



REFERENDUM

No.1 Fact Sheet - June 2016

Holding a free and fair referendum is not easy. Referendums can cause conflict. One danger is the ‘losing side’ feeling like the result causes them serious disadvantage. Violence has occurred after independence referendums in East Timor and South Sudan. Having clear rules for the Referendum, with people understanding these rules can help avoid conflict. They make sure everything possible is

done to ensure the Referendum works as intended. In preparing for the Bougainville Referendum, it will be important to talk about the advantages and disadvantages that can flow from the Referendum, learn from the history of other countries, and do everything possible to prevent problems occurring before and after the Referendum.



Prime Minister O'Neill and President Momis agree on the Joint Referendum Work Plan, 20 May 2016

About this fact sheet

This fact sheet is from the Bougainville Referendum Communications Committee. It is a summary of the laws, rules and current status of Referendum preparations. For more information on the legal documents visit: www.abg.gov.pg or contact the Committee.



What is a referendum?

A referendum is a special vote by the people to make a decision about an important political issue. In Bougainville, the Referendum will be on “Bougainville’s future political status”.

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



“The Bougainville Peace Agreement is the real basis for us all here today. It provides us with an exclusive right to self-determination. We can choose and shape our future, a right unique in PNG, and rare internationally. We should celebrate this right.”

President Chief Dr John Momis

4 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.

What are the rules for Referendum?

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

1. Bougainville Peace Agreement (BPA)
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 four documents are the road map for before, during and after the Referendum. Like the Bougainville Peace Agreement, the Referendum relies on negotiation between the two governments to reach a joint understanding.

What will the Referendum question be?

The PNG Constitution says the Referendum question or questions must be jointly agreed to by the two Governments after consultation. One option must be a choice of 'separate independence for Bougainville'.

There could be one question, asking whether voters support independence, "yes" or "no". Or if the governments agree, the question could be two or more options. Some options that **might** be considered are:

1. Continue the same level of autonomy as now
2. More autonomy than now
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.

Having many options can make the Referendum confusing for voters and make it difficult to get a clear result. The rules says the options must avoid dispute or an unclear result. The two governments will research and consult to help decide and agree on the final question or questions.

What is good governance?

The BPA says *good governance* will be considered in setting the date of the Referendum. The BPA does not define good governance, but the PNG Constitution refers to good governance as:

"...democracy, the opportunity for participation by Bougainvilleans, transparency, accountability, and respect for human rights and the rule of law, including this Constitution."

Assessing good governance is an activity of the Joint Referendum Workplan. Poor governance cannot stop the referendum going ahead.

What about Weapons Disposal?

In May 2005, the UNOMB declared that implementation of the BPA weapons disposal plan was complete. However, the presence of weapons in Bougainville, for example, weapons held by the Me'ekamui Defence Force can be raised as an issue by either government. At the *Consultation on Referendum at Tsiroge 2015*, ex-combatants leaders:

"committed themselves to complete weapons disposal as an internal Bougainville activity to strengthen good governance thus instilling confidence of the people in the institution of government to protect the safety and welfare."

The Me'ekamui government of unity has also committed itself to participating in a weapons disposal process.



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 vote. However, the Referendum result will affect all people no matter if they vote or don't vote.

Is the outcome binding on both Governments?

The BPA and the Constitution do not say what happens after the Referendum result is known. It is 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. This has steps to ensure that the Referendum is peaceful, the outcome accepted, and that there is a peaceful end to the process.

There is no mention in the laws 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 result, 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.

Transition

The rules do not say anything about transition from the current autonomy arrangements to any new arrangements after 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 transition with the aim of continued peace.



Common misunderstandings

Q: Some people think the BPA says the Referendum should be in 2015.

No. The BPA says it must be held *no less than 10 years and no more than 15 years* after the first ABG government house (which was 15 June 2010). This means it must be held at the sometime after 15 June 2015, but no later than 15 June 2020.

Q: Some people say the Referendum can be stopped if good governance is poor or weapons are still in the community.

No. The referendum must be held before 15 June 2020. Good governance and weapons disposal will be used to help decide the referendum date. However, poor governance and weapons in the community may affect whether people, governments and the international community think the Referendum was free and fair, or the result credible. Therefore it may affect the period after the Referendum.

The only way to stop the Referendum is 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."*

Q: Some people say a vote for independence means PNG must agree and Bougainville gets immediate independence.

No. The two Governments must consult about the results of the referendum.