.

About the Transparency Vanuatu National Integrity System Study Discussion Papers Series

The National Integrity System (NIS) study follows a methodology developed by the Transparency International Secretariat in Berlin. This methodology provides the structure of the report and identifies the questions to be addressed. The Vanuatu NIS study examines 13 key institutions, or “pillars”: legislature, executive, judiciary, ombudsman, auditor general, public service, law enforcement, media, private business, customary authorities, electoral commission, political parties and civil society. The research aims to develop consensus of the key recommendations for change. Each pillar discussion paper is based upon review of laws, documents and interviews. Discussion papers are released to the advisory group, external reviewer and the public. The discussion paper is a work-in-progress. All comments, corrections or additions are welcome. Comments are requested by the end of March 2014. Comments can be returned to Transparency Vanuatu in writing or in person (contact details above). They can also be sent to the lead researcher at anita.jowitt@gmail.com. If you would like to be added to the email list to be notified when further discussion papers are released or when public meetings on the report are held please contact Transparency Vanuatu.

SUMMARY

Political parties in Vanuatu currently operate without direction state support, and also without direct state regulation. Whilst lack of regulation result in very high scores in respect of independence it also undermines governance, as political parties are able to operate without any transparency or accountability in all spheres of their operation. For instance political parties are not required to disclose income or expenditure, either during or between election periods. Parties tend not to publish policies as a matter of course outside of election years. Nor are party Constitutions readily available.

This uncontrolled political party environment is thought to contribute to Vanuatu’s increasingly fragmented political party environment. It is also thought to allow corrupt practices to flourish undetected, for instance through payments to political parties in order to influence them.

There are currently activities by both the Government and the Opposition to develop reforms in relation to political integrity. Many of these reform proposals relate to improving governance of political parties. The recommendations in this paper are, in part, drawn from proposals that have arisen in the course of high-level political discussions in this area.

RECOMMENDATIONS

1. Governance of political parties is particularly weak. It is recommended that the government implement law reforms ensuring transparency, accountability and integrity of political parties. These law reforms should cover, as a minimum, the following:

- a. Mandatory disclosure of party income and expenditure via annual audited accounts which are made public
 - b. Mandatory disclosure of all party income and expenditure during the election campaigning period via audited accounts which are made public
 - c. Mandatory filing of policy platforms with a central body, with the central body to provide a public access point to information on policies for the public
 - d. Mandatory filing of constitutions with a central body, with the central body to provide a public access point to political party constitutions for the public
2. Before any consideration can be given to public funding of political parties, accountability mechanisms must be established. Further controls should also be considered. These include setting minimum requirements for eligibility for funding (such as receiving a threshold of 5% of votes in national elections), only reimbursing stated expenses, on production of receipts/audited accounts, and stopping funding if audited accounts are not received.
 3. As technical capacity limits the extent to which parties can develop policy statements and internal governance structures it is recommended that aid donors, in consultation with political parties and parliament, consider whether technical assistance to develop political parties' capacity in these areas is required.
 4. The large number of parties contesting elections is contributing to the fragmented and clientelistic political environment. It is recommended that, in order to discourage candidates who do not have considerable popular support from contesting elections, consideration be given to reforming election laws by:
 - a. Raising the number of supporters that must endorse a candidate before he or she is eligible to stand for election
 - b. Raising the fee for candidates.

STRUCTURE AND ORGANISATION

Historically there were 2 dominant political parties – the Vanua’aku Pati (VP) and the Union of Moderate Parties (UMP). These parties were dichotomized into the party representing Anglophones (VP) and the party representing Francophones (UMP). VP dominated parliament, winning large majorities until the election in 1991. From the late 1980s these two parties, who have been referred to as the “mother parties”¹ have become increasingly fragmented. The majority of political parties currently represented in Parliament are descended from VP and UMP.

Vanuatu now has a very fragmented and disorganized political environment. More than 30 parties and a large number of independents contested the 2012 national election.² A total of 16 parties were successful in having candidates elected, with 4 members of parliament standing as independents.³

The fragmented political party environment means that government is necessarily a coalition.

¹ <http://pacificpolicy.org/blog/2012/11/07/summary-analysis-of-party-political-platforms-english-version/#more-2299> [accessed 11 March 2014].

² <http://pacificpolicy.org/blog/2012/11/15/the-waiting-game/> [accessed 11 March 2014].

³ Ibid.

RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?

There are no significant restrictions on the formation and operation of political parties.

The Constitution provides that ‘Political parties may be formed freely and may contest elections. They shall respect the Constitution and the principles of democracy.’⁴ The Constitution also protects freedom of association.⁵ These provisions have been interpreted as not permitting any laws regulating political parties, although this has never been tested in court. There are no limits on political parties’ ideologies, policies or other activities. Nor are there limits on the minimum number of founders or members to establish political parties.

There is no specific legal process for establishing political parties. Instead they are able to register as charitable associations, following the process discussed in the section on civil societies. This process requires 6 members.⁶ If the Registrar refuses to grant incorporation, the Registrar must give reasons⁷ and the charitable association has the right to appeal to the Minister of Finance and Economic Management within 14 days.⁸ The Minister may either refuse the appeal, or order the Registrar to grant incorporation.⁹ This decision cannot be questioned in Court except on a point of law.¹⁰

There is no state support of political parties or individual candidates, although as discussed in the section of civil society as charitable organisations they may be able to apply for tax exemptions.

RESOURCES (PRACTICE)

To what extent do the financial resources available to political parties allow for effective political competition?

There is a level playing field in respect of resourcing political parties in the sense that no party receives state funding or assistance.

In Vanuatu political parties operate independently without state support. Whilst state funding may help to “level the playing field” and act as a disincentive to seeking funding from external sources which improperly influence political parties, in the current environment there is no accountability for political parties. In the absence of accountability mechanisms, including audited accounts, the funding of political parties would be a potential avenue for misuse of public money.¹¹

Sources of funding include fundraising activities by members and investments. For example, the Secretary General of VP confirmed that the VP’s financial resources derived from a long-term land investment, although VP is thought to be fairly unusual in deriving income from investments.¹² In

⁴ Article 4(3), Constitution of the Republic of Vanuatu.

⁵ Article 5(1), Constitution of the Republic of Vanuatu.

⁶ Section 2(1), Charitable Associations (Incorporation) Act [Cap 140].

⁷ Section 3(1), Charitable Associations (Incorporation) Act [Cap 140].

⁸ Section 3(3), Charitable Associations (Incorporation) Act [Cap 140].

⁹ Section 3(4), Charitable Associations (Incorporation) Act [Cap 140].

¹⁰ Section 3(5), Charitable Associations (Incorporation) Act [Cap 140].

¹¹ Comments of Advisory Group Members, Advisory Group Meeting 6 March 2014.

¹² Interview of former Secretary General Vanua’aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014.

some parties a portion of MPs and provincial councilors salaries are also directed to party activities.¹³ Political advisors and apolitical appointees may also direct some of their salary to their political party.¹⁴ Both the Labour Party and the Nagriamel Movement rely on member contributions and fundraisings.¹⁵ Fundraising activities are likely to be community based, for instance kava evenings and food sales that bring party supporters together. Parties do not receive funding from aid donors,¹⁶ although they may be involved in initiating VP projects that NGOs then carry out.¹⁷ No party reported receiving private donations.¹⁸

Whilst considerable reliance on members fundraising activities suggests a lack of diversity of sources of funding there is considerable diversity of membership. Unlike in Europe, where membership of political parties is declining and, on average, less than 5% of voters are now party members,¹⁹ street survey research carried out by the NIS researchers in Vanuatu suggests that parties have a robust membership base. Whilst the sample was small (50 people), 28% indicated that they were members of parties.

There are no limits on the extent to which members of parliament are able to use their allowances to support political party activities. As a result small parties and newly formed parties without any representatives in parliament are likely to be more financially precarious as compared to those with representatives in parliament. However, in the absence of transparency as to political party accounts this is a supposition.

There is no restriction on parties to access airtime during election campaigns. Nor are any parties provided state support during campaigns. In practice, the right to using media during election campaigns is restricted by money, with wealthier parties having better access. There are also some ties between some private media outlets and politicians. For instance, Sabi Natonga of the National Community Association Party owns a newspaper a radio station and a website.²⁰ As discussed in the paper on media, public access to and use of media is somewhat limited. This fact, combined with the community based political environment in which personal connections are very influential on determining political party affiliation²¹ mean that inequities in being able to access media are not a significant outcome on election results.

It is not only financial resources that hinder the activities of political parties. As with civil society organisations, political parties are somewhat constrained by the limited human resource capacity of

¹³ Interview of former Secretary General Vanua'aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014.

¹⁴ Comments of Advisory Group Members, Advisory Group Meeting 6 March 2014.

¹⁵ Interview of Secretary General Nagriamel Movement Jeff Patuvanu with Kibeon H Nimbwen, Port Vila, January 22, 2014. Interview of Labour Party Representative Letty Kaltongga with Kibeon H Nimbwen, January 24, 2014.

¹⁶ Interview of Secretary General Nagriamel Movement Jeff Patuvanu with Kibeon H Nimbwen, Port Vila, January 22, 2014. Interview of Labour Party Representative Letty Kaltongga with Kibeon H Nimbwen, January 24, 2014.

¹⁷ Interview of former Secretary General Vanua'aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014.

¹⁸ Interview of former Secretary General Vanua'aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014.

¹⁹ <http://blogs.lse.ac.uk/europpblog/2013/05/06/decline-in-party-membership-europe-ingrid-van-biezen/> [accessed 11 March 2014].

²⁰ PACMAS, 'Vanuatu State of Media and Communication Report 2013' (2013) pp 3 – 5.

²¹ See, further, NIS Project Foundations Discussion Paper.

Vanuatu. This can affect activities such as the development of policy and the internal management of political parties.

INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

The Constitution protects the free formation of political parties and there are no other specific laws on the monitoring of political party activities.

There are no specific laws relating to state powers to monitor, investigate or dissolve political parties. As political parties tend to register as charitable associations they are subject to the oversight that applies to all such bodies. Whilst the law does not give power to the state to attend the meetings of charitable associations, if an incorporation was obtained by fraud, misrepresentation or mistake or any of the objects of the association become unlawful or the association is discriminating against any person, group of persons or class of persons or is being used for an unlawful purpose; or the association is not functioning properly in practice then the Registrar may give the association 30 days to explain why it should not be dissolved.²² If cancellation then occurs the association can appeal the decision to the Supreme Court.²³ As the Constitution protects the free formation of political parties so long as they are operating for democratic purposes²⁴ any illegitimate interference in the operation of a political party pursuant to the laws on charitable associations would be unconstitutional.

INDEPENDENCE (PRACTICE)

To what extent are political parties free from unwarranted external interference in their activities in practice?

There are no examples in the last 5 years of the state dissolving or prohibiting political parties. Nor are there examples of harassment and attacks on opposition parties by state authorities or other examples of state interference in the activities of political parties.

In 2012 a breakaway faction from the Union of Moderate Parties (UMP) was not permitted to register a charitable association under the name of Union of Moderate Parties for Change. This decision was taken by the Registrar pursuant to section 52 of the Charitable Associations Act which prohibits the issue of a certificate of incorporation in a name which the Registrar considers closely resembles that of another incorporated committee. The decision was appealed to the Minister of Finance, who upheld the decision. The decision was then appealed to the Supreme Court, who again upheld the decision.²⁵ The new party was not prohibited from registering under a different name, and became known as the Reunification Movement for Change (RMC).

²² Section 10, Charitable Association (Incorporation) Act [Cap 140].

²³ Section 11, Charitable Association (Incorporation) Act [Cap 140].

²⁴ Article 4(3), Constitution of the Republic of Vanuatu.

²⁵ Union of Moderate Parties (Inc) v Minister of Finance [2012] VUSC 164.

There have been a number of instances in which political party members themselves have referred matters to court due to allegations of breaches of internal rules.²⁶ As these are internal disputes, in which the court has acted impartially, they are not examples of external interference.

TRANSPARENCY (LAW)

To what extent are there regulations in place that require parties to make their financial information publically available?

There are no laws requiring political parties to disclose financial information.

There are no laws requiring political parties to disclose information on government subsidies or private financing. Nor are there laws on disclosure of campaigning money received or money spent of political campaigns during election periods.

TRANSPARENCY (PRACTICE)

To what extent can the public obtain relevant financial information from political parties?

In the absence of laws requiring transparency of financial transactions it is not possible for members of the public to access financial information from political parties.

Political parties do not make financial information available as a matter of course. Whilst members may be provided with some financial information during congresses²⁷ and some of this may filter to the public, there are no channels for the public to seek financial information from parties. A further issue is that information provided to members and supporters is unlikely to have been audited.²⁸ Some parties may voluntarily provide information upon request, but in the absence of audited accounts it can be difficult for parties to meet requests.

The absence of laws mean that it is impossible to verify the extent to which rumours and allegations of private donations to parties and parties making payments to members of parliament in order to cross the floor cannot be verified.

ACCOUNTABILITY (LAW)

To what extent are there provisions governing financial oversight of political parties by a designated state body?

There are no provisions which require political parties to maintain records on their finances and report on them.

No state body is legally empowered to demand financial reports from political parties, either during or between election periods. Political parties are therefore not accountable in law for either

²⁶ See, for instance, *Natapei v Iauko* [2012] VUSC 181; *Kalpokus v Electoral Commission* [2004] VUSC 6.

²⁷ Interview of former Secretary General Vanua'aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014. Interview of Secretary General Nagriamel Movement Jeff Patuvanu with Kibeon H Nimbwen, Port Vila, January 22, 2014.

²⁸ Interview of former Secretary General Vanua'aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014.

donations or expenditures and face no consequences if they do not voluntarily disclose this information.

ACCOUNTABILITY (PRACTICE)

To what extent is there effective financial oversight of political parties in practice?

In the absence of laws requiring accountability political parties do not generally self regulate to ensure accountability in practice

In Vanuatu, there is no designated state body that receives financial reports during and between elections. Some parties' Constitutions may require the production of audited accounts however, so there is some self-regulation in this area. For instance, the VP Constitution requires the national accounts of the party to be audited annually.²⁹ The extent to which self-regulation is effective is questionable although in the absence of transparency this comment remains speculative.

INTEGRITY (LAW)

To what extent are there organizational regulations regarding the internal democratic governance of the main political parties?

The Constitutional basis of the main political parties requires democratic processes to select party leaders, although candidates for election tend to be selected.

There are no laws regulating internal governance of political parties. However, the "mother parties" follow a model in which that party leadership must be elected during party congresses.³⁰ In the absence of constitutions from other political parties it is assumed that these parties have created an exemplar that parties which have splintered off from them also follow.

There are two main ways in which candidates for election get selected. Either the party leadership must endorse them, as currently happens with the GJP³¹ and used to happen with VP,³² or Regional Coordination Committees can select them, as happens with VP currently.

INTEGRITY (PRACTICE)

To what extent is there effective internal democratic governance of political parties in practice?

Leadership of political parties can be beset by internal disputes which undermine democratic governance. Such disputes can also contribute to fragmentation.

Issues of political party leadership are somewhat frequent subjects of court challenges. In the past 5 years both UMP and VP have been rocked by challenges, in which one faction has claimed that the current party leadership is illegitimate due to constitutional procedures not being adhered to.³³ The

²⁹ Article 7, Constitution of the Republic of Vanuatu.

³⁰ Vanua'aku Party's Constitution, Union of Moderate Patis Committee (Inc) v Salwai [2012] VUSC 179.

³¹ <http://www.graonmojastis.org/pati-bakgraon> [accessed 26 February 2014].

³² Interview of former Secretary General Vanua'aku Party Sela Molisa with Kibeon H Nimbwen, Port Vila, January 22, 2014.

³³ Union of Moderate Patis Committee (Inc) v Salwai [2012] VUSC 179; Iauko v Natapei [2012] VUCA 18.

fact that matters get referred to court indicate a somewhat opportunistic approach towards claiming party leadership and lead to splinter parties when leadership positions cannot be gained through legitimate party processes.

As discussed below many political parties lack technical capacity to develop policies. One result of this is that individual party leaders who have stronger technical capacity are able to capture the policy development process. Members often have little input into policy formation. A street survey conducted by NIS researchers indicated that only 14% of respondents who were party members had any input into developing policies.

INTEREST AGGREGATION AND REPRESENTATION

To what extent do political parties aggregate and represent relevant social interests in the political sphere?

The fragmented political party environment, lack of technical capacity within political parties to develop policy statements and cultural practices which support a clientelistic relationship between political parties and society all hinder the development of policy based politics.

As discussed above political parties in Vanuatu are fragmented, with many parties being descendants of the two mother parties. The Pacific Institute of Public Policy observes that ‘Many say that most policy platforms of splinter groups are carbon copies – cut and pasted from those of the original ‘mother parties’ like the Vanua’aku Party (VP) and the Union of Moderate Parties (UMP). In some respects this is true.’³⁴ A further hindrance to political parties developing distinct political platforms is that ‘apart from a few well-established political parties, many newer ones seem to lack the necessary technical capacity to be able to craft simple, concrete and yet workable policy platforms that capture and address the aspirations and the key needs of the people.’³⁵ Whilst brief outlines of key policy points are often to be found on election posters, it is much less common for parties to have fuller written statements of policy.

Rather than there being specific interest groups who dominate political parties, parties can be dominated by prominent charismatic politicians, who have often split from the mother party when they have been unable to assume desired leadership positions. In general a charismatic leader tends to rely on support for him or her as a person rather than support for policies, which undermines policy based political parties. Further, as discussed in the foundations section, fragmentation within politics has, to a degree, been influenced by traditional culture and the traditional “big man” model of authority in which power may be gained by developing influence through exchange.³⁶ This affects the perception of the role of political leaders. Rather than implementing nationally focused policy, members of parliament are ‘expected to provide access to resources and “development” funds. Indeed, all members of parliament act as central nodes in networks of distribution and exchange

³⁴ <http://pacificpolicy.org/blog/2012/11/07/summary-analysis-of-party-political-platforms-english-version/> [accessed 26 February].

³⁵ Ibid.

³⁶ Marshall Sahlins, ‘Poor Man, Rich Man, Big Man, Chief: Political types in Polynesia and Melanesia’ (1963) 5(3) *Comparative Studies in Society and History* 285.

focused on access to state resources.³⁷ This clientelistic dynamic undermines the operation of policy or values based politics.

One advantage of the personalized nature of Vanuatu's political parties is that members/supporters are more likely to have direct ties (whether family ties or other personal connections) with the political party leadership. As discussed above, a street survey conducted by NIS researchers suggests that political party membership is high. Further, 43% of political party members indicated that they were aware of what their parties policies were. Whilst this suggests that parties do have a considerable degree of legitimacy, it must also be remembered that in the environment of relatively low education where parties lack the technical capacity to develop sound policy statements, party members may also lack the capacity to assess policy statements from the perspective of national, rather than personal, interest.

There is no formal linkage between political parties and civil society. As discussed in the section on civil society, government tends to view civil society organisations (CSOs) as "foreign", or with different agendas. However, some political parties do, at times, work with CSOs. As mentioned above, parties may support the development of CSO projects for donors to fund. When interests align there may also be collaboration in developing policy statements.

ANTI-CORRUPTION COMMITMENT

To what extent do political parties give due attention to public accountability and the fight against corruption?

In the absence of clear policy statements it is somewhat difficult to ascertain the extent to which parties are committed to an anti-corruption agenda, although in the 2012 election parties two parties which won significant numbers of seats did have detailed policies relating to anti corruption and the current governing coalition also appears to be committed to instigating reforms.

In the absence of published political party manifestos it can be difficult to assess the extent to which political parties prioritise anti-corruption. Further, the coalition government environment means that, often, individual parties are unable to have their policies reflected in government reforms, which are instead based upon compromise and consensus. However, an assessment of political party policies in the lead up to the 2012 national election only identified 3 parties (GJP, VP and VDP) as having detailed action statements in respect of leadership and corruption.³⁸ Policies of these parties included:

- Enact legislation that puts in place specific criteria for forming a political party (GJP, VP)
- Pass legislation that provides for parties to declare their sources of funding (GJP, VP)
- Enact legislation that requires MPs to file their annual returns (GJP)
- Establish a leadership tribunal (VDP, VP) and an anti-corruption commission (VDP)
- Amend the Government Act to clearly define the roles and duties of political appointees (VP)

³⁷ Michael G Morgan, 'Political fragmentation and the policy environment in Vanuatu, 1980–2004' (2004) 19(3) *Pacific Economic Bulletin* 40, 45.

³⁸ <http://www.pacificpolicy.org/wp-content/uploads/2012/10/PiPP-political-party-analysis-8pp-web.pdf> [accessed 26 February 2014].

- Amend the Government Act to revive the Central Agency Committee (VP)³⁹

A number of parties also had policies in the area of governance reform. Whilst not all of these policies would be positive anti-corruption measures, they included:

- Change the number of seats in parliament to reflect the population size (GJP)
- Reduce the number of seats in parliament (PPP)
- Reserve one third of the seats in parliament and in provincial councils and the municipalities for women (GJP)
- Amend the Municipalities Act so that there are no elections but members are nominated (GJP)
- Parliament should have its own legal counsel that is independent from the State Law Office (LDP, PPP)
- Divide parliament into two chambers: a representative chamber and a senate (NAG)
- Increase the MPs' allocation to VT8 million (NIPDP)
- Give Malvatumauri, VNCW and each province voting rights in parliament (NUP)
- Extend the term of parliament to 5 years (PPP, VRP)
- Reduce the number of political staff in each department to eight (RMC)
- Reduce government spending on the public service by 20 % (RMC)
- Pass legislation that ensures there can be no motion of no confidence until the fourth year of a government's term (VDALPFC)
- Increase MPs' allocation to VT3 million (PPP)
- Increase MPs' allocation to VT4 million (VRP)
- Enact new law to ensure MPs can't cross the floor of parliament (VDALPFC)
- Change the current governing system to the presidential system (VPP)⁴⁰

VP in particular campaigned on a platform of anti-corruption, with posters reflecting that this was their key policy point.

Given the frequent changes in government outside of the election governing coalitions which have an anti-corruption agenda necessarily make piecemeal changes. A number of reforms have been discussed for years (see, for instance, proposals to reform the laws relating to the Ombudsman and Leadership Code discussed in the section on the Ombudsman) without any change occurring. However, the current (Carcasses government) has a large enough majority to be able to pass constitutional amendments and has restarted dialogue on reforming political party regulation.⁴¹ This government has been successful in passing significant reforms to reduce corruption in respect of land dealings and there is some hope that a more comprehensive suite of anti-corruption reforms will also be passed.

³⁹ <http://pacificpolicy.org/blog/2012/11/07/summary-analysis-of-party-political-platforms-english-version/> [accessed 26 February 2014].

⁴⁰ <http://pacificpolicy.org/blog/2012/11/07/summary-analysis-of-party-political-platforms-english-version/> [accessed 26 February 2014].

⁴¹ Thompson Marango, 'Political Leaders to Discuss Stability Today' *Vanuatu Daily Post* 5 Feb 2014, 2.