

SUMMARY

Section 1:

Principle 1 – Respect for the Law and the System of Government

- i) Respect for and upholding of democratic processes and institutions, the rule of law and the independence of the judiciary and the legislature to:
 - a) Allow for the peaceful and lawful transfer of power; and

Political power, in general, is peacefully and lawfully transferred through free and fair democratic processes, which are held regularly and in compliance with the national electoral laws.

Most Forum Island Countries (FICs) hold election every four (4) years. In between these years, political power in some FICs was also transferred on the floor of Parliament. This happened through the use of no-confidence motions and constitutional amendments, which extended the term of incumbent Members of Parliament (MPs) by two years. The use of no-confidence motion occurs frequently in Nauru, the Solomon Islands, Tuvalu, the Republic of the Marshall Islands (RMI), Vanuatu and Papua New Guinea (PNG). In PNG, the *Organic Law on the Integrity of Political Parties and Candidates*, amongst other objectives, sought to bring about political stability, until it was ruled by the Courts to be unconstitutional in 2010.

FICs that held elections in 2008 were the Federated States of Micronesia (FSM), Nauru, Niue, Palau, Tonga and Vanuatu. In seeking to promote and increase transparency and to enhance the integrity of the elections beyond the setting up of Commissions of Inquiry to investigate the elections, many FICs invited international elections observer missions to observe the elections and to provide an independent assessment on the conduct of elections.

Challenges to lawful transfer of power, aside from riots, civil unrests and coups, include electoral corruption, bribery, voting-buying, flaws in counting of votes, ineffective handling and management of postal votes and out-dated electoral rolls, which threaten free, fair and open transfer of political power. Other issues included the participation of women in elections, although few women were successfully elected into Parliament during these elections.

- b) Respect and promote the separation of powers by ensuring the financial autonomy of the judiciary and Parliament, and ensure that the judiciary and Parliament are free from unlawful interference by the executive.



In general, the financial autonomy of the Judiciary and Parliament in FICs is assured through constitutional provisions, which ensure that funding through annual budgetary appropriations is guaranteed. Moreover, the separation of powers is provided for and protected by law. In 2008, there were no reports of the Executive interfering with the Judiciary and likewise, there were no reports of Executive interfering with Parliament/Congress.

In the FSM, Congress was able to reverse the decision (partial veto of the President) of the Executive on budget appropriation. With a view to minimising disagreements over the passage of legislation, the Executive recognises the importance of greater consultation and cooperation between Congress and the Executive. In Kiribati, in a case brought by an Opposition MP over the election of the Speaker, the Court re-affirmed the doctrine of separation of powers. In Nauru, the Parliament moved, under the *Parliamentary Pension Act 2008*, oversight of MPs superannuation entitlements from Parliament to the Government.

Parliamentary Committees, such as the Public Accounts Committee, keep in check the use of public funds by the Executive. Budget cuts undermine their oversight and accountability role on behalf of the legislature, regarding how the Executive uses public funds. Similarly, in Samoa, the *Parliamentary Under-Secretaries Act 1988* enhances the Executive's dominance in the legislature.

ii) Upholding a just, fair and honest government through:

a) Respect for and enforcement of the decisions of courts and independent tribunals;

The decisions of the Courts and independent tribunals were respected and enforced in all FICs. The Courts, as one of the contributors of the country reports commented, are one of the three pillars of governance structure that functions with “little controversy”. Citizens look up to it as the pillar that protects them. In the Solomon Islands, some reservations have been expressed about the country's ability to sustain the law and justice sector upon the exit of RAMSI.

The few exceptions to this principle were due to the inability of government and government institutions to settle court costs, fraud and political decision-making. In Nauru and the FSM, the decisions of the Courts and tribunals were not complied with due to the lack of funds available to settle the Court costs. In PNG, the payment of millions of Kina by Government officials, despite a prevailing Court order and Government directive suggests the possibility of collusion and fraud. In Samoa, the refusal of the Government to accept the decision of the Commission of Inquiry into the alleged smuggling of firearms into Samoa by the Police Commissioner was a political decision.

Overall and in general, the decisions of Courts and independent tribunals are respected and enforced in all FICs.

b) Enforcement of lawful instructions and lawfully created policies;

In general, lawful instructions and lawfully created policies are enforced. The exceptions in many FICs perhaps highlighted the “disconnect” between policy and its actual application. Consequently, many FICs “adjust” the instructions and policies accordingly, to meet the realities of applying and enforcing them. Some





FICs, like Tuvalu, establish mechanisms to form the bridge between policy making and policy implementation. In some FICs however, no effort is made to address the “disconnect” between lawfully created policies and their enforcement, for example, the implementation of certain key provisions in the *Ethics in Government Act 1993* for over 15 years, and the inactive state of the Public Accounts Committee for ten years in the RMI. In a similar vein, the failure of many public officials in the Solomon Islands to comply with legislation, financial instructions and general orders.

Beyond the enforcement or implementation of instructions, there have been challenges in defining these instructions and determining their lawfulness. These issues have had significant political ramifications at the national and regional levels. The consequent Commissions of Inquiry and investigations by the Government of Papua New Guinea into the transportation of Julian Moti from PNG to the Solomon Islands essentially sought to establish this question on enforcement of lawful instruction. While the circumstances are political, it also highlights clearly the need for public officials receiving the directives to verify their instructions. For ease of discussion, lawfully created policies, in general, refer to policies and instruction arising out of national law, and on the directive of a public official of high authority. It also refers to how the instructions are implemented by public officials to whom they are issued.

The cases from Samoa on the role of the *matais* in issuing instructions that are enforced by villagers, present a different challenge to the enforcement of “formal” lawful instructions and lawfully created policies. Although the *Village Fono Act 1990* helps to define the powers of *matais*, their control over their villages theoretically seems to outweigh the Act itself. Some of the decisions of the *matais* often contravene human rights provisions of the Constitution.

Some country reports equated enforcement of lawful instructions and lawfully created policies to mean compliance, for example, the case in Palau, where public officials enforced environmental laws irrespective of the office a person held, and the Vanuatu fish processing plant. Another dimension of enforcement of lawful instructions and lawfully created policies is its equation with implementing lawful instruction and policies, that is, ensuring that the rules are not broken, disregarded or abused. Public officials who breach the rules are penalised or charged accordingly, using the appropriate law enforcement mechanisms. The examples that illustrate this include the case of the Palauan diplomat who acted beyond his authority in sourcing commercial loans and the criminal proceedings against Palau leaders involved in the collapse of the Pacific Savings Bank.

c) Compliance with the letter and spirit of the laws, which are made for the benefit of the public;

In general, leaders complied with the letter and spirit of the laws, which are made for the benefit of the public. An important observation in the country reports on Tonga and Kiribati is compliance with the process of law-making and the application of laws, in making sure that the processes lawfully set in place are executed accordingly. Failure of leaders to comply with the letter and spirit of the laws significantly costs society. In the Solomon Islands, the special reports of the



Auditor-General reported on some SI\$433 million being lost, whereas in Palau 18 percent (US\$4.1 million) of the total (US\$23.3 million) Executive Branch payroll went to paying political appointees who were recruited without compliance with the regulations of the Palau National Public Service System. In Kiribati, over \$5 million of public funds is unaccounted for. In PNG, the Julian Moti incident breached several national and international laws and consequently affected the country's diplomatic relations with its neighbours.

Members of the public also play an important role in ensuring that leaders observe and comply with the letter and spirit of the laws, for example, in the case of the group of concerned Vanuatu citizens that instituted a court injunction to prevent further work progressing on the fish processing plant before an environmental impact assessment was completed. Nonetheless, offices such as the Ombudsman, Leadership Commissions and the Auditors-General must also be supported if they are to perform their functions effectively. Where these important offices are yet to be established, as provided by the national law, they must be established to perform the functions that are expected of them. Similarly, the Courts, as in Samoa, also play an important role and have ensured that the sanctions of traditional chiefs are consistent with the letter and spirit of national laws, including human rights.

d) Disclosure of fraud, corruption and mal-administration, of which the leader has become aware;

Leaders and officials occasionally disclose fraud, corruption and mal-administration. Some FICs have set up mechanisms, which set out the procedures for officials and leaders to disclose such matters, including criminalisation. Examples include the Tuvalu General Orders and Financial Regulations, and the RMI *Criminal Code*. Some FICs do not have such guidelines in their laws.

Some FICs have established specialised bodies to deal with fraud, corruption and mal-administration. Such bodies include the Tonga Anti-Corruption Commission, strengthening of the Solomon Islands Police Fraud Squad through RAMSI and the passage of the Cook Islands *Official Information Act 2008*, which is administered by the Ombudsman. Their effectiveness however, is somewhat mixed and is due to different reasons. In some FICs, such as the RMI, the Government Ethics Board, which is established under the *Ethics in Government Act 1993* is reported not to have made much progress on promulgating its regulations. In PNG, the country report suggests the need for greater awareness of the relevant national laws and places an emphasis on their enforcement.

In general, substantive cases of fraud, corruption and mal-administration are revealed through investigations undertaken by specialised agencies, in particular, through the audits of public accounts by the offices of Auditors-General. Instances of corruption were disclosed through the inquiries of the Public Accounts Committees and the media. In Kiribati, the press exposed the case of fraud involving officials of the Kiribati Oil Company, wherein \$1.4 million dollars was stolen. A contributor of one of the country reports believes the concept of disclosing such activities has to become a “normal” aspect of leadership culture. Nonetheless, public auditors' reports are tabled in Parliament for the scrutiny and deliberation of MPs.



A common challenge in relation to this principle is the inability of governments to act decisively on fraud, corruption and mal-administration. Key agencies like the public auditors have, over many years, through their annual reports, disclosed many findings, as well as making many useful recommendations. In Vanuatu, political expediency often prevents leaders in positions of authority to discipline and to correct the situation when such matters are brought to their knowledge. Ineffective and weak oversight and integrity bodies also contributed to the inability of governments to deal with corruption, fraud and mal-administration swiftly and decisively. While the Solomon Islands, with assistance of RAMSI, is strengthening the country's integrity and law enforcement institutions to combat corruption and fraud, smaller FICs, like the FSM, lack such assistance and grapple with the problem.

e) Refraining from exertion of pressure, and abuse of persons carrying out their lawful duties;

Abuse of persons while executing lawful duties, or the exertion of undue pressure, generally come to the attention of the public or relevant authorities when the matter is reported, often by the victim. Country reports from the Cook Islands, the FSM, Niue and Samoa stated that there were no reports of this kind made in 2008.

In some FICs, some leaders and officials exerted pressure and abused people in the performance their lawful duties. Abuses were largely “top-down” in nature, that is, from MPs applying pressure on public officials. They involved interfering with recruitment and appointments to senior public service jobs, including political appointments, the sacking of some Board members who refused to support Ministers’ proposals, and bribery of voters.

In one FIC, a public official was sacked for raising questions about a decision which could have brought about a potential conflict of interest. In Tonga, the Minister of Finance was forced to “step-down” for carrying out his lawful duties. In Tuvalu, some public officials in the Treasury Department came under extreme pressure from two Ministers seeking to have their travel expenses reimbursed.

f) Refraining from using any legal immunity or privilege as a cloak or shield for behaviour of a lower ethical standard than that reasonably expected of the leader by citizens;

In 2008, the use of legal immunity or privilege was not generally exercised by leaders as a shield for behavior of a lower ethical standard than that reasonably expected of leaders. One exception was in PNG, where the Prime Minister, using Parliamentary Privilege, raised questions about the integrity and impartiality of the Chief Ombudsman for referring him for his failure to submit his annual returns, allegedly since 1992.

g) Establishing and empowering bodies, such as an Ombudsman Commission, to independently investigate public complaints against government actions;

Only seven FICs (Cook Islands, Palau, PNG, Samoa, Solomon Islands, Tonga and Vanuatu) have established Ombudsman offices which, amongst other duties, investigate public complaints against the actions of government. Tuvalu's *Leadership Code Act 2007* provides for an Ombudsman's office, which is yet to be



established. The Cook Islands Ombudsman's office, which was established in 1984, is also responsible for implementing the *Official Information Act 2008* and recognises the importance of good record keeping and management in assisting with investigating and handling citizens' complaints. The Palau Ombudsman's office was established in 1994, although unlike the traditional ombudsman, does not enjoy the independence and security (established by Presidential Executive Order No. 116) other Ombudsman elsewhere enjoy.

Common challenges Ombudsman offices face include the perennial problem of lack of resources, mounting backlog of complaints waiting to be investigated, political threats by government to dilute its wide-ranging powers, and inaction of government to follow-up and execute the recommendations of the Ombudsman.

FICs without Ombudsman offices handle complaints from citizens in different ways. In the FSM, citizens' complaints are handled through an administrative review board and through the formal legal processes. In Nauru, citizens' complaints are handled through the Director of Public Prosecutions and the Nauru Police Force. In other FICs, the matter is brought directly to the concerned government agency. More serious and substantive matters are often handled through official commissions of inquiry such as the RMI Commission of Inquiry, set up to investigate citizens' complaints about the manner in which the 2007 national election was conducted.

h) Ensuring that the Auditor General reports directly and in a timely manner to Parliament/Congress.

Only the following Auditors-General of these FICs report directly to Parliament/Congress: Cook Islands, FSM, Kiribati, Niue (through the Audit Office of New Zealand to the Speaker of Parliament) Palau, PNG, RMI, Samoa, Solomon Islands, Tonga (Prime Minister also receives the report), Tuvalu, and Vanuatu. The Public Auditor of Nauru submits the audit report to a designated Minister to bring before Cabinet for discussion before it is tabled in Parliament. Many FICs face significant challenges in auditing public accounts. Some FICs struggle to overcome the backlog of outstanding audits and pressure from politicians, including threats to their independence.

iii) Protection of fundamental human rights.

Fundamental human rights are protected by the Constitutions of the following FICs: Cook Islands, FSM, Kiribati, Nauru, Palau, PNG, RMI, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. While Niue's Constitution does not provide for the protection of fundamental human rights, such protection is provided by their national legislation. Niue is also a signatory to the United Nations Human Rights Convention.

Many FICs have also reinforced these rights through recognition of international human rights treaties and conventions, such as the International Convention on the Elimination of Racial Discrimination (ICERD), the Convention on the Rights of the Child, the Convention against Torture, the Convention of the Elimination of All Forms of Discrimination against Women (CEDAW), and the International Covenant on Civil and Political Rights.

Challenges include traditional practices such as banishment in Samoa, weak enforcement of human rights, censorship and interference with freedom of speech



and freedom of press, some restrictions on freedom of movement in zoned areas, discrimination against gender and sex pertaining to inheritance of land, adoption of children, marriage and religion.

Section 2:

Principle 2 – Respect for Cultural Values, Customs and Traditions

- i) Respect for cultural values, customs, traditions and indigenous rights and observation of traditional protocols in the exercise of power.

Cultural values, customs, traditions and indigenous rights are observed and respected in various ways throughout the FICs. Some FICs recognise cultural values, customs and traditions by ensuring their protection and preservation through their Constitutions. These FICs are Cook Islands, FSM, Kiribati, Nauru, Niue, Palau, PNG, RMI, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. These values are often acknowledged in the preambles of the Constitutions and in many FICs, these include strong acknowledgement of Christian principles and values, upon which their societies are founded and are to be guided. Many FICs have introduced specific national laws on culture, customs and traditions.

Some FICs recognise the role of traditional leaders and legalise their participation in governance, including their involvement in national policy and decision-making processes as legislators. They include FSM, Palau (the Council of Chiefs), the RMI (Council of *Ijoij*) and the chiefly system of Tonga. For some FICs, traditional leaders' roles are defined as advisory in nature, usually limited to matters of custom, cultural issues, settlement of village-level disputes, land ownership and inheritance of land and chiefly titles. These traditional leaders are the House of *Ariki* in the Cook Islands, the Council of *Pwopwissom* in the State of Pohnpei, FSM, the Nauru Lands Committee in Nauru, the *falekaupule* in Tuvalu, the village courts in PNG, the Traditional Rights Court in RMI, the village councils of *matais* in Samoa, and the *Malvatumauri* in Vanuatu.

Culture, customs and tradition are often in conflict with human rights and other democratic values. In the FSM, the traditional leadership institution is extremely influential and powerful, and can pose a barrier to the implementation of government policies, including some international human rights conventions. In the Cook Islands, Nauru, Samoa and Palau, traditional, cultural and customary matters, such as disputes over land and chiefly titles are referred to modern formal dispute and arbitration mechanisms to adjudicate and decide. In general, cultural values, customs, traditions and indigenous rights continued to be observed and respected.

Section 3:

Principle 3 – Respect for Freedom of Religion

- i) Respect for religious belief and practice.

Respect for religious freedom and practice is protected in the Constitutions of many FICs. National laws are also enacted to define and elaborate on religious



beliefs, including the establishment of institutions to oversee and regulate the work of religious organisations. FICs with constitutional protection of religious freedom include the Cook Islands, FSM, Kiribati, Nauru, Palau, PNG, RMI, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

There have been some instances of competition and rivalry between the established religious organisations and the emergence and proliferation of new religious organisations, drawing on the pool of followers from the established churches. In several FICs, even though religious freedom is constitutionally protected, the entry of new religious organisations has been vehemently opposed by the established churches and in some cases by the national religious councils. Religious freedom has been tested in the Cook Islands, Tonga, Samoa, Solomon Islands and Tuvalu. In general, respect for religious freedom and practice was in order in 2008.

Section 4:

Principle 4 – Respect for People on whose behalf Leaders Exercise Power

i) Proper use of official powers;

To identify ‘proper’ use of official powers requires not only specific reference to the powers defined in national laws, but also the knowledge of these national laws and their use. In many instances, these national laws are only brought to the attention of the public under the scrutiny of an oversight body such as the public service commissions, the Ombudsman, the Leadership Code Commission, the Auditors-General or through a public inquiry. For the purpose of this research, the powers of the legislature or Congress were sufficient to serve as the reference to ‘official powers’. Many FICs did not report improper use of official powers. These FICs were the Cook Islands, the FSM, Niue and Tuvalu.

Some FICs reported a number of cases, which ranged from the failure of Ministers to be guided by the appropriate national legislation in awarding contracts, in appointments of officials, recruitment, procurement of goods and services, abuse of position of authority and the use of constituency development funds by MPs. The challenge is to strengthen oversight and integrity institutions to keep in check the use of official powers by leaders.

ii) Honesty in dealing with the people and Parliament, with any misleading information corrected at the earliest practical opportunity;

In general, most leaders dealt honestly with the people and Parliament and sought to correct misleading information quickly. Moreover, there were no reports of misleading information being released intentionally, or incorrect information being deliberately used to mislead Parliament and Congress. In many cases, the media has helped to disclose information. In other instances, the documented information lodged with government agencies contradicted the public utterances of leaders, as was the case in PNG regarding the Pacific Register of Ships. Strengthening the role of the media and enabling greater public access to official information might help to increase accountability and honesty.

Some FICs have national laws that govern the conduct of leaders. These national



laws, such as the Solomon Islands *Leadership Code (Further Provisions) Act*, include provisions on honesty and integrity. Some FICs have established government information offices to help inform people on their decisions and deliberations, such as the Nauru Government Information Office and the Tonga Ministry of Information. Other FICs have begun to broadcast Parliamentary sittings through radio and television. Contentious areas in 2008 however, include information on the distribution and use of constituency development funds such as the “grass-roots payment” in Nauru, the Rural Constituency Development Fund in the Solomon Islands, the District Support Grant in PNG, the Vanuatu constituency fund, and the road transport reform agenda in Samoa.

iii) Publicising information on legal wrongdoing, ethical lapses and false or misleading statements;

Some FICs are putting into place appropriate mechanisms to facilitate the dissemination of information on legal wrongdoing, ethical lapses and false or misleading statements. Otherwise, this role is played largely by the private media. Given the often sensitive nature of this information, media organisations are often threatened by governments with censorship and stringent regulations. In the Cook Islands, the Media Council assists with setting standards and practice. In FICs where the media is government-controlled, disclosure of legal wrongdoing, ethical lapses and false or misleading statements may not be reported.

Other sources for information from government on these matters include the annual reports of the Auditors-General, the public releases and newsletters of the Opposition, “progress reports” of governments, reports of public accounts committees, commissions of inquiry, reports of Ombudsman and Leadership Code Commissions, and the public service commissions. Non-government sources include the national Transparency International chapters and Amnesty International.

iv) Giving priority to official duties over private interests;

In FICs, leaders and public officials swear an Oath of Office, which, amongst other standards of conduct, requires them to give priority to their official duties over their private interest. Most FICs have in place Public Service Acts, which also provide for codes of conduct to further defines the behavior, conduct and decisions of public officials. The public service commissions are often charged with the responsibility of implementing the codes of conduct. FICs that have codes of conduct for public officials are the Cook Islands, Niue, PNG, RMI, Solomon Islands and Tonga. Other national laws include the *Code of Ethics Act* and electoral law in Palau, the *RMI Ethics in Government Act 1993*, the Solomon Islands *Leadership Code (Further Provisions) Act*, the Vanuatu Leadership Code and the Nauru *Public Service Act 1998*. The codes provide for civil as well as criminal penalties.

Enforcement and compliance by public officials are ongoing challenges for many FICs in relation to their codes of conduct, as some country reports in this study illustrate. Other challenges include the small size of some FICs, where many public officials are related to each other by blood or marriage, and corruption, bribery and kick-backs can occur. In general, leaders in many FICs faithfully undertake their official duties over their private interests. There are some exceptions, where some leaders have allowed private interests over their official duties.



v) Performance of public duties uninfluenced by fear of personal cost or any hope of personal benefit;

In general, leaders undertook public duties without fear of personal cost or hope of personal benefit. In most FICs, the codes of conduct, public service regulations and leadership laws regulate against conduct and behavior of this kind. There were a few exceptions. In Kiribati, three Directors of the Kiribati Shipping Services Ltd lost their jobs for disagreeing with a Government Minister over his decision to purchase a vessel. In PNG, it is alleged that public officials would only process government cheques if they are promised and paid a certain percent of the money. In the Solomon Islands, it is alleged that many MPs disburse the constituency development fund to their voters. In Tuvalu, making decisions on overseas scholarships at the lower administrative levels became so difficult that it reached the political level because of the threat of nepotism.

vi) Public and private conduct that does not lead to a conflict of interest, or in which the fair and impartial exercise of duties might be compromised;

In many FICs, codes of conduct, public service regulations and leadership laws expressly regulate against public officials and leaders being held in conflict of interest, or compromising the exercise of their public duties. There are a few exceptions, often resulting from the size of some FICs, where public officials are related either by blood or through marriage. Other challenges are created by the lack of a highly qualified and educated pool of citizens available to serve in the public service at the senior levels.

In PNG, with large natural resources such as forestry, the personal relationships of leaders with owners of multi-million dollar logging companies, are alleged to have compromised their public duties, and to have influenced their decision to award logging licenses without satisfying the forestry laws and to enter into contracts without compliance with the national tender and procurement procedures. In one FIC, it is common knowledge that public officials are alleged to be involved in private business activities, without the approval of the appointed authority. Where their official duties converge on laws and regulations that relate to their business interests, it places these officials in a situation of potential conflict of interest. Some codes of conduct, public service regulations and leadership laws in FICs expressly require disclosure of conflict of interest.

vii) Ensuring that public facilities are used only for public purposes, and not for personal purposes unless authorised by legislation or by a public decision of Cabinet.

The use of public facilities for personal or private purposes without authorisation is one of the most difficult principles to regulate and enforce in most FICs. Despite numerous instructions, strongly worded directives and circulars, and government gazettes being issued to rein in the abuse of government property, facilities and time, the incidents of abuse remain difficult to control. Major items of misuse include government vehicles, telephones, computers, internet, fuel, outboard motors and public works assets and equipment. Nonetheless, some of the country studies reported an absence of misuse of public facilities.

In Nauru, the government recruited the police force to impound government vehicles used without authorisation or outside of normal government working



hours. The primary factor for controlling the abuse of public facilities is to minimise cost. However, due to the lack of vigilant monitoring, surveillance and sustained enforcement of controls, mis-use and abuse of public facilities remain a costly challenge for many FICs.

Section 5:

Principle 5 – Respect for Members of the Public

- i) Treatment of members of the public honestly and fairly with proper regard for their rights and obligations.

In some FICs, where traditional leadership systems are strong and influential, members of society have been mistreated by chiefs because of their inferior social status, in particular, women. In others, the use of violence by police and military personnel, including abuse of human rights has been reported. This is despite the protections afforded by the Constitutions of some FICs on the basic human rights of citizens. Discrimination of this kind was reported for the FSM, Kiribati, PNG, Samoa, Tonga and Vanuatu.

Examples of leaders' fair and honest treatment of the public have included restoration of resource payments, and the restoration of the full payment of land rentals in Nauru. Other areas such as unpaid and outstanding salaries and social welfare benefits, inadequate public health services, and the inability of governments to tackle corruption illustrate leaders' lack of regard for their people. In some FICs, there were no reports of members of the public being ill-treated by leaders.

Section 6:

Principle 6 - Economy and Efficiency

- i) Ensuring that public resources are not wasted, abused, or used improperly or extravagantly.

Appropriate national laws and internal regulatory mechanisms are put in place to ensure that public resources are not wasted, abused or used improperly and extravagantly. They include public finance management laws, public audit laws, parliamentary oversight committees and expenditure committees. In the Cook Islands, the *Public Expenditure Review Committee and Audit Act 1995-96* empowers the Committee to investigate expenditure of public funds. Other national laws include the PNG *Public Finance (Management) Act 1995*, the Solomon Islands *Public Finance and Audit Act*, and the Tuvalu *Public Finance Act 1982*.

In Nauru, the *Treasury Fund Protection Act 2004* was amended in 2008 to extend Parliament's oversight on the use of public resources to also include state owned enterprises (SOEs). In Kiribati, aside from its *Public Finance (Control and Audit) Ordinance 1976 (Cap 79)*, a stringently regulated draw-down of funds from its Revenue Reserve and Equalisation Fund is being recommended by development agencies. Their concern is to ensure that the fund is properly managed and sustainable in the long-term. In PNG, a comprehensive review of



intergovernmental financing arrangements was undertaken by the country's National Fiscal and Economic Commission to put in place a formula to rationalise and distribute national resources equitably. The actual cost of service delivery in each locality was used as a key indicator to determine the funding for each province.

Nonetheless, wastage of public resources was reported to have occurred in many FICs in 2008. This was attributed to corruption, collusion by government officers to defraud the state, conflict of interest, embezzlement, misappropriation, financial mismanagement and abuse of government facilities and property. Public resources were also wasted through inefficient SOEs, official travel expenses, purchase of new vehicles, and ineffective tax collection systems. At the upper echelons of government, leaders' inability to manage national budgets through lack of control over public spending and insufficient Parliamentary oversight of public expenditure all contribute to wastage of public resources.

In 2008, the RMI declared a state of economic emergency as a result of high inflation on fuel and food prices. It also illustrated the vulnerability of some FICs, especially the Small Island States, to global economic impacts. Conversely, it brought to light the extreme importance of prudent management of public resources by leaders.

Wastage of public resources, including public funds, is disclosed by the Auditors-General, (when audit of public accounts are undertaken on a timely manner), through the audit reports which are tabled in Parliament, through the inquiries and investigations of the Public Accounts Committees, and by leaders' themselves. The key challenge is to recognise the findings and recommendations of the Auditors-General and to execute the recommendations to prevent future recurrences. Other challenges included the lack of cooperation of accounting officers, failure to swiftly and successfully prosecute offending officials, and government agencies' lack of compliance with public finance management laws.

Managing competing political priorities challenges the objectives for economy and efficiency in the use of public resources, especially in FICs with state and provincial governments. In small donor dependent economies, the challenge for leaders is financing public expenditure in the future when the external funding support stops. In an attempt to rationalise the limited funds and to explore ways to increase national production, the FSM set up the National Trade Facilitation Committee in 2008 to find some suggestions and solutions. Similarly, Niue has established the Niue Trust Fund. Some bold decisions need to be made by some FICs to either utilise limited financial resources to increase economic production or to consume public resources through a large public sector pay roll.

Section 7:

Principle 7 - Diligence

i) Exercise of proper diligence, care, and attention;

Many country reports highlighted the fact that some leaders and public officials did not exercise proper diligence and attention to their offices, despite the



existence of statutory and administrative measures requiring them to do so. These included instances such as the failure of MPs to properly scrutinise legislation to evaluate its constitutional implications prior to enacting it. Some leaders also did not undertake proper due diligence and investigation into the credibility of overseas investors and businessmen proposing major development projects. Furthermore, in considering such business and investment proposals, some leaders failed to undertake independent financial analysis of their business investments. In one case, leaders disregarded national laws, which safeguard public funds from being applied without the approval of the appointed authority. Some leaders did not diligently comply with prescribed government procurement guidelines and budget vetting processes.

In 2008, the consequences of leaders' failure to be diligent and careful in the exercise of their duties or to comply with the statutory and administrative measures had many financial, economic and investment ramifications. These ranged from the fraudulent and corrupt use of public funds through the District Support Improvement Program in PNG, cash flows management problems, unanticipated public debt, defaulting on loan payments and membership subscription fees, and the loss of peoples' savings in the collapse of a commercial bank.

ii) Always seeking to achieve high standards of public administration.

Achievement of high standards of public administration is an infinite goal in FICs, but leaders need to be supported in this, given the complexities of public administration. Public administration covers social services (law enforcement and security, health and education), infrastructure (roads, bridges, airstrips, wharves, electricity supply, communications and transport) and basic amenities (clean water supply, sewerage, environmental and waste management, and basic shelter). It also includes revenue creation, managing public finances and managing international relations. An assessment by the World Bank and the Asian Development in 2008 on the quality of public administration for the RMI, gave the country a less than favourable assessment. In Palau a review of the previous administration was undertaken to allow the incumbent government to learn from its mistakes and to build on its strengths.

Different sources, including community, national, regional and international programs invested resources in preparing leaders to perform their public duties. At the national level, the public service commission plays a vital role in ensuring that civil servants perform their responsibilities to the highest level. National public service training institutes, such as the Solomon Islands Institute of Public Administration and Management, provide basic and advanced training programs aimed at enabling public servants to improve productivity and to provide better services. Similarly, in Nauru, public servants receive training in accounting and financial management. In the FSM, the public auditor has proactively undertaken to train auditors in conducting performance audits.

Gaps in public administration are bound to appear, and as FICs take steps to address these challenges, it strengthens and improves the level of their administration. In Tonga, the high rate of staff turnover has a disproportionate impact on the capability and capacity of the public service. In the Solomon Islands,



the country is literally rebuilding its public service, after a period of civil unrest that saw widespread corruption and disregard for laws and regulations. With development assistance under the Regional Assistance Mission to Solomon Islands (RAMSI) Public Service Improvement Program, the Solomon Islands' civil servants capacity is being strengthened to deliver services.

In 2008, some of the challenges to public administration identified in FICs included the following:

- strengthening processes and procedures of appointment for senior public officials, adherence and compliance to lawfully created legislation;
- implementing appropriate oversight and decision-making processes involving major social, educational, and economic projects;
- instituting proper records keeping and records management systems;
- strengthening public service performance appraisal systems; and
- preventing the interference of government ministers.

In PNG, leaders have allowed political expediency to decide on the number of days Parliament actually sits annually. The agenda is a political one. Avoiding motion of no confidence is one of the factors for such behavior of leaders. In Kiribati, MPs decided on increasing the number of sessions of Parliament in a year, increasing it from two to three. In 2008, the Kiribati Parliament passed the highest number of bills in a year since 1997.

Section 8:

Principle 8 - National Peace and Security

i) Promotion of peace, security and harmony;

Many FICs have put in place various mechanisms and measures to protect against all forms of security threats to their countries. Many FICs have also provided assistance to RAMSI to help Solomon Islands restore peace and rebuild its economy and administration. Internally, and to demonstrate its commitment to sustainable peace and security, the Solomon Islands Government established the Truth and Reconciliation Commission to facilitate peace and reconciliation amongst the people. National church and NGO leaders also contribute to this national reconciliation process. In Tonga, Emergency Regulations have remained since the riots of November 2006, although the zone covered has been reduced significantly. Other FICs have increased diplomatic relations with other countries to promote trade, investment and commerce.

A number of security measures have been put in place. These include:

- computerised border management systems;
- cooperative arrangements between FICs on monitoring and surveillance of the Exclusive Economic Zones (EEZs), which accounts for the world's largest quantity of tuna;
- joint border patrols with neighbouring states to combat illegal movement of people across common borders;



- the establishment of the Micronesian Regional Transnational Crime Unit in the FSM to combat transnational crimes such as money laundering, terrorism, human and drug trafficking and sexual exploitation;
- strengthening national capacity to handle law enforcement through the implementation of key legislation;
- updating legislation on the police force to effectively deal with advances in crime and policing, and the establishment of financial intelligence units;
- establishment of national disaster bodies to prepare and coordinate communities; and
- ratification of international conventions such as the United Nations Convention against Corruption, CEDAW and others.

Threats and problem identified in the country reports include drug trafficking (marijuana and methamphetamine), food security, access to fresh drinking water, damage with criminal intent of phosphate cantilever infrastructure and incidents of arson involving public infrastructure. While the diversity of cultures in the region might makes some FICs unique, it also brings with it specific challenges to national peace and security. They include ethnic conflicts and inter-college and tribal rivalries.

ii) Refusal to give or obey an illegal order to use force against another citizen.

Cases of leaders giving or obeying an illegal order to use force against another citizen are disclosed either by the victims, or through intermediary sources such as the press or public inquiries. Several FICs reported no such conduct by their leaders in 2008. They include the Cook Islands, the FSM, Kiribati, Niue, Palau, PNG, RMI, Samoa, Tonga, Tuvalu and Vanuatu.

Both Nauru and the Solomon Islands reported instances where leaders gave orders to use force against another citizen. The latter occurred during the period of political tension. In Nauru, policemen were ordered by the Speaker of Parliament to remove two Ministers of State from Parliament. One police officer defied the directive of the Police Commissioner not to interfere with Parliamentary proceedings and proceeded to execute the Speaker's orders. The officer was disciplined and subsequently dismissed from the Nauru Police Force. In general, instances of leaders refusing to give or obey an illegal order to use force against another citizen were not widely reported in 2008.

Section 9:

Principle 9 - Respect for Office

- i) Exercise authority and interact with people in a manner that is open, transparent, accountable, participatory and decisive but fair and equitable.**

In general, leaders in FICs exercised their authority in an open, transparent, accountable, participatory, decisive, fair and equitable manner. Examples of some leaders in FICs exercising their authority in this manner included the following:



- public consultations by the Cook Islands Ministry of Transport with landowners on a wind farm project in Rarotonga;
- public consultations in Kiribati to discuss the Local Government Bill in a national workshop involving mayors and representatives from the outer islands;
- public consultations on the review of the Constitution of Nauru which commenced in 2006, but when government took the decision to deduct from the salary of a household to pay for electricity, the heads of households were not consulted; and
- a dialogue forum in Niue involving people from the public service, the private sector and NGOs on the Niue National Strategic Plan.

Palauans enjoy a Constitutional provision (Article IX (s.12)) that enables them to examine any government document and to observe the official deliberations of any agency of government. Public hearings in Palau, however, have declined in the last couples of years. In the RMI, the government's discussions with the Kwajalein landowners, while transparent and participatory, have yet to result in a settlement that is satisfactory to everyone. The lack of progress in important national matters such as this, have also been viewed by development partners as an inability of governments to progress significant national development expectations.

On the other hand, leaders in the FSM decisively exercise their authority not to subsidise the air services of a private airline providing domestic air services. The consequence however, was that the decision effectively ended its business and air services to the outer islands. The government's option was a costly one and that was to purchase airplanes at US\$9 million, but it did not include the pilots to fly the aircrafts.

The role of media and its use by leaders to inform people about what they are doing and to be questioned by constituents increases leaders' interaction with the people. In PNG, however, the Speaker of Parliament has occasionally frustrated MPs' opportunity to hold open, transparent, accountable and participatory discussion of important national issues in Parliament. Similarly, in Samoa, the Opposition has sought the intervention of the Courts after being deprived of the opportunity to question the government in Parliament on its use of public funds.

ii) Seek to strengthen the integrity of a leader's Office and its effectiveness.

In some FICs, no work was undertaken in 2008 to strengthen the integrity of leaders' offices. These FICs were the Cook Islands, Samoa and Vanuatu. In Kiribati and RMI, leaders decided against introducing the proposed Leadership Code Bill because of the potential ramifications of some of its provisions for them. Tuvalu, on the other hand, proceeded to introduce the *Leadership Code Act 2007* to strengthen the integrity of leaders' offices. In PNG, the Office of Speaker of Parliament has come under closer scrutiny for the misuse of Parliament funds. Other MPs have even engaged in fist-fights outside the Parliament building. One MP was considered by the PNG Electoral Commission as being eligible for election while serving a prison sentence for rape. The MP actually won the seat only to have the victory subsequently quashed by the Courts.



In other FICs, considerable effort was put into strengthening the integrity of some leaders' offices. Work on this front took many different forms and included the following:

- audit completed by the FSM National Auditor's Office on the appropriation of public fund by Congress which led to the introduction of measures governing the disbursement and applications of public funds;
- the appointment of key senior public officials in central agencies of government in Nauru. Appointments included a Resident Magistrate, Secretary for Justice, Director of Public Prosecutions, Director of Audit and a Public Defender;
- review and update of the laws of Niue;
- the introduction of a regulatory mechanism to govern the disbursement of the controversial Rural Constituency Development Fund, which has disproportionately impacted on the integrity of Solomon Island MPs; and
- major political reforms in Tonga of historical significance since 1875, aside from the establishment of the Anti-Corruption Commission, the Public Relations Commission (Ombudsman) and enabling the auditor, lawfully to submit audit report of public accounts directly to Parliament.

In general, FICs have undertaken various measures and established key institutions to strengthen the integrity of a leader's office and its effectiveness in 2008.

