

Important decisions to make before the Referendum

The Referendum rules say the Autonomous Bougainville Government and National Government must agree on *who* will conduct the Referendum, *when* it will be, the *question or questions* and *who* can vote. The two governments have agreed on a workplan to help make these decisions, which includes consultation with the people of Bougainville.

1. Who will conduct the Referendum?

The two governments have agreed to create an independent agency to conduct the referendum. This agency should be created by the end of 2016, as the membership, structure and finance has not been finalised.

2. When?

The two governments have agreed on 15 June 2019 as a TARGET date for the Referendum. Because it is a target date, it may change. But having a target gives both governments something to aim for in planning and preparations. Weapons disposal and good governance will be used to help set the final date.

3. The question?

There may be one option, or more than one option for people to choose from. One option *must* be independence. (See next page for more)

4. Who can vote?

There are two groups of people who can vote in the Referendum:

- People who can vote for National Elections in Bougainville.
- Non-resident Bougainvilleans

The two governments must consult and agree on the process for Bougainvilleans outside Bougainville to take part in the Referendum.

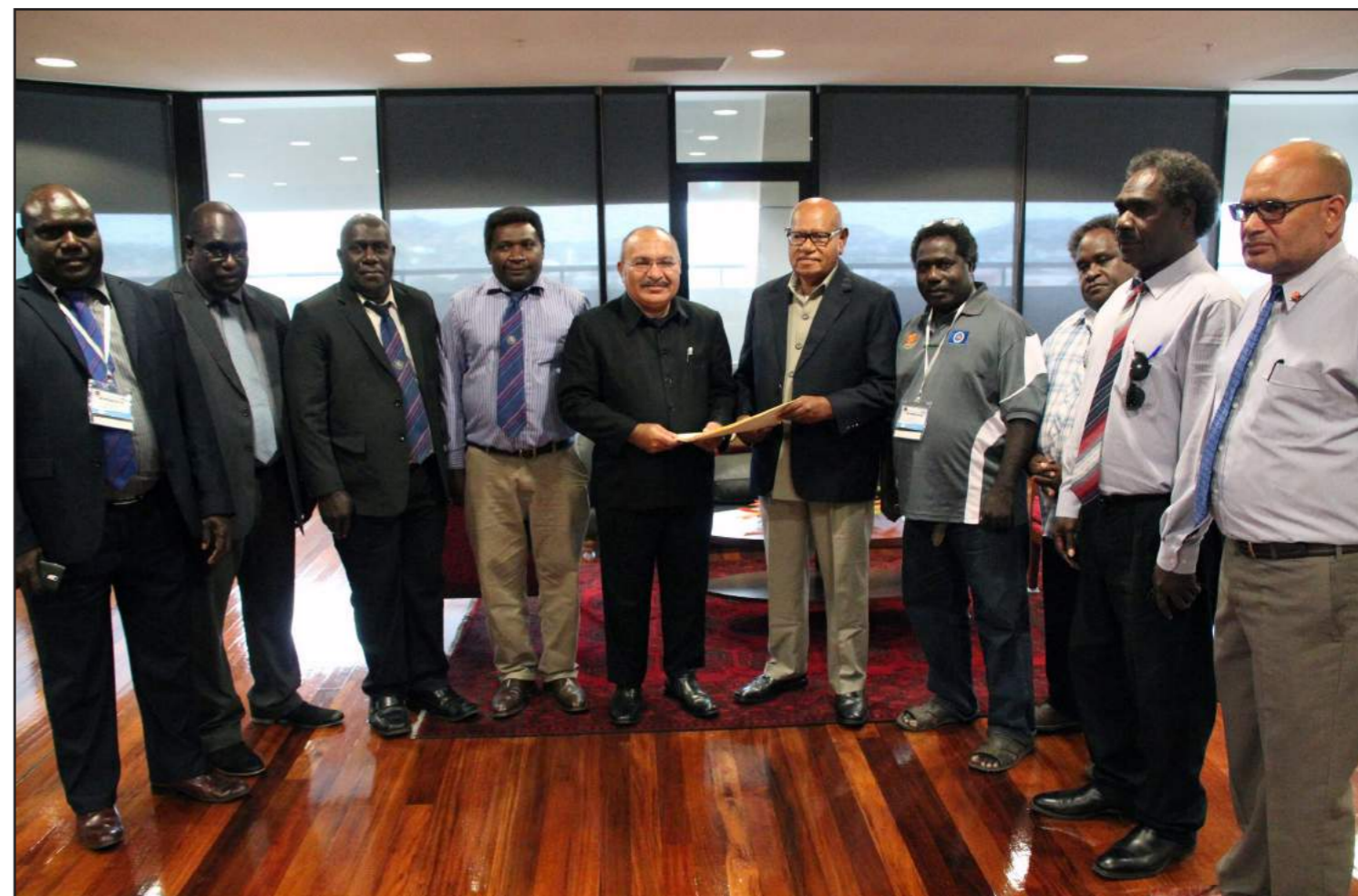
Who is the Bougainville Referendum Communications Committee?

The Bougainville Referendum Communications Committee (BRCC) is the ABG's whole-of-government approach to developing and disseminating official information on the BPA and Referendum, and undertaking community engagement. It is chaired by the Secretary, Department of Referendum, Peace and Veterans Affairs. The members are: Parliamentary Women's Representative for South Bougainville, Bougainville Electoral Commissioner, the Chairs of the Parliamentary Select Committees for Media and Communications, and Referendum, Peace and Veterans Affairs, and the Bureau of Media and Communication. The BRCC has a Community Advisory Group to assist its work.



Joint Key Messages

No.2 Fact Sheet - June 2016



PNG Prime Minister Peter O'Neill and Bougainville President John Momis with the endorsed Joint Supervisory Body resolution, 20 May 2016

BOUGAINVILLE PEACE AGREEMENT & REFERENDUM

INTRODUCTION

This fact sheet was created by the *Bougainville Referendum Communications Committee*, based on the *Joint Key Messages* document approved by the Joint Supervisory Body, May 2016.

It aims to provide a foundation for the initial stage of joint public awareness activities about the Referendum. Once preparations for the Referendum get under way, the content of awareness messages will need to change, to provide the necessary information about each stage of preparations.

The fact sheet is designed to answer frequently

asked questions with brief, clear, neutral information summarising the Bougainville Peace Agreement (Part A) and the laws as they relate to the referendum process (Part B). These messages will provide the basis for developing a range of communication materials intended to improve people's understanding of the referendum process. These may include fact sheets, videos, training materials, media kits, advertising etc. More information about the laws related to the BPA and Referendum can be found at:

www.abg.gov.pg

or by contacting the *Bougainville Referendum Communications Committee*.

PART A – BOUGAINVILLE PEACE AGREEMENT

What is the Bougainville Peace Agreement?

The Bougainville Peace Agreement (BPA) is a joint agreement by the government of Papua New Guinea (PNG) and the leaders representing the people of Bougainville. It was signed in Arawa, Bougainville, 30th August 2001. It was created to end conflict between PNG and Bougainville, and between different groups in Bougainville. The idea behind the BPA was that the governments of Bougainville and PNG must work together to secure lasting peace for Bougainville through peaceful means. It is a 'roadmap' for Bougainville covering peacebuilding, security, governance and development.

The BPA was built on compromise. For example, the National Government did not want the result of a Bougainville referendum to be binding (where the outcome of the referendum is final), and Bougainville groups had many different views. Some of these views included:

- 1. Early Independence:** Earliest possible independence, following a referendum on the question within 3-5 years with a mandatory (binding) outcome
- 2. Autonomy and Deferred Referendum:** Immediate autonomy for Bougainville, and a referendum deferred long enough to conduct reconciliation/weapons disposal to avoid a return to conflict
- 3. Remain Part of PNG,** but with a high level of autonomy.



Who signed the BPA?

1. National Government was represented in the Agreement by: Hon. Sir Mekere Morauta, KT MP (Prime Minister) and Hon. Moi Avei, Minister for Bougainville Affairs.

2. Bougainville was represented by: Hon John Momis MP (Governor, Bougainville), Joseph Kabui (President, Bougainville), Hon M Ogio (MP for North Bougainville), Hon. M. Laimo (MP for South Bougainville), Hon. S. Akoitai, (MP for Central Bougainville), R. J. Banam (Chairman, Leitana Council of Elders), MR. G. Sinato (Deputy Governor, Bougainville Interim Provincial Government), MR. T Anis (Vice-President, Bougainville People's Congress), MR. J. Tanis (Vice-President, Bougainville People's Congress), Ishmael Toroama (Chief of Defence, Bougainville Revolutionary Army), Hilary Masiria (Chairman, Bougainville Resistance Forces), Mrs. Ruby Mirinka (Representative of Bougainville Women).

3. International Community witnesses were from: the governments of New Zealand, Australia, Fiji, Vanuatu, and Solomon Islands, and the United Nations Observer Mission on Bougainville, and the Bougainville Peace Monitoring Group.

What are the three pillars of the BPA?



The three pillars of *autonomy*, *weapons disposal* and *referendum* are the building blocks of the BPA.

1. Autonomy

A change from provincial government status to one of greater decision-making, law-making and governance at the Bougainville level. Unlike a province in other parts of PNG, Bougainville has its own constitution, can establish its own institutions of government, hold elections for its government, make its own laws, establish its own Courts, Public Service and Police Service. Autonomy is supported by a funding arrangement from the National Government. A period of autonomy was meant to help resolve divisions and disagreement before a referendum was held, or contribute to a referendum outcome in favour of continued unity.

2. Weapons disposal



The BPA includes a plan for the disposal of weapons held by combatant groups in Bougainville. The weapons disposal plan is part of a wider process for demilitarization of Bougainville that required the withdrawal from Bougainville of all PNG security forces, and strong limitations on their future deployment to Bougainville. The aim was also to

achieve reintegration and reconciliation of former combatants.

The weapons disposal plan involved three stages:

- 1. storage of weapons in single locked containers**
- 2. concentration of stored weapons in fewer and double locked containers, with one key held by the United Nations Observer Mission on Bougainville (UNOMB)**
- 3. destruction of the stored weapons.**

In July 2003, UNOMB certified that *stage two* of the plan was complete. In doing that the UNOMB acknowledged that not all weapons had been contained. In particular, Me'ekamui Defence Force weapons had not been included – because they weren't signatories to the BPA.

In May 2005, the UNOMB declared that implementation of the weapons disposal plan in the BPA had been completed.

In 2013 the UN reported on weapons disposal to the Bougainville Referendum Committee (2013 UN Weapons Report) which was also endorsed by the JSB. The Report also noted a general:

... lack of awareness [in Bougainville] of the link between weapons disposal and the conduct of a referendum on the future political status of Bougainville. A broader understanding of this linkage could lead to broader popular support for completing the weapons disposal process in order to clear a path to a referendum.

The BPA says that the question of whether the weapons disposal plan under the BPA has been completed must be considered by the two governments when consulting about agreement on the date of the referendum. Quite apart from that aspect of weapons, either government will be free to raise questions about the presence of weapons that have not been disposed of according to the plan (for example, weapons held by the Me'ekamui Defence Force). But the BPA is clear that whatever the issue raised about weapons or anything else, the date for holding the Referendum cannot be delayed beyond June 2020.

At the same time, all Bougainvilleans need to be aware that the presence of weapons will be

important when considering whether or not the conditions exist for a “free and fair” referendum, as is required by the BPA. If international observers agree that the referendum is free and fair, then the result should be credible. Weapons disposal should also be important for ensuring there is a peaceful transition post-referendum.

At the ‘Consultations on Referendum’ at Tsiroge, November 2015, ex-combatant leaders: ‘committed themselves to complete weapons disposal as an internal Bougainville activity to strengthen good governance thus instilling confidence of the people in the institutions of government to protect their safety and welfare.’

The Me’ekamui Government of Unity has committed itself to participating in a weapons disposal process.

3. Referendum (see Part B – Referendum, for more detail)

The BPA guarantees a referendum, to be held *in any case* no earlier than mid-June 2015 and no later than mid-June 2020. The question or questions asked in the referendum must include a choice of Independence for Bougainville. The BPA contains some key rules about conduct of the Referendum, such as making determinations about good governance and weapons disposal in Bougainville before the two governments consult as part of the process on agreeing the actual date for the referendum (within the five year period June 2015 to June 2020).

What is good governance?

The BPA says *good governance* will be considered in setting the date of the referendum. But like *weapons disposal*, a lack of good governance cannot stop the referendum going ahead. The BPA does not define good governance, but the PNG Constitution refers to:

“... the internationally accepted standards of good governance, as they are applicable and implemented in the circumstances of Bougainville and Papua New Guinea as a whole, include democracy, the opportunity for participation by Bougainvilleans, transparency, accountability, and respect for human rights and the rule of law, including this Constitution.”

What about fiscal self-reliance for Bougainville?

Fiscal self-reliance is about Bougainville having enough money to look after itself. The government needs money to provide services like roads, health and education for its people. This money comes from collecting taxes and duties from people and business.

MISUNDERSTANDING

Some people say Bougainville must be ‘fiscally self-reliant’ for the referendum to be held (or for independence to be considered).

No. There is no requirement in the BPA or the Constitutional Laws for ‘fiscal self-reliance’ to be achieved before the referendum is held. However, fiscal self-reliance could be expected to be an important practical issue in considering whether Bougainville is ready for independence.

What happens to the BPA after June 2020 (the final possible date for the referendum)?

The BPA does not have an end or final date. Under the BPA and the Constitutional Law, the autonomy and other arrangements that they provide continue where no decision is made.

MISUNDERSTANDING

After the referendum result is known, if the two governments do not reach agreement about implementation of the result, by June 2020, the BPA and the PNG Constitutional Laws implementing the BPA will end.

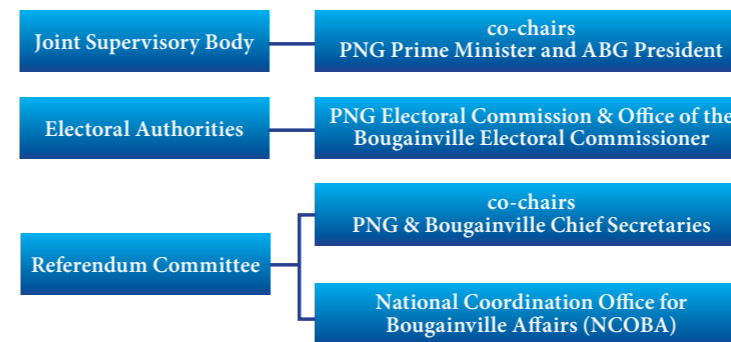
This would mean:

1. **Bougainville’s autonomy status finishes**
2. **The immunity from prosecution for former combatants and other aspects of the BPA finishes**

There is nothing in the documents that says this. In fact, the existing constitutional arrangements for autonomy would continue, unless the two governments jointly agree to change them.



How do the two Governments work together to implement the BPA?



The Joint Supervisory Body (JSB) is a joint PNG-Bougainville institution to oversee implementation of the BPA. It is also a forum for the two governments to come together and resolve any disagreements. The JSB is co-chaired by the Prime Minister of PNG, and the President of Bougainville.

Does the BPA provide solutions to all the issues in Bougainville?

No, it does not. The people of Bougainville must continue to discuss the issues with their elected officials who will raise the issues with the ABG. The ABG will then consult with the PNG Government to address the issues.

PART B – BOUGAINVILLE REFERENDUM

What is a referendum?

A referendum is a vote by the people to decide on a single political issue. It is a way to make decisions about very important issues. In Bougainville, the BPA calls for a referendum on, “Bougainville’s future political status”, to be held *in any case, no later* than June 2020, which is 15 years after the first sitting of the House of Bougainville Representatives.

A referendum is like an election, but instead of voting for a person/candidate/party, people choose an ‘option’. That option or options will be on a ballot paper. People will choose the option they want by marking that option on the paper.

Holding a free and fair referendum is not easy. Referendums can cause conflict, especially where there are already ethnic, religious, or other kinds of differences between people. One danger is that the result can leave the ‘losing side’ feeling like the outcome

causes them serious disadvantage. In the past 25 years, violent conflict has occurred after independence referendums – for example in East Timor and South Sudan.

Having clear arrangements for the Referendum, with people understanding these arrangements will help avoid conflict. Clear arrangements help planning for and managing the Referendum. They make sure everything possible is done to ensure arrangements work as intended, problems are anticipated and contingencies are provided for.

In preparing for the Bougainville Referendum, it will be important to consider both the advantages and disadvantages that can flow from the referendum, learn from experience of other countries, and do everything possible to minimise the chance of serious problems occurring during the referendum and afterwards.

What are the main features of the Bougainville referendum?

Like an election, the Bougainville referendum will have:

a. A ballot paper with options to vote for

These options *must* be jointly agreed to by both Governments after consultation. One option *must* be *independence* for Bougainville.

b. A roll of persons eligible to vote

There are two groups of people allowed to vote in the referendum.

1. People who can vote for National Elections in Bougainville.
2. “Non-resident Bougainvilleans”. The two governments must consult and agree on the links to Bougainville that non-resident Bougainvilleans must have to be enrolled to vote, and they must agree on those issues before setting the date for the referendum.

c. An agency responsible for conducting the referendum

The two governments have agreed in principle on establishing an *independent administrative agency* to conduct the referendum. This Agency is expected to be established by the end of 2016.

What legal documents govern the referendum?

The rules for the Bougainville Referendum are in four legal documents:

1. **Bougainville Peace Agreement**
2. **Papua New Guinea Constitution**
3. **Bougainville Constitution**
4. **Organic Law on Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum**

The key points are in the PNG Constitution (sections 338-343), but together, these documents map out the process for before, during and after the Referendum. This process, like the Bougainville Peace Agreement, relies on negotiation and the two governments reaching a joint understanding.

The rules say that the Bougainville and National Governments must agree on who will conduct the referendum, the date, the question and who can vote. The two governments are currently discussing these issues and there will be also consultation and engagement with the people of Bougainville.

When will the referendum be?

The referendum *must* be held no later than the 15th anniversary of the establishing of the Autonomous Bougainville Government – which is 15 June 2020. Both the Bougainville and National Governments must consult to agree on the actual date for the referendum, no earlier than the 10th and no later than the 15th anniversary.

A number of steps must be taken before the date can be finally decided. In the meantime, the technical teams of the two governments have agreed on 15 June 2019 as a target date for the conduct of the Referendum. *Importantly, this date may change*, however the aim of the target date is to help start planning for the Referendum and it shows the commitment of both governments to begin preparations. The two governments have also agreed on a work-plan containing the main activities that need to be carried out to confirm the date and to prepare for the conduct of the referendum.

MISUNDERSTANDING

The BPA requires the referendum be held in 2015.

This is not true. It must be held in the five-year window beginning June 2015, ending June 2020. The only way to stop the referendum being held is by a decision of the Autonomous Bougainville Government. The PNG Constitution says: *The Referendum shall not be held where the Bougainville Government decides, in accordance with the Bougainville Constitution, after consultation with the National Government, that the Referendum shall not be held.*

MISUNDERSTANDING

Can the referendum be stopped if good governance is poor or weapons are still in the community?

No. The referendum *must* be held by (no later) than June 2020. The level of good governance and weapons disposal in Bougainville will be used to help decide the referendum date. However, the level of good governance and presence of weapons may affect how credible, free or fair the referendum result is seen the eyes of the people and government of Bougainville, the national government, and the international community.

What will the referendum 'Question or Questions' Say?

The PNG Constitution says the question or questions the referendum will ask people *must* be jointly agreed by both the Bougainville and National Governments after consultation. The question or questions *must* include a choice of 'separate independence for Bougainville'. So there could be just one question, asking whether voters support independence, "yes" or "No". Or if the governments agree, the question or questions could include a choice from two or more options. The question or questions must be presented in a way that avoids a dispute or an unclear result.

If it were to be decided to include options, here are some that *might* be considered:

1. **Continue the current autonomy arrangements**
2. **a level of autonomy greater than under the current arrangements;**
3. **free association with PNG;**
4. **independence to be gradually attained over a period of years;**
5. **immediate independence, if there is sufficient capacity in Bougainville and if agreed by the National Government;**
6. **deferring a decision on independence until after another referendum is held.**
7. **Other options.**

But including multiple options could make it difficult to get a clear result, and could cause confusion for voters. These are amongst the issues that the two governments will need to consider when making decisions about the question or questions to be asked.

The agreed work-plan includes research and consultation to assist in determining the question or questions to be asked.

What will happen to those people who do not take part in the referendum?

There is no law or punishment for people who do not take part in Referendum. However, the result of the Referendum will affect voters and non-voters alike.

Is the outcome binding on the governments?

The BPA and the Constitution do not say what happens after the referendum result is known. It leaves it up to the two governments to consult together, and decide what happens next. The international community will continue to be involved, including providing international observers. After the governments consult, if they agree, the results can be referred to the National Parliament.

The two governments will have a moral responsibility to agree on peaceful resolution to the issues related to the BPA. The governments have also engaged

through a jointly agreed work-plan that has identified activities to ensure that the referendum is peaceful and the outcome is accepted, and that there is a peaceful end to the process.

There is no mention of the required number of votes for the question(s) to pass, or of the number of people who voted required in relation to the ratification or an outcome.

What will happen after Referendum vote?

Only if the two governments agree, the result of the referendum will be tabled in the National Parliament. The BPA and the PNG Constitution do not require the PNG Parliament to make a decision on the results, or otherwise decide what to do within a specified time. If there is a decision made that the ABG disagrees with, it can be dealt with through the dispute resolution process in the BPA.

MISUNDERSTANDING

A vote for independence requires PNG to implement the outcome, and Bougainville then having an immediate right to independence.

This is not true. The two governments must consult about the results of the referendum.

Transition

The documents do not say anything about transition from current political arrangements to any new arrangements following the referendum or any decision on the referendum. All such matters are left to consultative and political processes. The two governments have agreed on a work-plan which includes consultation to address these issues.

