What could have been done with the stolen K780m?

- 3,700 double-classrooms could have been built

Shortage of classrooms, desks and learning materials are a hindrance to quality learning for Papua New Guinea (PNG) children in rural and urban areas. ¾ of children in rural-primary and elementary schools sacrifice hygiene to sit on leaves, cardboard boxes and dirt to learn.

- 6,210 rural operational Aid-posts

Rural areas - where 86% of the population lives - are particularly disadvantaged, with 30% of health aid posts closed. The rest are often run-down and under-resourced. (Wiki, 2013)

- 5,000 nurses salary paid for 10 years

PNG suffers from a critical shortage of human resource for health. Most recent estimates of health worker densities reflect 0.5 physicians per 10,000 population and 5.3 nurses per 10,000 population (WHO, 2008). Most argue that this problem is due to inefficient and poor salary for out-stationed nurses.

- 278, 500 hospital beds bought and resourced to hospitals and health-centers

In Papua New Guinea there are many hospitals both in rural and urban PNG that have a shortage of hospital beds. For this reason a bulk of patients resort to floors, tabletops and outpatient benches to rest and receive treatment. All patients on a bed would be highly desirable

- 15, 600 rural-immunization patrols for 1 year; 17 patrols per district

Immunization against childhood illnesses is an essential part of improving the health and well being of children and it is also among the most successful, most equitable and most cost-effective public health interventions that can be offered to the children and women in Papua New Guinea. (Unicef, 2014)

- 7.8 years of full medical drug supplies

Forty percent of deaths in PNG are caused by six diseases that can be easily and inexpensively treated at aid posts if there was availability of needed medicine (Wiki, 2013).

No One has been prosecuted for the theft of K780,000,000 and our people will continue to suffer and our communities endure experiences that could have been prevented if money entrusted was properly used.

Immediate Recommendations

The Solicitor General file an application for taxation and have the costs of the Commission taxed and certified. Following taxation, the Certificate of Taxation must be enforced against those ordered to pay the costs of the Commission and such payments should be made to the Consolidated Revenue Fund;

The Solicitor General maintain constant contact with the Deputy Registrar, Supreme Court to ensure the appeals filed by Umba Y Gabriel and Isaac Lupari are opposed and dismissed. If they are pursued, application must be filed to dismiss the appeals on issues of competency;

Commission of Inquiry Act be amended to specifically provide for:- the powers of the Appointing Authority (Prime Minister) to extend the term of the Commission of Inquiry; Section 19 be amended to state that prosecutions under that section shall be commenced within three months following the referral by the Commission of Inquiry.

Remedial Action and Recommendations

The Commission recommended the Government of PNG declare its commitment to eradicate corruption and to promote integrity in public administration and that the initiatives of the Commission of Inquiry be integrated into a programme of reform for this purpose.

The Government was urged to continue enquiry into the validity of debts of the State incurred by unlawful settlements and immediate legislative action be taken to halt the default process of judgment against the state.

Recommendations include the recovery of funds, recommendations for discipline of officers or criminal prosecution of personnel or claimants.

In total the Commission of inquiry recommended a total of 58 people for possible criminal prosecution including these lawyers: Paul Paraka, Zacchary Gelu, Francis Damem, Peter Pena, Dan Kakaraya, Francis Kuvi, John Sinaka Goava, Mundua Kua, Joseph B Nanei, Simon Norum, Kumuro Sino, Dawa Agu-Klewaki, Eric Kiso, Daniel Kop, and Jeffery Abone.

The Commission considered that the implementation and or enforcement of action recommended by the Commission be undertaken by the Government, the National Executive Council itself as a demonstration of its commitment to eradicate corruption.

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PAPUA NEW GUINEA

THE COMMISSION OF INQUIRY GENERALLY INTO THE DEPARTMENT OF FINANCE

FINAL REPORT

ACT NOW! FOR A BETTER PNG

Justice Cathy Davani
Commissioner

Maurice Sheehan, CMG
Chief Commissioner

Don Manoa
Commissioner

Introduction

In 2010 the Report of the Commission of Inquiry into the misuse of funds in the Department of Finance was published.

The report revealed how more than K780 million in public monies was stolen over a six-year period through false compensation claims. The Commission recommended more than 50 people including lawyers, senior bureaucrats and businessmen be referred for criminal prosecution.

Yet no steps have ever been taken to implement the Commission recommendations, prosecute any of the individuals implicated or recover any of the money.

The Commission revealed that in four of the six years that it investigated the illegal payments made by the State to settle fraudulent claims EXCEEDED THE TOTAL BUDGET APPROPRIATION FOR THE WHOLE HEALTH SECTOR in PNG.

History

The Commission of Inquiry was established under Instrument executed by the Prime Minister on 12 May 2008 to inquire into 'The Management Generally Of Public Monies By The Department Of Finance'.

Under its Terms of Reference the Commission was to enquire and report on the legality or propriety of claims against the State made and settled through the Department of Finance during the period 1st July 2000 to 1st July 2006.

The history of the Commission was uneven and fragile with delays and interruptions causing major disruption. In 2 years the Commission was suspended and reestablished five times, principally because of active opposition to its work and a failure by to provide any or adequate funds. In September 2008 the Commission was given the power to control its own funds under a separate trust account and this enabled it to produce its first, and only, report.

Conduct of Inquiries

The Commission inquiries were all conducted in public and supporting documentation were supplied by agencies and individuals voluntarily or upon request. There was no hearing of evidence in private. All proceedings were recorded in a daily transcript and posted to the Commission web page.

At the date of its report the Commission had completed full inquiry of 45 claims while 212 more were under way and had been progressed so the essential basic facts had been established and a response by parties involved was still required before conclusions could be lawfully drawn.

Common Findings in respect of Claims

The Commission identified over 500 claims settled by the Finance Department from January 2000 to July 2006. The Commission's review revealed common anomalies with respect to illegal, fraudulent and improper payments. The findings in respect of individual matters were detailed in respective files together with the recommendation for appropriate action to be taken against persons involved.

"The plain conclusion is that in all but a handful of claims the statutory process has been grossly abused allowing illegitimate and improper claims and excess payments and excessive payouts to be legitimized"

The common findings in respect of most matters were as follows:

(a) Funds illegally sourced from other Appropriation
Funds to process settlement payments of claims against the State on numerous instances were illegally sourced from other appropriations. This was in breach of the Appropriation Act and Public Finance (Management) Act and illegal.

(b) Failure to comply with NEC Decisions
Claims against the State were processed without compliance with the NEC Decisions No. NG07/2002, No. 150/2003 and No. 21/2006.

(c) Preferential basis of settlement of Claims
The Commission found there was no properly established method for the Processing of payments to claimants. A ad-hoc or "on demand" preferential Practice appears to have been the norm. This suggested Finance Department officers may have collaborated with claimants in securing priority over others.

(d) Non-completion of FF3s and FF4s
The completion of FF3s and FF4s is an essential aspect of internal control in processing of payments in accordance with the Financial Instructions. Non-completion or improper completion was evidence of lack of proper internal controls.

(e) Overpayment of Claims
Several claims were noted to have been over paid when claims were settled in installments. This indicated a lack of proper internal controls.

(f) Overpayment of Interest
Incorrect calculation of interest resulted in the overpayment of claims.

(g) Cancelled Cheques being presented
Some cheques being denoted as cancelled in the cashbooks were actually presented at the bank.

(h) Incorrect narration of Cashbook
Details of some cheques raised were incorrectly described in the cashbook. As a result, there was difficulty identifying payments of claims and in performing proper reconciliation of the cashbook transactions. All claims for payment were never assessed for tax payable.

(j) Release of cheques direct to Claimants
The Solicitor General has the conduct of all claims on behalf of the State. As such, Cheques raised in payment of claims should forwarded by the Finance Department to The Solicitor-General for recording and release to the claimant or their legal representative. The irregular and uncoordinated procedure gave rise to over-payments and the wrongful collection of cheques.

(k) Department's lack of consultation with other State agencies
Several claims against other State bodies such as Provincial Governments were settled by Finance Department without consultation. This resulted in possible duplication of payments.

(1) Cheques(s) Clearance
Many cheques raised were cleared on the same day by the commercial bank and Bank of PNG. The same day clearance creates the opportunity for fraudulent payments to be cleared swiftly thus avoiding detection of such impropriety which would possibly occur if cleared in the ordinary course.

(i) Non compliance of Income Tax Act

(m) Payment of Legal Fees without Certificate of Taxation

(n) Dysfunction of Internal Audit
Internal Audit Department failed to take appropriate action to prevent fraudulent claims from being processed.