



New Zealand Integrity Plus
National Integrity System Assessment
Emergent Findings: First Wave
Summary Document:
Introduction and Emergent Findings

8 May 2013

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Introduction

This document presents some of the first draft pillar and sub-pillar reports that have emerged from the core research undertaken as part of the National Integrity System (NIS) assessment currently being conducted by Transparency International New Zealand (TINZ). It is for use as a basis for further consultation and discussion.

The full NIS assessment report will be published mid-year. This assessment is in part an update of progress since the New Zealand NIS assessment of 2003¹, although it goes well beyond the scope and depth of that assessment. It will explain in detail the basis for the findings in individual areas of the NIS, incorporate any feedback received on them and include further material as described below. In particular it will include recommendations for action.

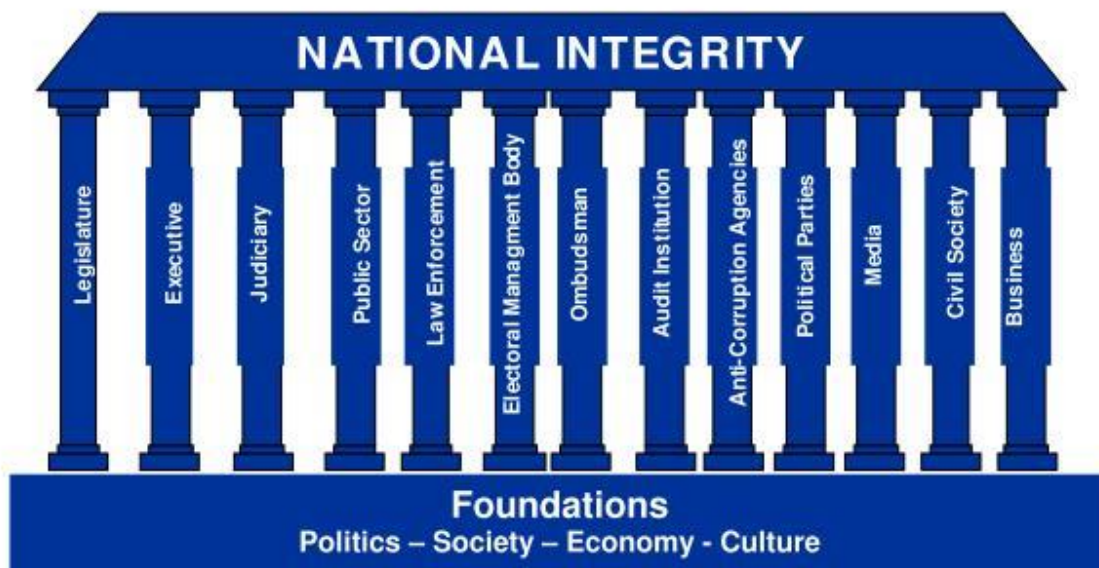
1. THE NATIONAL INTEGRITY SYSTEM ASSESSMENT

The concept of a National Integrity System is one that has been developed by Transparency International (TI) and is used worldwide to assess countries' institutional arrangements for integrity from the perspective of fighting corruption and fostering ethical behaviour. Such research aims amongst other things to give insight into the institutional factors which influence a country's standing in TI's international Corruption Perception Index (CPI).

New Zealand has always had a high place on the CPI and currently (2012) shares first place. Corruption is seldom perceived as a domestic problem nor are New Zealand's institutions commonly seen as vulnerable to corruption, although recent high profile cases may have affected these perceptions. The purpose of this Integrity Plus assessment therefore is to test the perceptions, to use the tools developed by TI to assess our national integrity, but also to go further and include research into selected governance issues which are important to New Zealand's national integrity as broadly defined. This should help to illuminate the reasons for the high standing of New Zealand's institutions and to identify any weaknesses that are not immediately apparent. It is an assessment that goes beyond corruption to focus on integrity, a concept that embraces a great deal more than a lack of corruption.

A National Integrity System (NIS) is usually described by reference to the temple diagram promoted by TI. If each individual pillar of the temple is strong and in balance with the other pillars, and if the whole rests on a firm basis of a national culture that values and supports integrity, then the system is sound. The NIS has 13 Pillars that stand on foundations related to the constitutional and political structure, society, the economy and the culture.

¹ <http://www.transparencynz.org.nz/index.php/indices-reports/new-zealand/nat-integrity-study>



2. THE NIS QUESTIONNAIRE AND THE RESULTING ASSESSMENT REPORT

A template questionnaire standardized by TI provides the basis for the NIS assessment. It outlines a series of similar questions across the pillars. The draft reports contained in this document are the result of the assessment of a selection of the individual pillars, and in some cases into specific aspects of those pillars, that make up the National Integrity System.

The pillar reports are at the core of the NIS assessment. There will be a report of the assessment for each individual pillar except in the case of the Law Enforcement Agencies and Anti-Corruption Agencies pillars, which have been amalgamated to avoid duplication of work. Pillars are assessed and will eventually be scored based on capacity, governance and role. The assessment will also consider the Treaty of Waitangi, though as this is an addition to the set Transparency International NIS template, it will not be scored.

There is a good deal more to the assessment than the pillar research. The final report will include an executive summary and some sections on technical matters such as a description of the methodology and also the following (not necessarily in the order in which they will appear in the report):

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- Cross-cutting issues and themes

In the course of conducting the research on the individual pillars, certain themes and issues have emerged that are common to several pillars. Once they have been more fully defined, the most significant will be further investigated and the report on them will form a separate chapter of the report.

- Foundations

The temple diagram shows the pillars of the NIS resting on foundations made up of the political, societal, economic, and cultural context within which they operate. The foundations chapter of the report will include a short analysis of each of these four aspects of our society and will add two more that are particularly important to New Zealand . the environment and the Treaty of Waitangi.

- Corruption profile

A further short chapter sets out what is known about corruption in New Zealand, drawing on existing research. It is not based on speculation but focuses on reliable empirical results. The main purpose of this section is to provide a basis for international comparisons.

- Anti-Corruption activities

This chapter complements the previous one and provides an overview of anticorruption reforms or activities with a direct impact on the NIS.

- Conclusions

The final chapter of the final NIS report will start with an assessment of the overall working of the NIS including the interconnections, linkages and interplay among the NIS components. It will also include:

- a summary of cross-cutting themes including those not addressed in the chapter on such themes
- a summary of the strengths and weaknesses of the NIS pillars, including which pillars were found to be stronger; why others were found to be weaker; and which pillars (and/or specific agencies, generic features, organisations or individual actors) are the most likely triggers for change
- if a participatory mapping exercise is conducted, its key findings and identification of any weaknesses in pillars that are related to/caused by features/actions of other pillars
- impact of the overall country context as identified in the foundations chapter on the performance of the NIS as a whole and/or on specific pillars
- analysis of the reasons for any potential discrepancies between the formal rules/positions governing the NIS and the practice on the ground
- recommendations with steps towards improving integrity systems.

Emergent Findings

The tables below are intended as a summary of the key findings from each of the first wave of preliminary draft reports published in time for there to be public consultation before finalizing the assessment. They are still subject to revision and change. Some of them may form the basis for recommendations in the final report, but no decisions have yet been made on the content of any recommendations. Readers will note that key findings still to be published in other pillar reports, may relate to these as well.

Pillar 3 Judiciary

Finding 1	The Judiciary meets high standards of independence, integrity and accountability. Although it is an arm of government, it operates independently of government and is an important check on executive decision-making. A need for more transparency in judicial appointments is being addressed.
	The Judiciary's jurisdiction is set out in a legislative framework including the Judicature Act and the District Court Act. Accountability of the Judiciary is achieved through a system of appeals and the Judicial Conduct Commissioner process. A recent Law Commission Report reviewed the Judicature Act 1908 and identified areas in need of reform including a more transparent process of appointment of High Court Judges and more resources for the Judiciary to be able to report their activities independently of the Ministry of Justice. The former, but not the latter, is being addressed by the government.
Finding 2	Recently there have been a number of reviews and several changes to the administration of justice that affect the court system and the Judiciary. It is too soon to assess their effect.
	The primary purpose of the various reviews and changes has been to achieve more efficiency in the use of resources and reduce the cost of delivery of justice. The implication of all these measures has yet to be assessed because they have only recently been implemented or have yet to be fully implemented. A concern has been expressed that the policy changes towards more managerialism may have an impact on the rule of law generally. At the current time however while there is some concern about the consequences of the changes, there is little evidence of a major gap between the law and practice.
Finding 3	The independence of the Judiciary is not explicitly provided for in New Zealand's constitution because of the general lack of formality in New Zealand's constitutional arrangements. The jurisdiction, independence and accountability of the Judiciary are achieved through a combination of legislation, convention and practice.
	Constitutionally the Judiciary is subject to the sovereignty of Parliament. Its role involves the exercise of control over the executive through the legal remedy of judicial review, that is, the review of executive decisions to ensure they were made in accordance with the legislative authority given to the public agent/agency. The evidence is that the Judiciary exercises this jurisdiction independently according to the law. Parliament has recently changed its Standing Orders to reinforce the convention that the Judiciary and their decisions are respected and not subject to offensive references by Members of Parliament. The principle of comity between the Judiciary and the Parliament is generally observed by all parties.

Sub-pillar 4a Fiscal Transparency

Finding 1	There is a high level of fiscal transparency in NZ, at the level of international best practice, and there has been a further welcome improvement in recent years.
	New Zealand has been a pioneer in fiscal transparency and continues to exhibit international best practice, scoring 93 out of 100 on the Open Budget Index (OBI) 2012 and being ranked in first place out of 100 countries.
Finding 2	Non-financial disclosure needs improvement
	There is a need for additional disclosure of information and data on social and environmental indicators and impacts, and emerging concern over the possible shifting of fiscal activity off budget.
Finding 3	Legislative oversight of fiscal management is only moderate.
	Legislative oversight of fiscal management is less strong, and there is a relatively low level of direct public engagement in the budget process.

Sub-pillar 4b Procurement

Finding 1	Public procurement process reflects international good practice
	Practice guidance and systems are sound. Concerns raised in audit and select committee reports tend to focus on relatively marginal issues and generally involve efficiency or by-passing procedures rather than corruption.
Finding 2	Procurement effectiveness and efficiency are at risk.
	Disclosure and access to systematic information are limited, making overall effectiveness and specific issues unclear. Concerns about the capability of staff and limited availability of expertise may affect quality of decisions, while reliance on targeted discovery through OIA/ Select Committee mechanisms and dependence on entity-level ex-post audits restrict the discovery of issues.
Finding 3	Conflicts of interest
	There is potential for conflict of interest in a small market, which is highest in small entities and those with infrequent procurement, and on an individual scale is open to fraud. It also provides a context for corruption in cases where the procurement process lacks robust governance.
Finding 4	New Zealand's exposure to corrupt practices around procurement is increasing with the changing geography of trade and purchasing patterns.
	Over 46% of New Zealand imports are sourced from Asia where levels of corruption are very high and as the government sector increasingly adopts procurement systems focused on lowest cost, it has greater exposure to products (and services) sourced from those markets.

Sub-pillar 4c Environmental Governance

Finding 1	Environmental governance includes some strong integrity systems
	The Office of the Parliamentary Commissioner for the Environment and the Office of the Auditor General and the Resource Management Act (RMA) legislation are components of the integrity systems defended by an informed constituency when brought into question.
Finding 2	Transparency of environmental governance
	Concerns relate to practices under the Official Information Act, the lack of systematic and integrated state of the environmental reporting and changes to the RMA. Low consultation in proportion to the importance of such changes has further restricted transparency.
Finding 3	Role of central government versus local government
	Central government structures in Canterbury, even prior to the earthquake, reflected central government environmental priorities over local perspectives on environmental governance.

Pillar 6 Electoral Management Body

Finding 1	New Zealand's electoral management body, the Electoral Commission, plays a strong role in the country's national integrity system.
	It has a reputation as an impartial and trustworthy institution, with particular credibility in independently administering general elections.
Finding 2	General elections in New Zealand have full integrity
	This reflects well on the country's electoral management body. There is no evidence to suggest any doubt in the accuracy of the vote count in elections.
Finding 3	The current Electoral Commission has recently been significantly reconfigured as the result of a merger of three separate electoral agencies, and this appears to have made electoral management stronger in this country.
	The new Commission is a well-resourced and robust independent body. It is a highly-respected agency which functions well within its competences.
Finding 4	There are some problematic electoral issues – particularly around voter turnout at elections especially among the young; allocation of broadcasting time among political parties; and political finance, but these cannot be related to the performance of the Electoral Commission. A question remains about the rationale for the allocation of broadcasting time.
	In some areas . particularly that of political finance regulation . it has limited scope and tools at its disposal but nonetheless carries out its functions adequately. There are also still some problematic issues with elections . especially with declining faith in the efficacy of general elections, and with distrust of the propriety of politicians in the area of political finance. But none of these reflect poorly on the role of the Electoral Commission.

Pillar 7 Ombudsman

Finding 1	<p>The Ombudsman meets high standards of independence, integrity and accountability. It is an important check on the exercise of administrative power and on the proper use of the official information legislation</p> <p>There are substantial legal provisions protecting the independence of the Ombudsman and clear evidence of independence in practice. There are fewer formal safeguards for its integrity, but there has never been any suggestion of any lack of integrity. The Ombudsman is accountable to Parliament through the Officers of Parliament select committee. Regular and comprehensive reports are produced which are publicly available, along with an extensive range of guidance notes, newsletters, reports and other publications. There is independent evidence of high regard for the Ombudsman among those who use their services.</p>
Finding 2	<p>While an increase in the Ombudsman’s funding has recently been announced, the Office may still be under-resourced to keep up with the increase in complaints, the new functions they have been required to undertake, and a backlog of complaints.</p> <p>In the period 2008/09 to 2011/12, numbers of complaints on hand at any one time increased from around 1,000 to around 1,700, a 59% increase. In contrast, the Ombudsman’s annual appropriation from Parliament only increased 6.3%, from \$8.33 million to \$8.86 million over the same period. There are substantial delays in the Ombudsman’s process because of a backlog of complaints, and senior lawyers say they are no longer recommending clients to use the services of the Ombudsman if there is an alternative. The Ombudsman sometimes have insufficient funds to perform all aspects of new functions allocated to them. The recently announced increase in funding will assist but is probably not enough.</p>
Finding 3	<p>The Ombudsmen are effective in their handling and resolution of citizens’ complaints and thus in acting as a check on the exercise of administrative power. They do some educational work but they are not funded to carry out extensive educational functions or systematic audits of the quality of agencies’ systems for handling: complaints about administration (Ombudsmen Act), requests for official information (Official Information Act and Local Government Official Information and Meetings Act) and whistleblowers (Protected Disclosures Act).</p> <p>In the 2011-2 year, the Ombudsmen received 10,636 complaints and other contacts requiring action and completed 10,250. They have adequate powers to obtain remedies for complainants and their recommendations are almost invariably accepted. Complainants are generally satisfied with the Ombudsmen’s service apart from the time taken to complete investigations. They provide a training programme for state sector agencies and also provide advice and comment on legislative, policy and procedural matters. They do not carry out more extensive educational or awareness programmes and are not funded to do so. There is evidence of failings on the part of some government departments and agencies in their process for handling complaints, requests for official information, and whistleblowers. However the Ombudsmen have neither the funding nor the authority (except through the power to conduct an own motion+investigation) to review or audit such processes or to publish general advice on good administrative practice.</p>
Finding 4	<p>The 2003 New Zealand NIS assessment found a need for enhancement of the understanding of the Official Information Act across the state sector. It also found that coverage should be extended to the Parliamentary Service. The need for enhanced understanding still exists, and the government has recently rejected a Law Commission recommendation that the Official Information Act be extended</p>

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	to the Parliamentary Service.
	There is evidence of poor understanding of the OIA and of poor processes for handling requests. The Parliamentary Service is an example of an area of government sector administration that is not open to public scrutiny by way of the OIA.

Pillar 8 Supreme Audit Institution

Finding 1	New Zealand's Supreme Audit Institution, the Office of the Auditor-General (OAG) is fully independent in the performance of all audit work and has the resources it requires at its current level of activity
	For its core financial audit work, the OAG can set its own fees and it receives an adequate budget for other audits and inquiries. It is able to recruit, train and retain sufficient professional staff for its core auditing commitments or contract private sector firms. It has all the legal powers it needs to get evidence for its audits and inquiries. The current level of funding can finance only a limited number of performance audits.
Finding 2	It is a trusted institution of governance and an effective watchdog of public integrity.
	Its reports and advice are nearly always delivered on time and made public. Its major reports generally receive significant media attention and public officials take its findings seriously. It is able to set and enforce high standards of audit and integrity of auditors. Although not legally subject to performance audit, it does from time to time commission independent reviews of its own performance
Finding 3	The direct responsiveness of Parliament to its findings is variable.
	The attention received by OAG reports in Parliament depends very much on their political salience. A few reports have a major political impact but many findings receive only cursory attention in Select Committees and the House. Select Committees will only sometimes follow up on implementation of OAG findings, leaving the OAG to do so itself in many cases.
Finding 4	It plays a significant role in maintaining New Zealand's high standards of public financial management.
	It has supported the development of specific accounting and auditing standards for the public sector, particularly in the monitoring and reporting of service performance. Its criticisms of performance reporting are contributing to improvements in the quality of this reporting.
Finding 5	Its performance audits tend to focus on issues of process and service delivery and pay limited attention to effectiveness measured by outcomes.
	It believes it is prevented from a broader evaluation focus by a requirement to accept existing government policy as a given. It has recently considered more policy evaluation but so far it has made little progress in developing an appropriate methodology.

Pillar 11 The Media

Finding 1	A free and independent media
	The media is independent and free in New Zealand. The media is very active and successful in informing the public on the activities of the government. There is seen to be a fair degree of objectivity in reporting on politics. Such reporting is relatively comprehensive (but not always very in-depth). There are adequate legal safeguards to prevent unwarranted interference in the activities of the media. Journalists are generally very free to operate. Intimidation and harassment of journalists is very rare. In general, media outlets have to answer for their activities to stakeholders. There are sector-wide accountability mechanisms, which work effectively (Broadcasting Standards Authority, Press Council). Media organisations normally operate in a relatively transparent way.
Finding 2	Media strong on anti-corruption
	New Zealand media outlets are active and successful in investigating and exposing cases of corruption. Journalists take a very strong interest in highlighting and exposing corruption or lapses in integrity amongst those with power. However, often such reporting can be superficial and focused on the more salacious and scandalous elements of these stories. It should be noted that investigative journalism is not a key part of the media's work in this country. And while the media is somewhat active in investigating corruption cases, their work is generally focused only on a small number of cases.
Finding 3	Diversity
	The New Zealand media is not diverse in terms of ownership or content. Where there is a plurality of media sources (in terms of type, ideology, ownership), they do not cover the entire political and social spectrum. So only to a small extent is there a diverse independent media providing a variety of perspectives, and there are doubts that the mainstream media adequately represents the entire political spectrum. There are few legal impediments to the establishment and existence of an independent and diverse media . there are very few general legal restrictions on setting up media. But media diversity is not promoted through the state except with respect to Maori broadcasting. There is not adequate competition regulation and legislation. New Zealand is said to have the most deregulated media market in the western world.
Finding 4	Limited public and community broadcasting
	Public and community broadcasting are not fostered in New Zealand. The commercial environment is not conducive to the development of public and community oriented media, and the state itself plays only a limited role in fostering public broadcasting.

FOR FURTHER DETAILS REFER TO THE FULL REPORT ON OUR WEBSITE:

www.transparency.org.nz

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