



Bougainville House of Representatives

SELF-ASSESSMENT OF THE PARLIAMENT BASED ON THE INDICATORS FOR DEMOCRATIC PARLIAMENTS¹

Indicator 1.6: Law-making

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INTRODUCTION

This document presents the self-assessment report on the Law-Making Function of the Bougainville House of Representatives based on the Indicators for Democratic Parliaments². This assessment was conducted under the framework of the Strengthening PNG's Parliament Project, implemented by UNDP and generously funded by the Government of Australia through the Department of Foreign Affairs and Trade.

In most jurisdictions, law-making is regarded as parliament's primary function. The principles that underpin law-making are usually set out in the country's constitution and/or other aspects of the legal framework.

This indicator comprehensively covers all aspects of the law-making function. It includes legislative drafting, the powers of participants to initiate, debate, amend, and adopt legislation, and the procedural stages legislation undergoes in parliament. It also encompasses procedures for fast-tracking legislation, ensuring safeguards for thorough consideration even under expedited processes.

Constitution-making and amendment processes are treated separately under this indicator from the processing of ordinary laws.

Additionally, this indicator addresses the processes for the promulgation (assent and enactment) of legislation and its publication in the official journal once passed by parliament.

Many parliaments recognize that their role extends beyond passing legislation and have implemented processes for post-legislative scrutiny (PLS), including for delegated legislation. These oversight mechanisms are also covered in this indicator.

The indicator comprises the following dimensions:

Dimension 1.6.1: Powers in Law-making

Dimension 1.6.2: Constitution-making and amendment

Dimension 1.6.3: Legislative procedure

Dimension 1.6.4: Legislative drafting

Dimension 1.6.5: Enactment

Dimension 1.6.6: Official publication

Dimension 1.6.7: Post-legislative scrutiny

² Ibid.

MAIN FINDINGS

The grade for the Bougainville House of Representatives at the indicator level, calculated according to the methodology of the Indicators for Democratic Parliaments, is 2.3. This overall grade comprises the following grades at the dimension level: 1.6.1. – 3, 1.6.2. – 3.5, 1.6.3. – 1.6, 1.6.4. – 1.6, 1.6.5. – 4, 1.6.6. – 2, 1.6.7. – 0.4

Based on the detailed analysis of the Autonomous Region of Bougainville framework, the following main findings can be identified:

Legislative Authority and Processes:

- The Constitution vests primary legislative authority in the House of Representatives (BHOR), emphasizing its central role in law-making.
- Members of the BHOR have the right to introduce various legislative and non-legislative proposals, though amendments to existing laws are implied rather than explicitly mentioned.
- The process for passing bills is well-defined, involving three readings and possible consideration by a Committee of the Whole House before certification by the Speaker.

Challenges in Legislative Practice:

- Despite a robust framework, MPs face significant challenges due to inadequate resources within parliamentary services, hindering effective law development and drafting.
- There is a lack of clear provisions for citizen-initiated proposals and specific timeframes/rules for public consultations, although general provisions exist.

Amendment of the Constitution:

- The BHOR has the exclusive authority to amend the Constitution, with detailed procedures outlined in Section 219, requiring majority support in two readings.
- While the Constitution allows any member of the House of Representatives to introduce a petition, question, bill, resolution, motion, or other matter, it does not specifically mention the right to initiate constitutional amendments.
- There are no provisions for citizen-initiated proposals.
- Although there are general provisions for public consultations, the Constitution does not define extensive time frames and rules for these consultations.

Procedures and Oversight:

- While procedures for bill passage are clear, there is ambiguity regarding fast-tracking urgent legislation and limited clarity on Parliament's role in scrutinizing delegated legislation.
- Legislative drafting lacks standardized guidelines or manuals, impacting the clarity and structure of legislative proposals.

Promulgation and Commencement of Laws:

- Laws are promulgated and certified by the Speaker after passage, with commencement specified within the legislation or upon certification.
- There are no veto provisions and post-legislative scrutiny (PLS) is not formally established as a regular practice, with only one such exercise conducted so far.

RECOMMENDATIONS

Referral to Sectoral Committees and Strengthen Committee Systems:

- ✓ Amend Standing Orders to mandate referral of all legislative proposals to relevant sectoral committees. This includes opportunities for expert input and public consultations, enhancing legislative scrutiny.
- ✓ Develop a robust committee system within the House of Representatives (BHOR) to allow for a thorough examination and discussion of bills. Ensure committees have access to expert advice and conduct public consultations on significant legislation.

Constitutional Amendments:

- ✓ Explicitly allow Members of the House of Representatives to initiate constitutional amendments.
- ✓ Introduce mechanisms for citizen-initiated proposals to enhance public involvement.
- ✓ Establish clear rules and timeframes for public consultations on constitutional amendments.

Enhance Parliamentary Resources:

- ✓ Increase the budget for parliamentary services to provide MPs with necessary resources like legal advisors, legislative drafters, and research staff. This will support the effective drafting and development of legislation.

Capacity Building and Training:

- ✓ Implement regular training programs for MPs and staff on legislative drafting, legal analysis, and policy development. This will improve their skills in introducing and scrutinizing legislation.
- ✓ Provide training on research methodologies, data analysis, and reporting standards relevant to Post Legislative Scrutiny (PLS) for legislators, staff, and stakeholders.

Timeframes for Bill Circulation and Fast-Tracking Procedures:

- ✓ Define specific timeframes for circulating bills to all BHOR members after introduction. This ensures adequate preparation and review before deliberations.
- ✓ Develop clear guidelines in Standing Orders for fast-tracking procedures of urgent legislation.
- ✓ Specify criteria for urgency justification, outline procedures for debate, amendment, and voting, and ensure sufficient scrutiny.

Scrutiny of Delegated Legislation:

- ✓ Introduce provisions for Parliament to scrutinize, debate, and approve or reject delegated legislation.
- ✓ Establish clear procedures and accountability mechanisms for reviewing such legislation.

Promote Public Participation:

- ✓ Strengthen mechanisms for public participation by establishing guidelines for consultations on significant bills.
- ✓ Ensure transparency in legislative agendas and opportunities for public input.

Legislative Drafting Guidelines:

- ✓ Create comprehensive guidelines and manuals for legislative drafting. These should outline best practices, standardized formats, and clear instructions to ensure consistency and quality in legislative proposals.
- ✓ Ensure all legislative proposals use gender-neutral language to promote inclusivity and avoid bias.

Explanatory Notes and Impact Assessments:

- ✓ Introduce a legislative basis for mandatory analysis of proposals with explanatory notes for all published laws.
- ✓ Implement legislative impact assessments to evaluate economic, social, and environmental impacts.

Enhance Legislative Drafting Capacity:

- ✓ Increase resources and training for specialist legislative drafting services to support MPs and political groups effectively.
- ✓ Develop and disseminate a standard structure for legislative proposals accessible to parliamentary services to maintain clarity and coherence.

Publishing Procedures and Legal Database:

- ✓ Establish clear procedures for publishing laws and develop an official, centralized online database for all AROB laws. Ensure accessibility and searchability for the public and legal professionals.
- ✓ Improve the AROB Government website for better access to laws and legislative information.
- ✓ Regularly consolidate amendments into updated versions of legislation to enhance legal clarity and accessibility.
- ✓ Regularly review and update procedures for publishing laws and maintaining the legal database.

Post Legislative Scrutiny (PLS):

- ✓ Develop and formalize a legislative framework for PLS in BHOR, outlining objectives, methodologies, and responsibilities.
- ✓ Integrate PLS as a routine part of legislative oversight processes. Establish dedicated mechanisms or committees for evaluating the impact and effectiveness of enacted laws.
- ✓ Implement mechanisms to ensure regular and systematic PLS activities, including timelines and protocols for conducting reviews after significant legislation.
- ✓ Establish monitoring and evaluation mechanisms to assess the impact and implementation of PLS recommendations on legislative decisions.
- ✓ Make PLS findings and recommendations publicly accessible to enhance transparency and accountability in legislative outcomes.

These recommendations aim to address the identified challenges and improve the legislative framework in the Autonomous Region of Bougainville, fostering effective governance and public trust in the legislative process.

Detailed recommendations are outlined in the Dimensions.

ASSESSMENT RESULTS

Dimension 1.6.1: Powers in Law-making

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the powers of various participants in the legislative process to initiate, debate, amend, and adopt legislation. These powers primarily concern MPs although, in some jurisdictions, other participants also have the right to initiate legislation, such as the executive and its agencies, or groups of citizens.

All MPs should have the right to initiate, and propose amendments to, legislation. Reasonable restrictions can be placed on the authority of individual MPs – or, in bicameral systems, a house – to initiate or amend proposals that involve, for example, the spending of public money or the imposition of taxes.

In some countries, these powers may be reserved for the lower house in a bicameral system, or for MPs from parliamentary majority groups or political parties that form the executive. There may also be limits on opportunities to debate proposals for laws or amendments. However, such restrictions should not impose unreasonable limits on MPs’ freedom to play a full role in the legislative process.

All legislation, including budgetary legislation, should be approved by parliament before enactment. In some legislatures, different adoption requirements may apply to different forms of legislation. In some cases, only a simple majority of MPs’ votes is required, while in others, an absolute majority of MPs’ votes (i.e. 50% + 1) is necessary.

In bicameral systems, the same text should have been approved by both houses. In some jurisdictions, there may also be special circumstances where full passage through both houses is not required, with the lower house being able to bypass or override passage through the upper house.

Assessment criterion 1: Right to initiate legislation

The constitution establishes the right of all MPs to initiate legislation in parliament. Any restrictions on this right, such as a requirement for a minimum number of MPs to initiate legislation, or restrictions concerning financial proposals, are limited and clearly defined. The constitution may also permit other participants to initiate legislation, such as the executive and its agencies, or groups of citizens.

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Evidence for this assessment criterion:

AROB Constitution: Part V, 67. Right to Introduce New Laws.

BHOR Standing Orders: CHAPTER 4 - Legislative Procedures, 130. Introduction of bills

155. Financial Responsibility of The House of Representatives.

156. Executive Initiative.

Assessment criterion 2: Right to propose amendments

The constitution establishes the right of all MPs to propose amendments to legislation as it proceeds through parliament. Any restrictions on this right, such as restrictions concerning financial proposals, are limited and clearly defined.

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Evidence for this assessment criterion:

AROB Constitution: Part V, PART V. – The Bougainville Legislature, 67. Right to Introduce New Laws.

BHOR Standing Orders: CHAPTER 4 - Legislative Procedures, 130. Introduction of bills

Although PART V. – The Bougainville Legislature, Section 67. Right, to Introduce New Laws includes the following text: "Any member of the House of Representatives is entitled to introduce into the House of Representatives, in accordance with, and subject to any reasonable restrictions contained in the Standing Orders, a petition, question, bill, resolution, motion or other matter," there is no specific mention of amendments to the laws. However, we can infer that the existing list – which includes a petition, question, bill, resolution, motion, or other matter – encompasses amendments as well.

Assessment criterion 3: Approval of legislation

The constitution establishes that all legislation, including budgetary legislation, must be approved by parliament before enactment. This includes approval by both houses in bicameral systems, except where particular restrictions on the upper house are in place.

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Evidence for this assessment criterion:

AROB Constitution: PART V. – The Bougainville Legislature., 54. Exercise of Legislative Power. 65. General Law-Making Powers.

66. Certification as To Making of Laws, Etc.,

155. Financial Responsibility of The House of Representatives.

BHOR Standing Orders: Chapter 4: Legislative Procedures; 127. Passing of bills

Assessment criterion 4: Practice

In practice, MPs – and, where applicable, other participants – are empowered to participate in all stages of the legislative process. Particular attention is given to opportunities for participation for opposition and independent MPs.

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Evidence for this assessment criterion: No concrete evidence was provided; the assessment is based on discussions held during the workshops.

Recommendations for change

The Constitution of the Autonomous Region of Bougainville outlines a comprehensive framework for legislative power and processes within the region. The legislative authority is primarily vested in the House of Representatives, ensuring that this body holds the central role in law-making. However, the Constitution also allows for Bougainville laws to delegate legislative powers or functions to other authorities, provided that this delegation does not result in the House of Representatives permanently transferring or divesting itself of its legislative power.

Members of the House of Representatives possess the right to introduce a variety of legislative and non-legislative proposals, including petitions, questions, bills, resolutions, motions, and other matters. This right is exercised in accordance with reasonable restrictions outlined in the Standing Orders. The process for passing a bill is well-defined: it must be read three times in the House and, if required, considered by a committee of the whole House before it can be passed and submitted to the Speaker for certification.

The legislative framework establishes the right of all MPs to initiate legislation, which is an important aspect of their role. Although the Constitution explicitly mentions the introduction of petitions, questions, bills, resolutions, motions, or other matters, it does not specifically reference amendments to existing laws. However, it can be inferred that amendments are included within the scope of matters that MPs are entitled to introduce, as they fall under the broader category of legislative activities.

Despite the robust framework, the practice of law-making by MPs faces significant challenges, primarily due to the lack of adequate resources within the parliamentary services. This shortage hampers the ability of MPs to effectively develop and draft new laws. Therefore, while MPs are empowered to participate fully in the legislative process, enhancing the resources and support available to them is crucial for improving legislative practice in Bougainville.

Recommendations:

Enhance Parliamentary Resources:

Increase the budget for parliamentary services to provide MPs with the necessary resources and support for drafting and developing legislation. This could include hiring additional legal advisors, legislative drafters, and research staff.

Capacity Building and Training:

Implement regular training programs for MPs and their staff on legislative drafting, legal analysis, and policy development. This will enhance their skills and ensure they are well-equipped to introduce and scrutinize legislation effectively.

Strengthen Committee Systems:

Develop a more robust committee system within the House of Representatives to allow for detailed examination and discussion of bills. Committees should have access to expert advice and be empowered to conduct public consultations on significant pieces of legislation.

Dimension 1.6.2: Constitution-making and amendment

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the process of making and amending the Constitution. Constitution-making and amendment are distinct cases of law-making that usually involve special or additional requirements, such as passage by a supermajority of parliament, adoption by a majority of states or provinces in federal systems, and/or public approval.

Most countries have written constitutions that, at the highest level, provide for matters such as the separation of powers between the different branches of government, define the respective powers and responsibilities of the executive, parliament, and judiciary, and address other aspects of a democratic form of government. These constitutions have been adopted and are subject to amendment through processes that vary across jurisdictions.

Since the Constitution protects the democratic system as well as minority and other rights, it should not be possible to change it easily, otherwise the protections that it affords could be threatened. Conversely, however, it should not be so difficult to amend that constitutional change is impossible to achieve.

The right to propose constitutional amendments also is significant. In some jurisdictions, the right of initiative rests solely with parliament, i.e., with individual MPs or groups of MPs. In others, different mechanisms for constitutional amendment are also permitted, such as citizen-initiated proposals. Ideally, a range of mechanisms should be available to ensure that the opportunity to initiate change is not restricted.

Assessment criterion 1: Initiation of constitutional amendments

The constitution and/or other aspects of the legal framework establish a range of mechanisms for initiating constitutional amendments, including initiation by MPs and citizen-initiated proposals.

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Evidence for this assessment criterion:

AROB Constitution: 207. Alteration of This Constitution.

PART XXII. – Alteration Of This Constitution and Of

PART XIV (Bougainville Government and Bougainville Referendum) of The National Constitution, ETC.,

219. Making of Alterations to This Constitution.

BHOR Standing Orders: CHAPTER 8 - Passing of Amendments To The Bougainville Constitution

Assessment criterion 2: Public consultations

Broad public consultations, with reasonably extensive time frames, are undertaken after the initiation of constitutional amendments.

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Evidence for this assessment criterion:

AROB Constitution: 219. Making of Alterations to This Constitution.

CHAPTER 12 – THIS CONSTITUTION, 144 Accessibility of the Constitution

Assessment Criterion 3: Adoption

The constitution and/or other aspects of the legal framework establish that parliament must approve a new constitution or a constitutional amendment, ideally by a supermajority.

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Evidence for this assessment criterion:

AROB Constitution: 219. Making Of Alterations to This Constitution.

Assessment criterion 4: Ease of constitution-making or amendment

In practice, the constitution is not so difficult to amend that constitutional change is impossible to achieve, but not so easy to amend as to threaten its protection of the democratic system as well as minority and other rights.

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Evidence for this assessment criterion:

AROB Constitution: 219. Making of Alterations to This Constitution.

Recommendations for change

According to the legislative framework of the Autonomous Region of Bougainville (AROB), only the House of Representatives has the authority to amend the Constitution. The Constitution provides a detailed set of rules for amending its provisions. Section 219, titled "MAKING OF ALTERATIONS TO THIS CONSTITUTION," specifies the procedures for such amendments. A proposed law to alter the Constitution must be supported on at least two occasions, after an opportunity for debate on the merits, by a division in accordance with the Standing Orders of the House of Representatives, with the absolute majority of votes.

While the Constitution allows any member of the House of Representatives to introduce a petition, question, bill, resolution, motion, or other matter, it does not specifically mention the right to initiate constitutional amendments. Additionally, there are no provisions for citizen-initiated proposals. Although there are general provisions for public consultations, the Constitution does not define extensive time frames and rules for these consultations.

Recommendations:

To enhance the process of constitutional amendments in the Autonomous Region of Bougainville, it is recommended to explicitly include provisions that allow Members of the House of Representatives to initiate constitutional amendments.

Incorporating mechanisms for citizen-initiated proposals can foster greater public involvement and democratic participation.

Establishing clear, detailed rules and defined time frames for public consultations on proposed constitutional amendments will ensure meaningful public input and transparency.

Finally, providing adequate resources and training for MPs to navigate the amendment process effectively will strengthen the legislative framework and support inclusive, efficient governance.

Dimension 1.6.3: Legislative procedure

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the processes for the passage of legislation, as reflected in the constitution and/or other aspects of the legal framework, and as normally expanded upon in parliament's rules of procedure. These processes should be clear, transparent, and understandable, and should allow for the proper consideration and debate of legislation as it progresses through all stages. In bicameral systems, there should be clear, well-understood, and accepted procedures set by each house for its consideration of legislation, as well as clear, accepted, and manageable arrangements to allow for the resolution of any differences between the houses.

MPs should have sufficient time and opportunity to reflect on and debate proposals for laws before voting on them. Although practice differs from one parliament to the next, most have at least two major stages for the consideration of proposals for laws (sometimes referred to as "readings"): one for debate on the

general principles of the proposal for a law, and another when the detail of the proposal for a law is considered and amendments can be proposed and voted on.

For the purposes of this dimension, it is presumed that, at some point in the process, all proposals for laws will be referred to one or more relevant committees for detailed consideration. These committees should have the power either to recommend amendments or to amend the legislation directly. This committee stage allows for direct participation by the public in the legislative process, which should be provided for in parliament’s rules of procedure and be reflected in its practice, with sufficient time allowed for public consultation.

In some circumstances, parliament may need to pass legislation more quickly than the routine process allows, such as in response to a natural disaster, pandemic, or act of terrorism, or to an adverse court judgment. Under this fast-track procedure – also known as an “expedited” or “urgent” procedure – the legislation passes through all the usual stages, but with an expedited timetable. While the urgency may be justifiable, the procedure should still allow for proper parliamentary scrutiny to the extent possible.

This dimension also covers the consideration of delegated legislation, which parliament should have the opportunity to scrutinize, debate, and approve or reject.

Assessment criterion 1: Clear provisions for the passage of legislation

The legal framework sets out clear provisions for the passage of legislation through parliament, including through both houses in bicameral systems. The procedures provide mechanisms for the resolution of differences between the houses in bicameral systems.

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| Evidence for this assessment criterion: AROB Constitution: 65. General Law-Making Powers. BHOR Standing Orders: CHAPTER 4, Legislative Procedures | | | | | |

Assessment criterion 2: Ordinary procedure

The legal framework provides for the use of ordinary legislative procedure as a rule. This procedure includes, as a minimum, general debate on legislation with reasonable time allocated to MPs to prepare and participate in the debate, and opportunities to consider the details of legislation and to propose and vote on amendments.

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| Evidence for this assessment criterion: AROB Constitution: 65. General Law-Making Powers. BHOR Standing Orders: CHAPTER 4, Legislative Procedures | | | | | |

Assessment criterion 3: Committee stage

As part of the ordinary procedure, all proposals for laws are referred to one or more relevant committees for detailed consideration and amendment. This committee stage also includes expert and public consultations.

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| <p>Evidence for this assessment criterion:</p> <p>AROB Constitution: 65. General Law-Making Powers.</p> <p>BHOR Standing Orders: CHAPTER 4, Legislative Procedures</p> <p>CHAPTER 5, Parliamentary Committees, 163. Functions of Committees</p> | | | | | |

Assessment criterion 4: Fast-track procedure

Where there is a fast-track procedure for the urgent consideration of legislation, such procedure provides MPs with the opportunity to debate, amend, and vote on the urgent legislation, and for reasonable scrutiny mechanisms, such as inserting obligatory post-legislative scrutiny after a period of time, or using sunset clauses.

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| <p>Evidence for this assessment criterion:</p> <p>BHOR Standing Orders: CHAPTER 1 - General Provisions and Office Holders, 5, Suspension of Standing Orders, 6. Limitation on moving suspension</p> | | | | | |

Assessment criterion 5: Use of ordinary versus fast-track procedures

In practice, most legislation is subject to ordinary procedure and parliament does not unduly rely on the use of fast-track procedure.

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| <p>Evidence for this assessment criterion:</p> <p>BHOR Standing Orders: CHAPTER 4, Legislative Procedures</p> <p>BHOR Standing Orders: CHAPTER 1 - General Provisions and Office Holders, 5, Suspension of Standing Orders, 6. Limitation on moving suspension</p> | | | | | |

Assessment criterion 6: Scrutiny of delegated legislation

The constitution, other aspects of the legal framework, and/or parliament’s rules of procedure establish that parliament has the opportunity to scrutinize, debate, and approve or reject delegated legislation.

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| Evidence for this assessment criterion: There is no reference in either the Constitution or the Standing Orders to the scrutiny of delegated legislation. | | | | | |

Recommendations for change

The legal framework of the Autonomous Region of Bougainville (AROB) includes clear provisions for the passage of legislation through all stages in the House of Representatives (BHOR). A bill must undergo three readings and secure majority support in the BHOR to become law. To introduce a bill, the Member in charge lodges a copy with the Clerk, along with necessary accompanying documents for the House's information, which are then circulated to each Member by the Clerk. However, specific timeframes for circulating bills are not defined in the legislation. Moreover, the Standing Orders do not mandate that all legislative proposals be referred to relevant committees for detailed consideration, amendment, and expert or public consultations. Instead, the Standing Orders suggest a referral to a Legislation Committee and to a Committee of the Whole. While Chapter 5 of the Standing Orders allows portfolio committees to advise Ministers on policy and legislative proposals within their subject areas, it is not compulsory for all bills to undergo scrutiny by sectoral committees, nor is it standard practice for bills to receive such scrutiny with public engagement.

Procedures for fast-tracking the urgent consideration of legislation are not clearly outlined in either the Constitution or the Standing Orders. There is a need to clarify the requirements for justifying urgent consideration, ensure opportunities for MPs to debate, amend, and vote on urgent legislation, and establish provisions for reasonable scrutiny of such bills within the Standing Orders. Currently, bills are often fast-tracked through Parliament via the suspension of Standing Orders.

Additionally, there are no provisions clarifying Parliament's role in scrutinizing, debating, and approving or rejecting delegated or secondary legislation, further necessitating clarity and procedures in this regard within the legislative framework of AROB.

Recommendations:

Establish Clear Timeframes for Bill Circulation: Define specific timeframes within the legislative framework for the circulation of bills to all Members of the House of Representatives after their introduction. This ensures adequate time for MPs to review and prepare for deliberations.

Mandate Referral to Sectoral Committees: Amend the Standing Orders to mandate the referral of all legislative proposals to relevant sectoral committees for thorough consideration. This includes opportunities for expert input and public consultations, enhancing the quality and inclusiveness of legislative scrutiny.

Clarify Fast-Tracking Procedures: Develop clear guidelines within the Standing Orders for fast-tracking procedures in cases requiring urgent legislative consideration. Specify criteria for justifying urgency, outline procedures for debate, amendment, and voting, and ensure provisions for reasonable scrutiny to uphold transparency and accountability.

Enhance Scrutiny of Delegated Legislation: Introduce provisions in the legislative framework to specify Parliament's role in scrutinizing, debating, and approving or rejecting delegated or secondary legislation. Establish clear procedures and accountability mechanisms for reviewing such legislation to uphold parliamentary oversight.

Promote Public Participation: Strengthen mechanisms for public participation in the legislative process by establishing guidelines for public consultations on significant bills. Ensure transparent communication of legislative agendas and opportunities for public input.

Dimension 1.6.4: Legislative drafting

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the principles of legislative drafting as they apply to all proposals for laws tabled in parliament, as well as to amendments to existing laws, delegated legislation, and other legislative instruments.

Legislation should be drafted in a way that is clear, viable and consistent with the existing legal framework. Good legislative drafting provides legal certainty and equality before the law, ensuring that citizens and others who might be impacted by a proposal for a law can understand the rights and obligations it establishes. It makes clear the spirit and intent of the legislation, avoids any misinterpretation, loopholes, and conflicting provisions, and helps MPs properly consider and debate proposals for laws as they progress through parliament.

In many cases, the executive will have access to a specialist legislative drafting office or service. It is important that legislative drafting resources are also available to MPs and political groups, including to opposition, minority-party, and independent MPs, in order to help them prepare proposals for laws to be tabled in parliament.

Proposals for laws should be drafted in clear, precise, and plain language, with no unnecessary jargon or expressions. Drafters should aim to ensure that citizens and others who might be impacted by a proposal for a law can understand the rights and obligations it establishes. Legislative drafts should use gender-neutral language wherever possible.

Assessment criterion 1: Guidance

Guidance for clear and effective legislative drafting is set out in a manual or similar document.

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Evidence for this assessment criterion: There are no guidelines or manuals on legislative drafting available for the BHOR. However, the [AROB Interpretation Act](#), adopted in 2005, provides definitions, rules, and principles applicable to all acts and instruments.

Assessment criterion 2: Analysis of legislative proposals

An analysis of the proposal for a law is documented, for instance in the form of explanatory notes accompanying the proposal, including the proposal’s practical implications, the scope and content of existing legislation on the same subject, and its respect for fundamental rights and public liberties.

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Evidence for this assessment criterion:

BHOR Standing Orders: CHAPTER 4, Legislative Procedures

Bougainville Act on Law Making

<https://abg.gov.pg/acts-laws>

Assessment criterion 3: Clear and plain language

Legislation is drafted in clear and plain language. Ambiguity, vagueness, contradictions, and over-generality within the text and regarding other laws are avoided. Gender-neutral language is used wherever possible.

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Evidence for this assessment criterion: <https://abg.gov.pg/acts-laws>

Assessment criterion 4: Amendment of existing legislation

Proposals for laws that amend existing legislation follow the structure and terminology of the existing legislation. Amendments are made in a logical order in the form of text inserted into the amended legislation.

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Evidence for this assessment criterion: <https://abg.gov.pg/acts-laws>

Assessment Criterion 5: Drafting resources

Specialist legislative drafting resources are available to all MPs and political groups, including opposition, minority-party, and independent MPs.

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| Evidence for this assessment criterion: https://abg.gov.pg/government/parliament | | | | | |

Recommendations for change

There are no guidelines or manuals on legislative drafting available for the BHOR. However, the AROB Interpretation Act, adopted in 2005, provides definitions, rules, and principles applicable to all acts and instruments.

There is no legislative basis for the obligatory analysis of legislative proposals, and published laws are not accompanied by explanatory notes. Additionally, there is no formal, clear structure or requirement for these notes, and legislative impact assessments are not practiced.

While the content of proposals is usually homogenous and logically arranged, there is no standard structure accessible to parliamentary services. Proposals are drafted in clear, precise, and plain language, but they do not always use gender-neutral language. Legislation is typically amended in a logical and coherent manner, with amendments inserted into the existing text, and amending acts usually follow the structure and terminology of the existing legislation.

The capacity of parliamentary specialist legislative drafting resources is limited, restricting the level of support available to all MPs and political groups.

Recommendations

Develop Legislative Drafting Guidelines and Manuals:

Create comprehensive guidelines and manuals for legislative drafting to be made available to the BHOR. These should outline best practices, standardized formats, and clear instructions to ensure consistency and quality in legislative proposals.

Establish Legislative Proposal Analysis Requirements:

Introduce a legislative basis for the obligatory analysis of legislative proposals. This should include mandatory explanatory notes for all published laws, detailing the purpose, impact, and rationale behind the legislation.

Standardize the Structure of Explanatory Notes:

Develop a formal, clear structure for explanatory notes to accompany legislative proposals. This will ensure uniformity and aid in the understanding and assessment of proposed laws.

Implement Legislative Impact Assessments:

Mandate legislative impact assessments to evaluate the potential effects of proposed legislation. This practice will help identify economic, social, and environmental impacts, facilitating more informed decision-making.

Promote Gender-Neutral Language:

Ensure that all legislative proposals use gender-neutral language to promote inclusivity and avoid bias.

Enhance Legislative Drafting Capacity:

Increase resources and training for parliamentary specialist legislative drafting services. This will provide better support to all MPs and political groups.

Standardize Proposal Structures:

Develop and disseminate a standard structure for legislative proposals accessible to all parliamentary services. This will help maintain logical arrangement and clarity in legislative documents.

Regularly Update and Amend Legislation Coherently:

Continue the practice of amending legislation in a logical and coherent manner. Ensure that amending acts follow the structure and terminology of existing legislation to maintain consistency and comprehensibility.

Dimension 1.6.5: Enactment

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the provisions by which a proposal for a law that has gone through all stages of the legislative process and been approved by parliament finally becomes law. In most countries, proposals for laws adopted by parliament require the consent of, or signature by, the Head of State in order to enter into force – a process known as “promulgation”.

In some jurisdictions, the constitution gives the Head of State the power to refuse to give assent to or veto, a law approved by parliament. Where a Head of State can veto legislation, parliament usually has the power to override this veto. Different jurisdictions provide different grounds for applying veto powers, as well as different levels of complexity for overriding them.

The nature of the power to refuse to give assent to, or veto, a piece of legislation also varies. In some cases, assent by the Head of State is a formality, whereas in others, the Head of State has the authority to prevent legislation from being enacted, and even to propose specific amendments to a proposal for a law.

Overriding a veto normally requires a supermajority vote in parliament. The relevant procedure is typically prescribed in the constitution. In systems where the Head of State has the authority to propose specific amendments to the law, as a rule, parliament is allowed to approve the proposal for a law by the ordinary majority if the proposed amendments are fully adopted.

Constitutions usually provide for a special procedure and timeline for the promulgation of laws, which can include the number of days for submitting the adopted proposal for a law to the Head of State, the number of days for signing the proposal for a law or imposing a veto, and arrangements for proposing amendments to parliament. The detailed procedures for overriding a veto should also be outlined in the constitution and/or in other aspects of the legal framework.

Assessment criterion 1: Procedure for the promulgation of laws

The constitution establishes a clear procedure for the promulgation of laws that have been approved by parliament.

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Evidence for this assessment criterion:

AROB Constitution: CHAPTER 6 – The Legislature, 79 Certification of and commencement of laws

BHOR Standing Orders: CHAPTER 4, Legislative Procedures

Assessment criterion 2: Veto powers

Where the Head of State has the power to veto legislation or propose amendments, the grounds on which such veto power might be exercised, and the scope of such veto power, are clearly established.

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Evidence for this assessment criterion: N/A

Assessment criterion 3: Overriding a veto

Where the Head of State has the power to veto legislation or propose amendments, parliament has the power to override the veto with a larger-than-usual majority.

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Evidence for this assessment criterion: N/A

Recommendations for change

The AROB Constitution and BHOR Standing Orders outline clear procedures for the promulgation, certification, and commencement of laws after they have been approved by Parliament.

Promulgation: A proposed law becomes law once the Speaker certifies it as having been passed according to constitutional requirements.

Notification: The Clerk must notify each enacted law in the Gazette.

Commencement: Laws commence on the date or time specified within them, or if unspecified, on the date of enactment.

According to BHOR Standing Orders:

Certification: After a bill is passed, the Clerk certifies it as a fair copy, and the Speaker certifies it was made by the House, affixing the Bougainville Seal.

Commencement: An Act comes into operation as specified in its commencement clause or, if absent, on the date of certification.

There are no veto provisions in the Constitution.

Dimension 1.6.6: Official publication

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the provisions by which laws are officially published and made available to any interested party. Open and effective access to laws is vital to understanding and applying the rule of law. Laws can only be properly implemented if they are accessible, predictable, and clear.

Citizens are more likely to comply with laws that they know and understand. If people have efficient, effective and free access to laws, they are better positioned to exercise their legal rights, plan their actions, and efficiently resolve any problems and disputes that may arise.

Current laws should be freely and easily accessible, including through publication in official journals/gazettes. In recent times, standards in this area have evolved to include online access to updated, accessible, and searchable information.

Laws should be published proactively and should be accessible in a consolidated version, including any amendments passed by parliament, so that citizens can track their progress. Alongside the text of laws, it is reasonable to expect the publication of explanatory notes and MPs' rationale for the adoption or amendment of pieces of legislation, so that citizens can fully grasp the intention and meaning of the legislation in question.

Assessment criterion 1: Legal framework

The legal framework outlines the rules for the official publication of legislation, including the procedure and timeline between its passage and publication. Laws only become effective once they have been officially published.

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Evidence for this assessment criterion:

AROB Constitution: CHAPTER 6 – The Legislature, 79 Certification of and commencement of laws

[Bougainville Gazette Act 2005](#)

Assessment criterion 2: Central registry

There is an official collection of laws, which is comprehensive and up to-date and can be accessed online by the public free of charge.

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| Evidence for this assessment criterion: https://abg.gov.pg/acts-laws | | | | | |

Assessment criterion 3: Consolidated versions of laws

Amendments to existing laws are published in a consolidated version of the law, allowing users to access the complete text and to easily identify the amendments.

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| Evidence for this assessment criterion: https://abg.gov.pg/acts-laws | | | | | |

Recommendations for change

While the AROB Constitution specifies that the Clerk must notify the Gazette of each enacted law, the procedures for publishing these laws are not clearly outlined. Although laws are available online through the AROB Government website, there is no official centralized source that allows users to search by category, type, date, geographic region, agency, legislative area, or sector. Additionally, amendments to legislation are not consolidated into updated versions, making it difficult for users to access complete and current laws.

Recommendations

Clarify Publishing Procedures:

Establish clear and detailed procedures for the publication of enacted laws, ensuring consistency and transparency in the notification process as specified by the AROB Constitution.

Create an Official Centralized Legal Database:

Develop an official, centralized online database for all AROB laws. This database should allow users to search for laws by category, type, date, geographic region, agency, legislative area, and sector.

Implement Consolidation of Legislation:

Regularly consolidate amendments into updated versions of the legislation. This will provide users with access to complete and current laws, enhancing legal clarity and accessibility.

Enhance Online Accessibility:

Improve the user interface and functionality of the AROB Government website to ensure that laws and legislative information are easily accessible and searchable for the public and legal professionals.

Establish a Regular Review Process:

Regularly review and update the procedures for publishing laws and maintaining the legal database. This will ensure the system remains effective and responsive to user needs.

Provide Training and Resources:

Offer training programs for parliamentary staff and relevant agencies on the new procedures and the use of the centralized legal database. This will ensure efficient implementation and maintenance of the updated systems.

Dimension 1.6.7: Post-legislative scrutiny

This dimension is part of:

- Indicator 1.6: Law-making
- Target 1: Effective parliament

About this dimension

This dimension concerns the provisions by which parliament has the authority to carry out post-legislative scrutiny (PLS), which is an important tool for ensuring that laws are implemented effectively and their impact assessed. It also helps to review the interpretation and application of a given piece of legislation by courts and to understand how legal practitioners and citizens apply its provisions. PLS therefore contributes to the identification of legislative gaps and shortcomings in the application of legislation and the promotion of targeted and evidence-led law-making. PLS also enables MPs to review secondary/delegated legislation, thus ensuring more comprehensive scrutiny of the implementation of laws.

PLS can be an inclusive process that invites input from political parties, academia, experts, and civil society. This type of engagement enables parliament to access additional sources of information, increases the credibility of parliamentary work, and promotes public trust in the institution.

For the purposes of transparency, clarity, and predictability, parliament’s rules of procedure should provide for the systematic monitoring of the implementation and consequences of legislation. They should establish the parliamentary bodies responsible for carrying out PLS, identify when PLS should be conducted, and enable parliament to allocate the necessary human, financial, and administrative resources to this process.

Even when there are no specific procedures for conducting PLS, parliament should still be capable, within its general oversight mandate, of overseeing the implementation of legislation through the provision of timely access to governmental information, the conduct of hearings, the collection of information from relevant sources, and the issuing of findings and recommendations.

Assessment criterion 1: Legal framework

There is a legal framework for PLS.

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Evidence for this assessment criterion:

Assessment Criterion 2: Practice

PLS is an established part of the legislative and/or oversight process.

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Evidence for this assessment criterion:

Assessment Criterion 3: Resources

Parliament has the necessary human, financial, and administrative resources to conduct PLS, including trained and skilled staff.

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Evidence for this assessment criterion:

Assessment Criterion 4: Inclusiveness

PLS is an inclusive process that invites input from political parties, academia, experts and civil society.

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Evidence for this assessment criterion:

Assessment Criterion 5: Follow-up

Committees and/or other parliamentary bodies conducting PLS regularly interact with the executive and other stakeholders in order to monitor the implementation of PLS recommendations.

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Evidence for this assessment criterion:

Recommendations for change

There is currently no legal framework for Post Legislative Scrutiny in AROB, nor is PLS an established component of the legislative or oversight processes conducted regularly. There has been one exercise similar to PLS carried out by BHOR so far.

Recommendations:

Establish a Legislative Framework: Develop and formalize a legislative framework specifically for Post Legislative Scrutiny (PLS) in BHOR. This framework should outline the objectives, scope, methodologies, and responsibilities for conducting PLS on enacted legislation.

Incorporate PLS into Oversight Processes: Integrate Post Legislative Scrutiny as a systematic and routine part of the oversight processes within AROB's legislative system. This involves creating dedicated committees or mechanisms tasked with evaluating the impact, effectiveness, and unintended consequences of enacted laws.

Ensure Regular and Systematic Conduct of PLS: Implement mechanisms to ensure that Post Legislative Scrutiny activities are conducted regularly and systematically. This may include establishing timelines and protocols for conducting PLS reviews after the enactment of significant legislation.

Capacity Building and Training: Provide training and capacity-building programs for legislators, parliamentary staff, legal experts, and relevant stakeholders involved in conducting Post Legislative Scrutiny. This training should focus on research methodologies, data analysis, evaluation techniques, and reporting standards relevant to PLS.

Promote Transparency and Accountability: Enhance transparency and accountability in the legislative process by making PLS findings and recommendations publicly accessible. Encourage stakeholder engagement and feedback to improve the effectiveness of PLS outcomes.

Monitor and Evaluate Impact: Establish monitoring and evaluation mechanisms to assess the impact and effectiveness of PLS activities. Regularly review the implementation of PLS recommendations to ensure they inform future legislative decisions and improvements.