USE AND MISUSE OF POWER: THE CASE OF NAURU

Peter H MacSporran*

When Jack Corbett wrote of the relationship between the smallness of Pacific island states and their economic, social and political outcomes, he observed that "comparatively little is known about how politicians negotiate smallness" and concluded that the answers were mixed, as might be expected.[1]

Corbett referred to various aspects, including the use of voting power in international institutions, the reliance on foreign aid, the influence of family and kin, as well as how some individuals utilise these factors to overcome the disadvantages of the parliamentary system.

It is this latter aspect of smallness that is to be addressed in this article—the quite single-minded approach some leaders have taken to attain and retain power. How have they done so without challenge?

In Nauru[2]—as in other Pacific islands—there was one outstanding leader, Hammer DeRoburt. He led the country to independence and was regarded as the father of the nation.[3] DeRoburt exhibited strong paternalistic attitudes that became increasingly strident the longer he remained in power.[4] How such men achieved their eventual status as leaders of their country is of considerable interest, but here

* BA LLM (Melb) PhD (ACU). Thanks to Professor Patrick Keyzer of the Thomas More Law School, Australian Catholic University, who encouraged this project, and special thanks to Dr Gregory Dale of the TC Beirne School of Law, University of Queensland, who graciously read and provided comments that greatly improved it, as indeed did a referee.

1 Jack Corbett "'Everybody knows everybody': practising politics in the Pacific Islands" (2015) 22(1) Democratization 51 at 52.

2 Recently the Republic reverted to use of the traditional name (Republic of Naoero) as it has appeared on the Republic's Coat of arms for many years. That change is not made in this article. Most references are to the Island are as it was previously known (Nauru).

3 JW Davidson "The Republic of Nauru" (1968) 3 The Journal of Pacific History 145.

4 The attitude has not disappeared along with new and well-educated leaders, exemplified by Lionel Aingimea, reported as saying after his election in 2019 that "he will be like a 'father of the nation', guiding and protecting the South Pacific Island's 12,000 people". Australian Associated Press "Nauru's parliament elects Lionel Aingimea as President amid refugee crisis" *The Guardian* (online ed, Sydney, 27 August 2019).

the interest is in how their successors have gone about securing—or attempting to secure—their place in history, and how they have done so by the use and misuse of power.

While many will agree with Jack Corbett that:[5]

> [i]t is virtually impossible to talk about any aspect of political life in the Pacific Islands without returning, in one way or another, to the importance of family and kin …

it is not influences or motives, but action that matters—there is little or no story to tell if nothing happens.

Those who led island communities to independence were men who were held in high regard, but, as Ron Crocombe observed, some would eventually succumb to the reality of the power they found they were able to wield. Dominating personalities included such men as Sir Albert Henry in the Cook Islands, Hammer DeRoburt in Nauru, Amata Kabua in the Marshall Islands, Fr Walter Lini in Vanuatu, Ratu Sir Kamisese Mara in Fiji and King Taufa'ahau in Tonga. They all maintained their positions far longer than was good for the country and some abused their positions in ways that may well be described as corrupt.[6]

As the euphoria of independence faded and the old leaders began to be replaced, island governments came to be led by men (and it would be a long time before any were led by women), apparently more interested in the power, prestige and wealth that comes from controlling the Parliaments and the purse strings of treasury than the well-being of their people. From the earliest days, the pathway to control has been eased by the interaction of various factors, including population size, physical area (which is largely divided into many islands), customs, religion, family and the size and diversity of national economies.[7]

---

5 Corbett, above n 1, at 52.

6 Ron Crocombe *The South Pacific* (University of the South Pacific, Suva, 2001) at 527. Crocombe describes the extent of corrupt behaviour, including nepotism, political cronyism and the misuse of tradition engaged in by leaders. For example: "…there is a good case for affirmative action to help underprivileged indigenous people get into [business]. In practice, however, the advantages are sometimes created by privileged indigenous people to become more privileged at the expense of their underprivileged fellows, or to pass concessions to foreign friends under cover of affirmative action for natives." At 522.

7 The comment by Elise Huffer that "Poverty and corruption are less likely to occur in communities that engage in self-reflection and self-help than in those where values have been destroyed or distorted by what are often paternalistic and standardized policies (and by those with leaders who have been co-opted by the lure of money)" has much force within many of the Pacific island states. Elise Huffer "Governance, Corruption, and Ethics in the Pacific" (2005) 17(1) The Contemporary Pacific 118 at 132.

Questions arise whether "'the Pacific Way', [has] been employed at times as an instrument of social and political control by indigenous elites",[8] whether "politicians have treated their countries as personal 'fiefdoms' due to their extensive influence over nearly all aspects of social, economic and political life",[9] or whether "politicians may not take money directly but instead leverage their influence and insider knowledge to advantage their businesses".[10]

The following describes how Nauruan leaders have not only found a way to attain and maintain privilege, but have turned it into a system to be sought and used by their successors. The writer has known and been close to Nauru for more than 50 years, observing the paths taken by most government leaders as they sought, attained, held onto and eventually lost power. In the 21st century, following Nauru's slide towards failure, new attempts were made and eventually succeeded in better preserving a place at the top for those who became leaders.

There is little doubt that many actions taken to maintain power were a misuse of the parliamentary system, an open door to corruption and a departure from the rule of law.

It is clear in Nauru, as in other Pacific nations, that the small population makes it possible for strong leaders to garner support and establish majority control. At times, the Nauru Parliament has included very independent individuals, some with good intentions and others with no particular aim other than to be in the Parliament for all the available benefits. The result is that leaders, or would-be leaders, have found it difficult to put together enough support to attain or remain in control and pursue policy objectives (if indeed they had any).[11] It has been noted that "critics point to the way politicians manipulate Westminster institutions to their advantage, leading to regular votes of no confidence and constantly shifting coalition governments."[12] Fraenkel has suggested that it is the absence of "major ideological cleavages"[13] that makes it relatively easy for members of Parliament to shift allegiances, particularly if a ministerial post is in the offing.

---

8 Stephanie Lawson *Tradition Versus Democracy in the South Pacific: Fiji, Tonga and Western Samoa* (Cambridge University Press, Cambridge, 1996) at 4; and see generally Stephanie Lawson "'The Pacific Way' as Postcolonial Discourse: Towards a Reassessment" (2010) 45(3) The Journal of Pacific History at 297.

9 Crocombe, above n 6, at 643.

10 Corbett, above n 1, at 60. See generally Peter Larmour *Interpreting Corruption: Culture and Politics in the Pacific Islands* (University of Hawai'i Press, Honolulu, 2012).

11 Examples of which are to be found in Nauru and Tuvalu. See Lisepa Peaniu "How can Parliamentary Democracy Function More Effectively in Small Pacific Island Countries such as Tuvalu and Nauru?" (2012) 14(2) J South Pac Law at 6.

12 Corbett, above n 1, n 43 referring to discission in Jon Fraenkel *Oceania's Political Institutions and Transitions* (ANU, State Society and Governance in Melanesia, Discussion Paper 2010/5).

13 Fraenkel, above n 12, at 7.

Without political parties or any coherent ideological differences, the grant of ministerial and deputy ministerial portfolios serves as a means of controlling potential opposition.

As Fraenkel has also pointed out:[14]

> [o]ccupying a ministerial portfolio not only provides a salary and status that is often impossible for a local to equal in the private sector, it also provides access to state funds and state leverage over foreign controlled resource-extractive industries …

and Nauru is a perfect example.

I PROBLEMS OF THE PACIFIC – POST-COLONIALISM?

Toward the end of the 20th century and in the early years of the 21st century, one might wonder whether the independence of Nauru and other South Pacific Island states had been compromised by the governance system they had adopted. With coups in Fiji, the collapse of Solomon Islands and the intervention of RAMSI,[15] disturbances in Tonga, corruption in Vanuatu, the collapse of the economy of Nauru and of the Cook Islands, political problems in Kiribati, Tuvalu and the Marshall Islands and electoral upheaval in Samoa,[16] pessimism does not appear to be an unreasonable viewpoint. Unsurprisingly, numerous articles, books and dissertations have described events and sought explanations, but few have offered answers or solutions.[17] Jon Fraenkel has mused whether "the

---

14 Fraenkel, above n 12, at 7. It also opens the way for corrupt activity if the state controls but outsources aspects of its resource recovery and sale, as has occurred in Nauru. In 2020 a man was convicted of bribing Nauru officials regarding the export of phosphate. See Australia Federal Police "Man convicted as part of foreign bribery investigation" (27 August 2020) <www.afp.gov.au>. Interestingly, there has been no suggestion of investigating, let alone charging, anyone on the Island for receiving corrupt payments, although the names of the Nauruans who accepted bribes had been referred to in the prosecution case, and published.

15 Grant William Walton "Establishing and maintaining the technical anti-corruption assemblage: the Solomon Islands experience" (2020) 41(11) TWQ 1918 at 1919.

16 Other than recent electoral issues, there had been an apparent assassination of a cabinet minister in July 1999 and an alleged plot to assassinate cabinet ministers in 2021. See Eirenei Ariu Toleafoa "Pauga's Assassination Plot, 'One of Many,' says Prime Minister" (18 March 2021) Samoa Global News <www.samoaglobalnews.com>.

17 See Ben Reilly "The Africanisation of the South Pacific" (2000) 54(3) Aust J Int'l Aff 261. Contrast David Chappell "'Africanization' in the Pacific: Blaming Others for Disorder in the Periphery" (2005) 47(2) CSSH 286; Jon Fraenkel "The Coming Anarchy in Oceania? A Critique of the 'Africanisation' of the South Pacific Thesis" (2004) 42(1) J Commonw & Comp Pol 1; Stewart Firth "Sovereignty and Independence in the Contemporary Pacific" (1989) 1(1) The Contemporary Pacific 75; Stephanie Lawson "The Politics of Tradition: Problems for Political Legitimacy and Democracy in the South Pacific" (1993) 16(2), Pacific Studies 1; Peter Larmour "Corruption and the concept of 'Culture': Evidence from the Pacific Islands" (2008) 49(3) Crime, Law and Social Change 225; and Anita Jowitt "The Future of Law in the South Pacific" (2008) 12(1) JSPL 43.

closing of the post independence honeymoon era represent[s] a shift to permanent volatility, or merely a hiatus before some new leadership consolidation".[18]

Blaming a colonial past may be attractive to some who find it useful to hide their misdeeds and their mistakes, or shirk responsibility for their own actions, behind a refractory colonial disease, but there comes a time when that excuse looks tired and overused and a new form of leadership rises from family and tribal squabbles.[19] In the following, it is the activities of several Nauruan governments since the volatility of the early years of the 21st century that are of particular interest.

II HOW HAVE PROBLEMS BEEN APPROACHED – HAVE THEY BEEN SOLVED?

In 1904, Sidney Low suggested that the executive controlled the House of Commons.[20] The analysis of that suggestion provides an insight into the loss of parliamentary authority and status within Nauru and, indeed, some of the other small nations of the Pacific. With small Parliaments, such as Nauru with nineteen members, a majority may, once achieved, be readily retained, so long as the majority remain satisfied with their lot. However, it can be quickly lost if members break apart over any of a myriad of disagreements or better offers of money or position.

In principle, parliamentary systems possess three desirable factors: responsibility to Parliament (Parliament can remove the government); the President is elected by the Parliament and can be removed by it (they are directly responsible to the House, not the people); and Cabinets have a collective responsibility to the Parliament.[21] Such generalisations take no account of the role and effect of an executive that is able to dominate the Parliament.

When, not by virtue of the support of a party or a coalition, but by manipulating the legislative power, the executive is enabled to entrench itself so that it can safely ignore and accept no responsibility to the Parliament. The constitutional basis for sharing power in the state is put in jeopardy until such time as the people are minded to remove those responsible, or the judiciary is able to step in and effect a return to constitutional norms.

The Nauru executive eventually found a way, despite the Constitution, to impose stability on the island's politics by challenging Parliament's status as the law-making body and as a check on the executive.

---

18 Fraenkel, above n 12, at 12.

19 See Maria Gaiyabu 'Elementary Schooling Practices, Post-Colonial Politics and the Struggle of Identity in Nauru" (MEd Thesis, University of Hawai'i at Manoa, 1996).

20 Sidney Low *The Governance of England* (rev ed, TF Unwin, London, 1914) at 81.

21 Arend Lijphart *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (Yale University Press, New Haven, 1999) at 117–118; and Alan Siaroff "Varieties of Parliamentarianism in the Advanced Industrial Democracies" (2003) 24(4) IPSR 445 at 446.

Between 1 January 2000 and the election of the Waqa/Adeang Government in 2013, 13 Presidents had been elected.[22] Internal power struggles led to the declaration of several states of emergency and several constitutional cases before the Supreme Court, in two of which, the Parliament, for overtly political reasons, unsuccessfully sought to remove members holding dual citizenship.[23]

During that time, events occurred that threatened, or appeared to threaten, individuals who would eventually form the Waqa Government. Subsequent events, however, annoyed or frustrated that Government, prompting it to seek ways to silence its detractors and parliamentary opposition.

Several events, including allegations of corruption, economic incompetence, the prevention of an inquest into the death of a parliamentarian's wife and riots at the refugee centre were followed by the dismissal of the Resident Magistrate, Commissioner of Police and Parliamentary Counsel, along with the forced resignations of the Chief Justice and Solicitor General. These actions were politically, legally and socially disturbing. They were followed by the indefinite suspension of five opposition members of Parliament,[24] and failure to sanction in any way a Minister who caused the death of a motorcyclist.

The actions against the Magistrate and Chief Justice had repercussions both in Nauru and internationally. Vinci Clodumar, President of the Nauru Law Society, strongly condemned the Government's actions. He:[25]

> … says the integrity of Nauru's legal system has been brought into disrepute … [and] has labelled the deportation 'wicked' and an appalling interference in the separation of powers between the executive and the judiciary.

---

22 The period was one of bitter disputes and accusations of misuse of public funds and other corrupt behaviour, much of which was published in a locally produced newsletter, *The Visionary,* by a group calling themselves "Naoero Amo".

23 *In the Matter of Article 55 & 45 (and Article 36 & 40) of the Constitution* [2008] NRSC 7; *Keke v Adeang* [2008] NRSC 8; *In re Article 36 of the National Constitution* [2008] NRSC 13; *In the Matter of His Excellency Marcus Stephen MP, President of the Republic of Nauru* [2010] NRSC 14; *In the Matter of the Constitution and in the Matter of the Dissolution of the Eighteenth Parliament* [2010] NRSC 16; *Keke v Scotty* [2013] NRSC 1; *Keke v Scotty* (2) [2013] NRSC 3; and Greg Tardi, "*In the Matter of Article 55 of the Constitution and In the Matter of a Resolution pursuant to Article 24(1) of the Constitution* [of Nauru]: Adjudicating the Constitutionality of Parliamentary Change of Government" (2003) 7(1) Journal of South Pacific Law 1.

24 *Keke v Scotty* [2014] NRSC 7 at [63]; compare Peter H MacSporran "Can the state of law and politics in Nauru be explained by Lon Fuller's account of the rule of law?" (PhD Thesis, Australian Catholic University, 2025). There was no apparent reaction from the Australian or other governments to these proceedings.

25 Sean Dorney and Geraldine Coutts "Nauru president rejects criticisms of deportation orders as 'attack on sovereignty'" (24 January 2014) ABC News & Headlines <www.abc.net.au>; see also Stewart Firth "Democracy under threat in Nauru" (16 May 2016) Asia & The Pacific Policy Society <www.policyforum.net>.

Subsequently, in a submission to a Senate Inquiry in Australia, the former Chief Justice, Geoffrey Eames, noted that:[26]

> On 7 March 2014, in a joint statement, the Chief Justices of eleven Pacific jurisdictions, meeting in Auckland, expressed 'deep concern' about the events in Nauru and said they 'give rise to serious concerns about judicial independence and the operation of the Rule of Law in Nauru'.

III REACTION TO CRITICISM AT HOME AND ABROAD

Increased criticism from within and beyond Nauru, along with continuing allegations of corruption and opposition to hosting refugees, was sufficiently strident and worrying that the government sought a way to silence its critics. In January 2014, the government sought to prevent the entry of persons, principally members of the international media, by imposing a non-refundable visa application fee of AUD 8,000.[27] The increased fee was enough to ensure foreign media did not appear in Nauru, and by the end of the year, it was reported:[28]

> Nauru's government says the fee was increased for revenue reasons. But in February, Home Affairs Minister Charmaine Scotty said the foreign media were giving Nauru a bad name over the detention camp. 'With all the bad press that they come and do, we have extra hard problems in regards to the local community and the visitors that are called transferees' …

The next step, on 19 July 2016, was to secure its home power base and to do so by persuading Parliament to pass legislation that would entrench government control by empowering the President to appoint any number of Assistant Ministers[29] and to set their salaries just short of AUD 12,000 per annum above that of ordinary members.[30] By offering lucrative new positions to some ordinary members, it was able to deny any opposition an effective voice in the House.

At least for the foreseeable future, the Nauru government had thus obtained the Parliament's surrender of power and authority such that it has since then played a mere ceremonial role.

However, despite its actions, after six years the Waqa government eventually fell to what may have been the broad disapproval of the electorate, as almost half of the House's membership was not

---

26 Geoffrey M Eames "Nauru and the Rule of Law" at 4.

27 "Nauru government pushes journo visa fee from $200 to $8000" (9 January 2014) SBS News <www.sbs.com.au>.

28 "Nauru: Visa price hike 'deters foreign journalists'" (19 November 2014) BBC News <www.bbc.com>. Of course, as no revenue was raised, that could hardly justify the fee.

29 Assistant Ministers Act 2016 (NRU). The Act provides: "4(1) This section establishes the office of Assistant Minister. (2) The President may appoint members of Parliament to be Assistant Ministers to assist Ministers in the performance of their duties. (3) The office of Assistant Minister shall be held in relation to one or more Ministerial offices, to be specified in that behalf in the Gazette."

30 Parliamentary Salaries and Allowances (Amendment) Act 2016 (NRU), s 7.

re-elected; Waqa lost his seat, and David Adeang attempted, but failed, to be elected President. The incoming executive led by Lionel Aingimea, elected on 27 August 2019, was not, as perhaps many expected, a breath of fresh air and soon showed little had changed. The concept of Assistant Minister was clearly an attractive one, so Parliament soon repealed the Assistant Ministers Act 2016 and replaced it with the Deputy Ministers Act 2019 on 30 August.[31]

Sometime later, and despite (or because of) controlling the Parliament, the government had apparently perceived a groundswell of opposition building and attempted, by using its control of the House, to stop, or at least hamper, opposition at the forthcoming elections.

Thus, on 8 June 2022, two statutes were enacted that might enable the government to remain in power and prevent potential opposition candidates standing for election. The Constitution was amended to disqualify any citizen who did not have an ancestor who had automatically become a citizen at Independence.[32] The Electoral Act was amended to penalise any member of the public service and employees of public enterprises who sought nomination as a candidate for the then forthcoming general election (due around the following August/September). The change included a new provision that "a holder of an office of profit in the service of Nauru … shall resign from his or her office 60 days before the dissolution of the full term of Parliament."[33] This was subsequently changed by the Adeang Government to 12 months, thereby increasing the penalty a public servant would incur if they wished to nominate.[34] The penalty is not, however, as severe if a general election is called less than three years from the date of its first sitting following the previous general election when the resignation must be within five days of the issue of the writ.

The effect on senior public officers was potentially catastrophic: if they resigned to contest an election, they not only lost their salary, but also risked losing retirement benefits, while those who were unsuccessful might find the chance of reappointment slim at best.

Subsequently, following the 24 September 2022 elections, Lionel Aingimea was replaced as President by Rus Kun, who had previously served as a Deputy Minister. Kun did not last long. Despite having the apparent support of 12 of the 19 members of Parliament, he soon faced a deadlocked no-confidence motion that might have required a reluctant Speaker to vote. However, Kun voted himself out of office and David Adeang took over on 30 October 2023 (and appointed Kun a Deputy Minister).

---

31 The change in title may have been to give the positions a higher status in the minds of the recipients and provide them with greater responsibilities. Interestingly, the added prestige did not, at the time, carry higher remuneration.

32 Constitution (Amendment) Act 2022 (NRU), s 3. It is possible that this change is ultra vires and does not effectively do what was intended. However, it has not been challenged in the courts.

33 Electoral (Amendment) Act 2022 (NRU), s 10 inserting s 59 (2A).

34 Electoral (Amendment) Act 2024 (NRU), s 6.

Early December 2023, Parliament repealed the Deputy Ministers Act 2019 and replaced it with the Deputy Ministers Act 2023, which retained the President's power to appoint any number of Deputy Ministers.[35] There remains no statutory limit on the number; all members of Parliament could be appointed as Deputy Ministers.

The benefits of having control over Parliament through numbers and financial control over Ministers and Deputy Ministers has enabled the Government to act without the scrutiny of the people or Parliament.

It appears that the existence of Deputy Ministers has been the subject of review by the Government, leading to an amendment to the Constitution that increases the number of ministers the President may appoint. When the Bill was announced at the end of 2024, it was said that:[36]

> The maximum number of ministers will then be eight, including the president. The minimum number of ministers can be decided on by the president. It is noted that the functions, duties and responsibilities of ministers have increased over time and so has the number of departments and state own enterprise, which are assigned to ministers. Having considered the workload of the ministers, the government agreed that the number of ministers needed increasing. With the appointment of seven ministers, the proportion of Cabinet positions remains at 37 per cent, thus maintains enough members of parliament to provide the check and balance for the work of the Cabinet and ministers.

Following the passage of the Bill, it was reported that "with this adjustment, cabinet positions will continue to represent 37 percent of the total membership of Parliament, maintaining the balance of power".[37]

As might be expected, neither the report from Nauru nor the news tells the whole story. The amendment does indeed mean that the number of Cabinet ministers will be 37 per cent of the membership of Parliament, but as the Speaker only votes in the event of a deadlock, the percentage of Cabinet ministers rises to 38 per cent, or 44 per cent, when the President is included. Conveniently, it only requires one deputy minister to be appointed for government control to reach 50 per cent. Government control thus significantly rises as the number of deputy ministers becomes two or more. Before the change was approved, the government consisted of the President, six ministers and three deputy ministers. Having 10 members supporting the government in a House of 19 (including the

---

35 Deputy Ministers Act 2023 (NRU), s 4(2). The new legislation contained a provision not found in earlier versions: "The office of Deputy Minister is not an office of profit in the service of Nauru". The intention of Parliament being to avoid the possibility of the position being a disqualification of persons to be members of Parliament under art 31(e)—as it probably was.

36 Government Information *Office Nauru* Bulletin (Government of the Republic of Nauru, Issue 18–2024/283, 27 December 2024) at 10.

37 PACNEWS "Nauru Parliament approves Constitutional change, expanding Cabinet by one Minister" (12 March 2025) Island Business <www.islandbusiness.com>.

Speaker, who only votes on a deadlock) certainly puts the government in an unassailable position—barring any better offers that might change support for the government.

The change papered over problems faced by the government, which will, no doubt, be solved—at least for the time being—by offering an extra Cabinet position. The intention of increasing control was made clear by raising the salary of deputy ministers to a level only AUD 5,000 below that of a minister, whereas the previous difference had been AUD 32,609.[38] The salary of ordinary members is now AUD 75,000 or AUD 10,000 below a deputy minister.[39]

The process continued following the General Election in October 2025, along with a referendum to extend the life of the Parliament from three to four years. Eventually, most sitting members were returned, and the referendum was defeated.[40] At the first meeting of Parliament on the following Tuesday, David Adeang was re-elected, unopposed, as President. Shortly thereafter, he appointed six Cabinet ministers and seven deputy ministers, leaving four members of Parliament on the back bench. For the foreseeable future, the executive continues not only to dominate the Parliament but may be reasonably described as the de facto Parliament.

IV SOME CONTEMPORARY EFFECTS OF PARLIAMENT'S DECLINE

In 2024, it became clear that secret negotiations with China had taken place without any community consultation or advice to the Parliament. The sudden repudiation of Nauru's support for and recognition of Taiwan[41] has raised many questions, not the least of which may be how long the change will last.

---

38 Parliamentary Salary and Allowances (Amendment Act) 2025 (NRU), increasing the salaries of ministers to AUD 90,169 and deputy ministers to AUD 85,000. The Government posted a notice of the amendment's passage on Facebook, resulting in several responses suggesting that people are aware that the Government's change has not improved the relationship between the Government and the Parliament. See The Government of the Republic of Nauru <https://www.facebook.com/story.php/?story_fbid=949168817378956&id=100068575385848>.

39 See wage.is "Nauru" (25 February 2026) <https://wageis>. The incentive to obtain a seat in the Parliament is clear when the average income in Nauru as of January 2026 was said to be approximately AUD 24,000. There being no parties, no provision is made for a salary for an opposition leader.

40 A two-thirds approval (art 84) was required. 44.7 per cent voted yes. See "2025 Referendum Certificate of Results" (13 October 2025) 480 *Republic of Nauru Government Gazette* GN No 1251/2025.

41 Dechlan Brennan "Nauru switches diplomatic ties from Taipei to Beijing" (16 January 2024) The Australian <www.theaustralian.com.au>; Republic of Nauru Government Information Office "Nauru follows UN Resolution and moves to One-China principle" (press release, 15 January 2024); and "President Xi welcomes Nauru to join Belt and Road Initiative, looks to expand cooperation" (25 March 2024) CGTN <https://news.cgtn.com>.

In the past, there has been no effort by Parliament or any government to investigate corruption by officials[42] nor is there any evidence that there will be any soon.

Adverse commentary from external media about Nauru's economy continues, such as that from India, which has argued that Nauru's:[43]

> … current challenges stem from its lack of economic diversification and heavy reliance on a single natural resource. This reliance, coupled with economic uncertainty, financial mismanagement, and corruption, exacerbated by the depletion of phosphate reserves, has plunged Nauru into a severe economic crisis … [that] underscores the imperative of prudent economic governance, diversification of revenue streams, and the establishment of robust governance and regulatory frameworks.

That the government continues to face difficult times has been underscored by another action, taken again, apparently, without community input. It was reported that a new Act had been passed and that:[44]

> …the purpose of the Nauru Economic and Climate Resilience Citizenship Act 2024 is to grant citizenship under a new category which is not provided for in the Naoero Citizenship Act 2017. The fundamental requirement in clause 4 of the Act is that, any person seeking citizenship has to contribute in some form of development or benefit for Nauru … [it being] projected that in the first year of its establishment which is from 1 November 2024 to 30 June 2025, it is expected that the Republic will add a revenue of $9 to $10 million.

---

42 Following the case of *R v Bhojani* District Court of New South Wales, Criminal Jurisdiction, No 2018/00282120, it was reported that "[t]he court heard Bhojani had bribed two Nauruan officials – Trevor Bernicke, chairman of the Republic of Nauru Phosphate Corporation, and Aaron Cook, a member of parliament and minister responsible for the phosphate corporation – paying more than $124,500 to secure two phosphate shipments in 2015 and 2017". Ben Doherty and Rafqa Touma "Morrison government paid corrupt businessman millions for offshore processing on Nauru" *The Guardian* (online ed, Sydney, 25 May 2023). No action has been taken in Nauru.

43 Shreya Banerjee, Sadhrid Guha and Sougata Roy Chowdhury "Drawing vital lessons from Nauru's plight" *The Statesman* (online ed, New Delhi, 7 July 2024). See also Louis de Koster "The risks of de-banking in the Pacific" *Bangladesh Post* (online ed, Dhaka, 6 July 2024).

44 Government Information *Office Nauru* Bulletin (Government of the Republic of Nauru, Issue 14–2024/279, 16 October 2024). A report from June 2025, announced that "[t]he first application under the Nauru Economic and Climate Resilience Citizenship Program was submitted on February 21, formally accepted on March 21, and received approval in principle by June 18" see "Nauru Citizenship Office Approves First Applications" (20 June 2025) Nauru Citizenship by Investment <https://naurucitizenshipbyinvestment.com>. The ABC subsequently reported that "Edward Clark, the head of Nauru's Economic and Climate Resilience Citizenship Program, told ABC Pacific Beat that a … family of four paid around $US250,000 ($380,000), with $US140,000 of these funds to go toward climate resilience projects in Nauru", suggesting that a majority of funds to be derived from the programme might be diverted to other purposes than Nauru's climate resilience, see Audrey Courty "Nauru sells first passports to help fund relocations as sea levels rise" (7 August 2025) ABC News <www.abc.net.au>.

The new legislation was passed by Parliament without debate, after all, the Parliament really has no say, but there was some unrest on the Island.[45] Opposition to the legislation includes objections to alien grantees acquiring equal status in certain aspects of Nauruans' lives, including the right to acquire Nauru land and the right to vote, neither of which appears to have been the subject of official comment.

The Government claims that the funds received from applicants for citizenship will be used to relocate people to the old worked-out phosphate land known as "topside", where they will be safe from the rising sea levels resulting from global warming and climate change.[46] The hopeful beneficiaries—if any—of the funds flowing from new citizens may be disappointed if they face the same or similar issues as earlier described when the Regional Processing Centre was established:[47]

> Some of Nauru's most powerful families are benefiting financially from the island's multi-million-dollar Australian-funded refugee processing centres … [despite its having been] pledged that the tens of millions of dollars to be poured into Nauru would offer "a broader benefit" to the community … [and] some Nauruan politicians have family members who own shares in the land on which Regional Processing Centre 3 (RPC3) is located, while relatives of Nauru's Minister of Justice and Border Protection, David Adeang, have secured contracts and high-level jobs at the centre … [and] some Nauruan politicians have family members with interests in the 5.6 hectare site, which earns at least $480,000 in rent each year.

V WHAT MIGHT THE LAW DO IF THERE ARE PROBLEMS?

As described above, the government of Nauru has for some time been able to settle firmly into the seat of power, where it not only appears to be, but is, above the law. It is unsurprising that some individuals claiming high family and tribal status should appear to manipulate old customs for their own, their family and their tribal benefit. It is disappointing that ordinary people who have, for many years, been proud supporters of their Constitution, democracy and the rule of law have been unable—or perhaps unwilling—to secure continue that support.

It is time the Supreme Court is given the opportunity to decide on the validity of some government actions. The following analysis suggests reasons why the Court should find some of the actions mentioned above to be beyond the constitutional powers of Parliament and the government.

---

45 Personal communication from Nauru tells of the police preventing Nauruans from approaching the Parliament where they were to protest the legislation and support a petition opposing it.

46 As topside is more than 20 metres above sea level, there ought to be no problem. To date, there has been no explanation of how the government will deal with the ownership of the land or how housing and necessary infrastructure will be established and allocated. The cost of relocation, generation and reticulation of electricity, sewerage, access roads, etc., does not appear to have been addressed or assessed. It is likely, however, that the allocation of land and housing will benefit the relatives of those in power at the time, as funds available move to benefit those in power.

47 Michael Walsh "Powerful Nauru families benefiting from Australian-funded refugee processing centre" (29 March 2016) ABC News <www.abc.net.au>.

VI CONTROLLING PARLIAMENT

When Parliament passed the Assistant Ministers Act 2013 and then the Deputy Ministers Acts 2019 and 2023, it relinquished its ability to perform its constitutional functions of surveilling the activities of the government, ensuring that the rule of law was maintained and, of greatest importance, protecting the people against activities of government that might adversely impact them or of which they might not approve. Is that a constitutional problem?

The Constitution establishes a broad separation between the Parliament (that makes the law for the peace order and good government of Nauru),[48] an executive (the Cabinet that has the day-to-day management and control of the island including the maintenance of its laws and social coherence),[49] and a judiciary (that has the exclusive power and authority to interpret the law, to determine disputes involving the government and the people and to declare the application of the fundamental rights and freedoms of the Constitution.[50] This separation of powers is not only commonly found in many constitutions but has also been referred to in decisions of the Supreme Court of Nauru. Thus, Connell CJ commented in *Amiri v Director of Police* that "for the purpose of the doctrine of the separation of powers, the difference between involuntary detention and detention with the concurrence or acquiescence of the 'detainee' is vital".[51] In *Keke v Scotty*, Eames CJ stated:[52]

> [7] I am not concerned with the political consequences of my interpretation of the Constitution. In performing its role, the Court at all times recognises the importance of maintaining *the separation of powers* of the State as between the Legislature, the Executive and the Judiciary.
>
> [8] In protecting *the separation of powers*, the Court acknowledges the sovereignty and privileges of Parliament and the important role of the independent Speaker of the House. The Court must at all times exercise care and restraint to ensure that the role of the Court does not improperly intrude on those privileges of Parliament, just as Parliament and the Executive may not interfere with the independence of the judiciary or deny its original jurisdiction under Art 54(1) to determine any question involving a provision of the Constitution.

48 Constitution of Nauru, pts III–V.

49 Article 17.

50 Article 48.

51 *Amiri v Director of Police* [2004] NRSC 1 at [30].

52 *Keke v Scotty* [2013] NRSC 3 (emphasis added); see also *Republic of Nauru v Batsiua* [2018] NRSC 37 at [126]: "There is no doubt that the Nauruan Parliament is the sovereign law-making body in this country, subject to the Separation of Powers, and, vitally, subject to the Constitution" per Muecke J.

The Nauru Constitution gives legislative powers to the Parliament, although it is the executive that in the main proposes laws to the Parliament.[53]

However, once the executive ceases to control the Parliament by virtue of the voluntary support of ordinary members, all of whom receive the same salary, but instead turns to a questionable process of providing significantly higher salaries, perquisites and status to others selected and supportive, the Parliament soon ceases, indeed is unable, to carry out its constitutional functions.

The responsibility of the Cabinet to Parliament and the power of the Parliament to dismiss the President and Cabinet by a vote of no-confidence has been set to one side. Only if a new election removes those previously in control, several members of government cross the floor or if the offer of better and more lucrative positions is made, is a change of government likely.

At present, the relationship of the executive and Parliament is such that the executive can protect its members from scrutiny by utilising the privileges of Parliament.

This situation is open to being challenged in the Supreme Court.

VII MANIPULATING CITIZENSHIP

The Constitution provides in art 30 that:[54]

> A person is qualified to be elected a member of Parliament if, and is not so qualified unless, he:
>
> (a) is a Nauruan citizen and has attained the age of twenty years; and
>
> (b) is not disqualified under this Constitution.

When the executive decided it wished to reduce the number of potential opposition members in Parliament, in particular several with good legal qualifications likely to oppose the government, it discovered that at least one such person had a parent who had not been automatically entitled to citizenship at Independence, and that seemed a good test to use for the purpose. The solution adopted was to add a disqualification provision in art 31 even though it was not something that readily fell within the class of existing disqualification provisions. Those provisions affect a person who:[55]

---

53 Standing Orders, made under art 38, set out the procedure for law making. Although private members are entitled to present proposed legislation, with one exception, none—to my knowledge—has been successful. Roy Degoregore was successful in achieving the passage of his private Bill to amend the Nauru Phosphate Royalties Trust Act 1968 (NRU), bringing forward the payment of interest to the landowning beneficiaries. The Speaker's refusal to sign the Bill into law, combined with the government's opposition, led to the Supreme Court's finding that the Bill was not properly passed as it required the Cabinet's recommendation for the withdrawal of funds. Constitutional Reference No 1 of 1986 (NRU). The decision is not reported.

54 Constitution of Nauru 1968 (NRU), art 30.

55 Article 31(a)–(e).

(a) is an undischarged bankrupt or insolvent who has been declared bankrupt or insolvent according to law;

(b) is a person certified to be insane or otherwise adjudged according to law to be mentally disordered;

(c) has been convicted and is under sentence or is subject to be sentenced for an offence punishable according to law by death or by imprisonment for one year or longer;

(d) does not possess such qualifications relating to residence or domicile in Nauru as are prescribed by law; [or]

(e) holds an office of profit in the service of Nauru or of a statutory corporation, being an office prescribed by law for the purposes of this paragraph.

The chosen solution was to include status provisions and refer to them as disqualifications. Thus, there was added to art 31:[56]

(f) is not a Nauruan citizen by virtue of Article 71;

(g) is not a descendant of a person who became a Nauruan citizen by virtue of Article 71;

(h) is a person who acquired Nauruan citizenship by naturalisation pursuant to any law made by the Parliament under Article 75; or

(i) is a Nauruan citizen, who is a child or descendant of one person who acquired Nauruan citizenship by naturalisation pursuant to any law made by the Parliament under Article 75 and the other person is:

(i) a naturalised Nauruan citizen;

(ii) not a Nauruan citizen by virtue of Article 71; or

(iii) not a descendant of a person who became a Nauruan citizen by virtue of Article 71.

There are several issues with this drafting aside from the lack of disqualifications. Perhaps the most important for many is the retrospective effect of the changes. Suddenly, people who were qualified citizens had their rights withdrawn. Putting that to one side, para (f) is redundant because art 30 already provides that a Nauruan citizen of age is qualified, and art 71 provides the test for citizenship. No other test is required or permitted without change to the Constitution. Similarly, para (g) achieves nothing new as a person does not qualify under art 70 unless they are a citizen under art 71. Paragraph (h) is not a disqualification but a qualification on citizenship that, if desired to be

56 Article 30(f)–(i). Article 71 provides: "A person who on the thirtieth day of January One thousand nine hundred and sixty-eight was included in one of the classes of persons who constituted the Nauruan Community within the meaning of the Nauruan Community Ordinance 1956–1966 of Nauru is a Nauruan citizen."

retained, should be part of art 30. Unfortunately, it is possible that all the changes are ultra vires because they involve qualifications for the kind of citizenship that establishes the class of person entitled to stand for Parliament, rather than disqualifications. If the ejusdem generis rule has application in Nauru law, that settles the problem, and the government needs to reconsider its approach.

The changes to art 31 are, arguably ultra vires the Constitution and thus open to challenge.

VIII A NEW CLASS OF CITIZENSHIP

The Parliament has also passed contentious legislation whereby it sells citizenship, but in so doing, left several questions unasked and unanswered. Thus, without any qualification in the legislation, it appears that any of the "new" citizens will be able to own Nauru land; if over the age of twenty, to vote; depending on a decision of the Supreme Court to the contrary, to stand for election to Parliament; to enjoy the financial and other benefits available to other Nauruans; and to hold the same passports with the same benefits as all other Nauruans. That ordinary Nauruans have expressed their disapproval of the legislation is not surprising.

in December 2024, the Republic of Nauru Government Information Office issued a media release reporting:[57]

> His Excellency President David Adeang launched Nauru's innovative Economic and Climate Resilience Citizenship Program at the 18th Global Citizenship Conference in Singapore, 28 November, and urged attendees to join Nauru in the transformative journey focusing on climate resilience and sustainable development …[he was reported as saying that] … [c]ontributions from the program will directly fund critical projects including coastal protection, renewable energy infrastructure to reduce carbon emissions, sustainable agriculture to enhance food security, water resource management to combat saltwater intrusion and intensified droughts, and biodiversity conservation … Nauru also has the Higher Ground Initiative (HGI) which aims to relocate 90 per cent of families and infrastructure from coastal areas to higher ground, ensuring their safety from rising sea levels and coastal erosion.

By early 2025, it was reported that:[58]

> Nauru Economic and Climate Resilience Citizenship Programme chief executive Edward Clark said the initiative – launched at COP29 in November 2024 – is now operational and has already "received our first

---

57 REPUBLIC OF NAURU Government Information Office "Nauru launches new climate citizenship program at Singapore global conference" (press release, 1 December 2024). The program is said to provide holders of the new passport visa-free access to several countries for periods from 30 to 90 days, several of which will issue a visa on arrival, see Nigel Burgher "Nauru Passport Visa Free Countries: Full 2026 List and Ranking"" (Last updated 28 July 2026) Global Citizens Solutions <www.globalcitizensolutions.com>.

58 Lydia Lewis "Nauru's citizenship by investment scheme eyes AU$60 million in first year" RNZ (13 February 2025) <www.rnz.co.nz> (emphasis added).

> couple of applications ... [and w]hile this programme won't probably be able to fund everything that [the Nauru government] need, this is becoming a turning point for the country…to fund the infrastructure that they need for future economic growth … *This is not really about selling citizenship* for Nauru. It is about raising foreign direct investment for the country to help them with their infrastructure," he said.

However, it is the sale of passports that is the bait the programme offers; citizenship is secondary as it is required to justify the issuance of a passport; without that, there would be problems with recognition by foreign governments.

Apparently, existing climate funding efforts are "not sufficient" to address the challenge:[59]

> Debt financing places an undue burden on future generations and there is not enough aid … [and] Nauru claims its passport will provide visa-free entry into 89 countries, including the United Kingdom, Ireland, United Arab Emirates and Hong Kong.

The likelihood of persons who acquire citizenship using it for residing, owning land, voting in elections or finding attractive business opportunities in Nauru may be remote. That many people want to help Nauruans avoid the threatened inundation from the Pacific Ocean because of global warming and climate change is probably even more remote.

The suggestion that Nauru is hoping to raise around AUD 60,000,000 to assist in relocating its people may be optimistic, but it will likely not be successful without additional funding. Nauru's alleged propensity for corruption and siphoning off of government funds and aid money may, hopefully, put the scheme under scrutiny. The biggest challenge for redevelopment plans will be in finding a way to overcome the fractional ownership of Nauruan land, where shares are extremely small.[60]

Whether or not the proposed scheme is well-designed may mean little if it fails to receive and maintain the support of the people of Nauru.

---

59 AFP "Will it be enough? Facing climate crisis, Nauru sells citizenship in 'golden passports' for survival" Malay Mail (online ed, 26 February 2025); see also OK! Staff "Discover why Nauru Citizenship by Investment is the Ultimate Ticket to Paradise in 2025" OK! News (online ed, 24 February 2025):

> Obtaining citizenship through investment in Nauru brings a host of tangible benefits, including enhanced global mobility and significant fiscal advantages. Consider these key perks:
>
> Enhanced visa-free travel and streamlined entry procedures in numerous countries.
> Attractive tax incentives that simplify personal and business financial planning.
> Access to burgeoning business opportunities in a developing yet stable market.
> A secure, politically stable environment that safeguards your investment.
> The chance to experience an exclusive island lifestyle in one of the world's most serene settings.

60 "Estate of the Late Peter Jess Rene Namaduk" Republic of Nauru Government Gazette (30 September 2021) No 148, GN No 658/2021: a share of 187 out of 3,000,564 in a portion of land was distributed to each of six beneficiaries in the intestate estate.

There is also the possibility of a change of policy in countries that may now be expected to accept the new Nauruan passports. Indeed, Vanuatu has already fallen foul of the system having become the first country to have its visa-free agreement with the European Union revoked on the grounds that it is creating "migration and security vulnerabilities".[61]

Is the programme open to challenge on constitutional grounds, or is it simply a poorly thought-out policy?

The Constitution of Nauru 1968 provides in art 75:

(1) Parliament may make provision for the acquisition of Nauruan citizenship by persons who are not otherwise eligible to become Nauruan citizens under the provisions of this Part.

(2) Parliament may make provision for depriving a person of his Nauruan citizenship being a person who has acquired the nationality of another country otherwise than by marriage.

(3) Parliament may make provision for depriving a person of his Nauruan citizenship being a person who is a Nauruan citizen otherwise than by reason of Article 71 or Article 72.

(4) Parliament may make provision for the renunciation by a person of his Nauruan citizenship.

On its face, there appears to have been no constitutional impediment to Parliament's passage of the Nauru Economic and Climate Resilience Citizenship Act 2024, although an argument is open whether art 75(1) allows different classes of citizens. Other problems the legislation may face include how it aligns with the Lands Act 1976, which stipulates that only a Nauruan may own land, but does not define "Nauruan" or refer to citizenship. The Interpretation Act 2011 defines *Nauruan* as being "a person included in one of the classes of persons who constituted the Nauruan community under the Nauruan Community Act 1956–1997".[62] At this point, the lack of knowledge of the drafter of the Interpretation Act has meant falling into the trap noted by Sir Gaven Donne CJ in *Ika v Nauru Lands Committee*, when he pointed out "that since Independence Day the status of 'Nauruan' under the Nauru Community Ordinance ceased to apply in the future".[63] The class of membership of the Nauruan Community closed upon the coming into effect of the Constitution. Who is a "Nauruan" has been left in a state of suspended animation while it remains undefined (or ill-defined). Absent a readiness of the Supreme Court to fill the gap by suggesting the expression means a Nauruan citizen (along with the problems that would follow) or to say that until Parliament legislates, it has a generic meaning that ties it back to the "racial" meaning attributed in pre-Independence Ordinances.

---

61 "EU Ends Visa-free Travel for Vanuatu Over Golden Passport Concerns" (27 December 2024) ETIAS <www.etias.com>.

62 Interpretation Act 2011 (NRU), s 65.

63 *Ika v Nauru Lands Committee* [1992] NRSC 2, at 22.

Furthermore, whether a new "citizen" will be able to vote in parliamentary elections raises other problems. Under the Electoral Act 2016, a "Nauruan" is a person who is a citizen under arts 71, 72, 73, 74 or under a law made under art 75.[64]

The problem is exacerbated by the Naoero Citizenship Act 2017 which defines "Nauruan" as being a citizen for the purposes of that Act.[65] It also perpetuates problems with the concept of the "Nauruan Community" mentioned above. The drafting of the Nauru Economic and Climate Resilience Citizenship Act 2024 attempted to keep the persons who are citizens under it separate from those who are citizens under the Naoero Citizenship Act 2017. But that attempt appears to fall foul of art 75 of the Constitution of Nauru 1968, which provides the only source of power by which the Parliament may legislate for the acquisition of Nauruan citizenship. If that is the case, then either the new legislation is ultra vires, or the climate citizens are full citizens and entitled to the same rights as citizens under the Naoero Citizenship Act.

IX CONCLUSION

Over the course of several years and multiple parliamentary terms, Presidents have utilised, and sometimes misused, the powers available to them to alter the course of Nauruan politics and law to benefit themselves and their allies.

Taking advantage of a concerted and successful attack on the Nauruan political system, a group of like-minded Nauruan parliamentarians has been willing to accept change at the top, provided they can continue to enjoy the prestige and perquisites of office that flow as the benefits of collaboration.

The annual salary of an ordinary member of parliament in 2025 is AUD 75,000, that of a deputy minister AUD 85,000 and of a minister, AUD 90,169.[66] Therefore, the incentive to join the parliamentary "club" and vie for top positions must seem great when the average annual income in Nauru in 2026 was said to be only AUD 24,000.[67]

It appears that a solid core of members of Parliament have found support from leaders willing to make special provision for their services, thereby enabling governments to successfully gain and retain power.

---

64 Electoral Act 2016 (NRU), s 3.

65 Naoero Citizenship Act 2017 (NRU), s 3.

66 Parliamentary Salary and Allowances (Amendment Act) 2025, s 4. The annual salary of the President is AUD 110,035, and that of the minister assisting the President is AUD 100,000.

67 wage.is, above n 39. The figure quoted is likely higher than it would be if the salaries of parliamentarians and senior public servants were excluded.

It is possible that preventing some citizens from standing for Parliament, discouraging public servants from standing and offering financial incentives to parliamentarians, may well be beyond the constitutional powers of both Parliament and the executive.

At each change of government and of President, the abuse of the system has continued. If anything, it has worsened, suggesting that Nauruan political law has reached a point where the basic principles of the Constitution upon which the Republic was established have failed, and the power structure now revolves around who is the best person to become President and award the prestigious and coveted roles available for distribution.

The likelihood of an opposition political party emerging seems remote, for although ordinary members may occasionally have a spokesperson, until there is a reason for supporters of the government to forgo their status and salaries and switch sides, there appears to be little chance of any credible opposition.[68]

There is no apparent desire of the people to change, therefore the fate of the Nauruan people will remain in the hands of those who manipulate them, obtain the benefits flowing to the state from foreign aid, the sale of passports, and certificates of citizenship.[69]

It may well be time for one or more Nauruans to seek support of the Supreme Court to return the Constitution to its place at the foundation of their Nation. Should they fail to do so, there must surely be a fear for the future of the people and for the Parliament. It is to the judiciary that people must look as independent of both the legislature and the executive, and as protector and supporter of the rule of law, of democracy and of human rights.

---

68 In the past, there have been political parties, but they have not persisted. Bernard Dowiyogo and Kinza Clodumar formed the Nauru Party that briefly unseated DeRoburt in 1976, see "No Fun and Games when Party Politics Creep up on Nauru" (February 1977) *Pacific Islands Monthly* at 8. In 2001, a party called Naoero Amo was formed and published a newsletter called The Visionary. Although some of its members were elected to Parliament, the party and its newsletter eventually faded.

69 Even if there is a change at elections and most members of Government lose office, any new incumbent is likely to retain the system as it is, rather than forgo its benefits.