



THE NATIONAL  
RESEARCH INSTITUTE  
PAPUA NEW GUINEA

# RESEARCH REPORT

## STATUS AND IMPLEMENTATION OF THE BOUGAINVILLE PEACE AGREEMENT AND IMPLICATIONS FOR REFERENDUM

Kylie McKenna

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Direct any inquiries regarding this publication to:

The Publications Unit Leader  
National Research Institute  
P.O. Box 5854  
Boroko, NCD 111  
Papua New Guinea

Tel: +675 326 0300/326 0061; Fax: +675 326 0213

Email: [pngnri@pngnri.org](mailto:pngnri@pngnri.org)

Website: [www.pngnri.org](http://www.pngnri.org)

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## About the Author

Dr Kylie McKenna is a sociologist in the Institute for Sustainable Futures at the University of Technology Sydney. She is author of *Corporate Social Responsibility and Natural Resource Conflict* (Routledge, 2016), which explores the dynamic nexus of business, conflict and peace building in Bougainville and West Papua. Kylie has undertaken research across a range of provinces in Papua New Guinea for the past 10 years. Other publications produced by Kylie are available on <https://www.uts.edu.au/staff/kylie.mekenna>.

## Abbreviations & Acronyms

ABG	Autonomous Bougainville Government
AROB	Autonomous Region of Bougainville
BPA	Bougainville Peace Agreement
BPS	Bougainville Police Service
BRA	Bougainville Revolutionary Army
BRC	Bougainville Referendum Commission
BRF	Bougainville Resistance Forces
CAP	Community Auxiliary Police
JSB	Joint Supervisory Body
MDF	Me'ekamui Defence Force
PNG	Papua New Guinea
RDG	Restoration Development Grant
UN	United Nations
UNDPA	UN Department of Political Affairs
UNDP	UN Development Programme
UNOMB	UN Observer Mission on Bougainville



## Executive Summary

The target date for a referendum to decide on Bougainville's political future has been set as 15 June 2019. The delayed referendum is a key milestone contained in a political settlement, the Bougainville Peace Agreement (BPA), which sought to reconcile a violent conflict from 1988–1997. The BPA sets out a roadmap towards attaining peace in Bougainville, through three interrelated 'pillars':

- autonomy arrangements;
- constitutionally guaranteed referendum; and
- a weapons disposal plan.

Significant achievements have been made towards peace building in Bougainville since the signing of the BPA in 2001. In addition to the absence of large-scale violence, the attainment of three important milestones are evidence of the strengths of the agreement:

- the coming into effect of the constitutional arrangements for autonomy and referendum;
- implementation of the Weapons Disposal Plan contained in the BPA; and
- the holding of the first election of the Autonomous Bougainville Government (ABG) and establishment of government structures.

Not detracting from the enormity of these successes, progress on a number of BPA provisions has been evaluated as unsatisfactory. Two dominant themes identified in this report are:

- Bougainville has the potential to exercise wide powers and functions as intended by the BPA. Effective implementation of these powers, however, has been limited by resourcing and coordination problems within the ABG; weak collaboration with the National Government; and delayed payment of grants; and
- although implementation of the Weapons Disposal Plan contained in the BPA is technically complete, an unknown number of weapons remain in circulation in Bougainville, and numerous groups and individuals are thought to remain a threat to the ongoing peace process.
- The objectives of this report are to:
- review the progress made in implementing the BPA, noting the key elements and assessing progress made to date;
- provide the ramifications of any shortfalls that may impact on the preparations for and the outcome of the referendum; and
- the three pillars of the BPA provide the primary parameters.

The report is structured according to the three interdependent pillars of the BPA, beginning with autonomy, and followed by weapons disposal and referendum. The chapter on referendum includes a discussion of international standards of 'good governance' and 'free and fair', as these concepts are included in the BPA. The report then outlines possible risks and implications of identified shortfalls in implementation of the BPA on the referendum.

Given that progress on implementing the BPA is still unfolding, as well as the absence of a second autonomy review (underway and expected in December 2018), these implications are possibilities to consider, rather than certainties. Key risks identified in the report include:

- a hasty transfer of remaining powers and functions without due regard to human and financial capacity;

- inadequate information on autonomy and its outcomes to inform voter decision-making;
- continued proliferation of misunderstandings about the referendum;
- the presence of weapons and/or spoilers obstructing voting and undermining the credibility of the referendum;
- inappropriate handling of security and law and order issues during the referendum;
- localised conflict, in which weapons have been used in the past, re-emerging in the name of the referendum outcome; and
- significant practical challenges to informing voters of the referendum arrangements.

Rather than focusing on the identified shortfalls as negatives however, they can also be seen as providing important insights into how the National Government and the ABG can continue to strengthen peace in Bougainville, regardless of the referendum outcome. These opportunities point towards:

- a considered approach to the handover of remaining powers and functions to the ABG;
- enhanced collaboration between the two governments and revitalisation of the concept of the BPA as a joint creation;
- fostering deeper connections between the ABG and the broader community; and
- maintaining current momentum on disarmament, unification and reconciliation.

# Ch. 1 Introduction

The target date for a referendum to decide on Bougainville's political future has been set as 15 June 2019. The delayed referendum is a key milestone of a political settlement which sought to reconcile a violent conflict in Bougainville from 1988–1997. The conflict involved a coalition of Bougainville groups that held a range of grievances (Regan, 2018, p.1), particularly relating to the distribution of revenues derived from the Panguna mine (McKenna, 2016, p. 85–93). A key event which escalated the conflict was an attack on mining infrastructure. In an attempt to regain control of the area, the Papua New Guinea (PNG) Government responded by sending in police mobile squads (made up of non-Bougainvilleans). In the context of existing tensions between Bougainville and PNG, this action resulted in immediate claims of police brutality, and provided the “catalyst for mobilization of a wider secessionist rebellion” (Regan, 2010, p. 20).

For some groups involved in the Bougainville conflict, independence from PNG was seen as the solution to their grievances. Others opposed independence and advocated a high degree of autonomy within PNG. Armed factions involved in the conflict were not universally supported. There was resentment towards the Bougainville Revolutionary Army (BRA) for the withdrawal of government services following attacks on the mine, as well as the sea and air blockade imposed on Bougainville in May 1990. Those opposing the BRA formed what became known as the Bougainville Resistance Forces (BRF), which overtly pitted Bougainvilleans against Bougainvilleans and added new complexities and dimensions to the conflict. Bitter conflict both deepened support for independence, and generated divisions among Bougainvilleans, with the question of independence increasingly elevated as a core issue.

## 1.1 The Bougainville Peace Agreement

Following a number of what appeared to be unsuccessful peace efforts, war weariness and a stalemate provided momentum for negotiations between representatives of Bougainville and the National Government. A key outcome of the negotiations was the signing of the 2001 Bougainville Peace Agreement (BPA). This is a joint creation of the PNG National Government and Bougainville leaders (ABG, 2016a). Its core guiding principle is that “the governments of Bougainville and PNG must work together to secure lasting peace for Bougainville through peaceful means” (Bougainville Referendum Communications Committee, 2016, p. 2).

The BPA sets out a roadmap towards achieving peace in Bougainville through three interrelated ‘pillars’, overseen by a joint PNG–Bougainville institution – the Joint Supervisory Body (JSB):

- **autonomy arrangements** for an autonomous Bougainville Government operating under a Bougainville Constitution and numerous guarantees contained in the National Constitution;
- agreement to a **constitutionally guaranteed referendum** on Bougainville's future political status, to be held 10–15 years after the election of the autonomous Bougainville Government. Separate independence for Bougainville must be among the choices available and the outcome subject to ratification of the PNG National Parliament; and
- a **weapons disposal plan**, including the withdrawal of remaining PNG security forces and containment of weapons overseen by the United Nations Observer Mission on Bougainville (UNOMB) and the other relevant ex-combatant Commander (BPA, 2001, p. 1–2).

Discussions held during the National Conference on the Bougainville Referendum in Port Moresby on 5–7 July 2018 reflected the pride that PNG and Bougainville leaders alike feel towards the BPA. ABG President, John Momis, argued that there could not have been lasting peace in Bougainville without the BPA. In addition to the absence of large-scale violence, the attainment of three important milestones are evidence of the strengths of the agreement:

- the coming into effect of the constitutional arrangements for autonomy and referendum;

- implementation of the Weapons Disposal Plan contained in the BPA; and
- the holding of the first election of the ABG and establishment of government structures.

Bougainville is therefore approaching a fourth major milestone – a referendum, taking into consideration the status of weapons disposal and good governance (see Chapter 3).

Not detracting from the enormity of these successes, it is recognised that progress on a number of provisions contained in the BPA has been unsatisfactory. Two major themes with implications for the referendum highlighted in this report are:

- Bougainville has the *potential* to exercise wide powers and functions as intended by the BPA. Effective implementation of these powers, however, has been limited by resourcing and coordination problems within the ABG; weak collaboration with the National Government; and delayed payment of grants; and
- although implementation of the Weapons Disposal Plan contained in the BPA is technically complete, an unknown number of weapons remain in circulation in Bougainville, and numerous groups and individuals are thought to remain a threat to the ongoing peace process.

In the lead-up to the referendum, which must be held by 2020, it is important to consider both achievements and shortfalls in the implementation of the BPA, and any possible implications of these gaps on administration, conduct and outcome of the referendum.

## 1.2 Report outline and scope

The objectives of this report as contained in the Terms of Reference are to:

- review the progress made in implementing the BPA, noting the key elements and assessing progress made to date;
- provide the ramifications of any shortfalls that may impact on the preparations for and the outcome of the referendum; and
- the three pillars of the BPA provide the primary parameters.

The findings presented in this report are based on a desktop analysis of government and non-government reviews of the implementation of the BPA. Two key documents provide a foundation for the review of progress. These are:

- the 2013 Joint Review of Bougainville's autonomy arrangements by Government of PNG and the ABG; and
- the 2012 United Nations (UN) evaluation of weapons disposal in Bougainville.

Reviews of the implementation of the three pillars of the BPA are limited in number. A crucial information gap is the absence of a second autonomy review to follow the first Joint Review of Bougainville's autonomy arrangements undertaken in 2013 (JSB, 2013). Work on the second review is now underway and is expected to be available before December 2018 but was incomplete at the time of writing (October 2018). The BPA (2001, Part B (15)) requires a five-yearly, joint review of Bougainville's autonomy arrangements, to be held through the JSB. As the ABG was established in 2005, the first of these reviews should have been undertaken in 2010 but was three years late (JSB, 2013, p.1). The 2013 Joint Review acknowledges this delay "has deprived both governments of the opportunity to create a measurable baseline" (JSB, 2013, p. 5).

It is important to note that the author of this report did not visit Bougainville and consequently the report does not contain new primary research. Rather, the report is a desktop review of implementation of the BPA drawing on secondary sources. A number of external reviews have been conducted on specific dimensions of the BPA (e.g. Ipp & Cooper, 2013; UN, 2012; UNDP, 2014), yet some of these are now somewhat out of date. The report also draws on academic papers and media coverage of current events unfolding in Bougainville. A recognised weakness in the implementation of the BPA, however, is inadequate understanding of its key provisions, both among political representatives and community members (JSB, 2013, p.14). This results in

the potential for misunderstandings and conflicting information being provided through the media in the lead-up to the referendum. Given that progress on the implementation of the BPA is still unfolding, limitations in existing data and the aforementioned absence of a second autonomy review, the implications of any shortfalls in the autonomy arrangements and weapons disposal on the referendum outlined in this report are possibilities to consider, rather than certainties. A key learning from the National Conference on Bougainville Referendum is that political representatives and members of the public alike are frustrated by the lack of available information and debate on the BPA. This report seeks to address this gap while recognising these limitations.

For brevity and to avoid repetition, this report is situated in a series of publications led by the PNG National Research Institute on the Bougainville referendum. Cross-reference will be made to other research reports in this series to provide the reader greater background detail on the Bougainville referendum in comparative perspective (Qvortrup, 2018), projections towards outcomes issues (McVeigh & Bell, 2018) and financing fiscal autonomy (Chand, 2018). The report does not aim to compete with existing resources on the founding of Bougainville's autonomy arrangements (Regan, 2013; Wolfers, 2007), nor can it engage with the complex negotiations which shaped the content of the BPA (see for example, Regan, 2002).

The report is structured according to the three interdependent pillars of the BPA, beginning with autonomy, followed by weapons disposal, and concluding with the referendum. The chapters on autonomy and weapons disposal contain three components: 1) key provisions outlined in the BPA, 2) assessment of progress; and 3) shortfalls identified. The chapter on referendum is slightly different in that it includes a discussion of international standards of 'good governance' and 'free and fair' due to the inclusion of these concepts in the BPA. The report concludes with a detailed discussion of possible risks and implications of identified shortfalls on preparations, conduct and outcome of the referendum.



## Ch. 2      Autonomy

This chapter introduces readers to provisions contained in the BPA for Bougainville's autonomous status. This is followed by a review of progress to date, structured according to the order of subsections of Part B of the BPA, and informed by key issues highlighted in the 2013 Joint Review. The primary areas examined in this chapter are:

- establishment of government structures and ABG institutions;
- exercise of powers and functions;
- fiscal autonomy; and
- impacts of autonomy and community perceptions.

### 2.1      Key provisions

After the signing of the BPA, progress on the Bougainville peace process was deemed to have been 'unusually positive' (Regan, 2002, p. 116). Key to this success was a consensus reached between opposing groups that a change in the political relationship between Bougainville and PNG was needed to end the conflict (Regan, 2002, p. 117). Although Bougainvilleans held different views on what the nature of this relationship should look like, support for autonomy was almost universal (Bougainville Constitutional Commission, 2004, p. 57).

In summary, the provisions for Bougainville's autonomous status were intended to provide Bougainville with:

- a high degree of freedom to choose its own government structures;
- the potential to exercise wide powers and functions;
- the ability to establish its own public service, police, judiciary and correctional service;
- financial arrangements that partially guarantee grant funding while Bougainville seeks to move to fiscal self-reliance using a wide range of taxation measures; and
- a system for intergovernmental relations intended to promote cooperation and under which Bougainville will enjoy a high degree of independence of control by the National Government (Regan, 2002, p.120).

Bougainville's autonomy arrangements are complex, wide reaching and differ from the provincial government status of other areas of PNG. The BPA autonomy provisions are also complimented by the following implementing laws:

- Constitution of the Autonomous Region of Bougainville (AROB);
- Constitution of the Independent State of Papua New Guinea; and
- Organic Law on Peace Building in Bougainville-Autonomous Bougainville Government and Bougainville Referendum ('Organic Law').

The main dimensions of autonomy contained in the BPA (Part B) relate to:

- objectives of autonomy;
- boundaries;
- Bougainville Constitution;
- structures of the autonomous Bougainville Government;
- division of powers and functions;
- agreed arrangements concerning exercise of National Government powers in relation to Bougainville;
- transfer of powers and functions;



- human rights;
- financial arrangements;
- intergovernmental relations;
- states of emergency;
- judiciary;
- criminal law; and
- regular reviews of autonomy arrangements.

## 2.2 Progress

### 2.2.1 Establishment of government structures and ABG institutions

Implementation of the autonomy arrangements began with the drafting, enactment and coming into operation of a number of constitutional laws.<sup>1,2</sup> This included creating a Bougainville Constitution to provide for the organisation and structure of an autonomous Bougainville government. The Bougainville Constitution was created and passed in 2004, following three main steps:

1. a Bougainville Constitutional Commission prepared a draft, broadly representative of the people of Bougainville;
2. the draft was considered, amended and finally adopted by a Bougainville Constituent Assembly; and
3. the PNG National Executive Council endorsed the adopted draft Constitution (Bougainville Constitutional Commission, 2004, p. 2).

The Bougainville Constitution requires that it be reviewed before evaluations of Bougainville's autonomy arrangements, such as the JSB Reviews of autonomy. The logic of a review of the Constitution before these reviews is that it "should help to illuminate matters that may need to be [dealt] with in the wider review process in relation to the autonomy arrangements more generally" (Bougainville Constitutional Commission, 2004, p. 288). The Constitutional Review however, was not conducted before the 2013 Joint Review and is therefore a breach of the constitutional laws (JSB 2013, p. 6). Both governments agreed that the Bougainville Constitution should be reviewed by the ABG in 2014 to inform the second joint review due in 2015 (JSB, 2013, p. 6). A 2014 Constitutional Review was subsequently conducted, but the 2015 joint review is now three years later than anticipated, so the Constitutional Review may now be out of date.

The enactment of the Bougainville Constitution was a crucial landmark in Bougainville's autonomous status. It established Bougainville's government structures and allowed for the first elections of the ABG. Bougainville's formal governance structure is divided into three divisions of power:

- Legislative – in the form of Bougainville's House of Representatives (Parliament). This House is seated in the parliamentary buildings in Kubu, Buka;
- Executive – in the form of an elected President of the ABG and the AROB, ministers (selected from members of parliament) and the Bougainville Executive Council; and
- Judiciary – in the form of the Courts of Justice that operate in Bougainville. The region also retains the PNG Supreme Court as the highest level of its judiciary system (ABG, 2016b).

The 2013 Joint Review deemed the establishment of these structures 'partially complete' once the House of Representatives and the Bougainville Executive Council were established (JSB, 2013, p. 59). Institutions yet to be established in 2013 were the autonomous system of courts for Bougainville and key audit and accountability

<sup>1</sup> This included an amendment to the PNG Constitution and the passing and coming into operation of the 'Organic Law on Peace Building in Bougainville-Autonomous Bougainville Government and Bougainville Referendum'.

<sup>2</sup> See: Regan (2002) for analysis of the content of these laws.

institutions, such as the Bougainville Ombudsman and the Auditor General (JSB, 2013, p. 60). A three-tier system of government consisting of the ABG, the Council of Elders and Village Assemblies has also been established (JSB, 2013, p. 61). Yet the 2013 Joint Review found these to be “fraught with structural and operational difficulties that, save for the ABG House of Representatives and the Bougainville Executive Council, the two lower tiers of government are hardly operating and a good number of them are not functioning altogether” (JSB, 2013, p. 61).

An important update on the 2013 Joint Review is that in March 2017, the ABG established the Ombudsman Commission Office for Bougainville to receive complaints about corruption by any ABG public servant, office or politician (Lahies, 2017). Aside from progressing one aspect of the autonomy arrangements, the need for enhanced commitments to transparency and accountability has been recognised and continues to remain a concern (JSB, 2013, p. 63). This is evident in the following recent statement by the ABG Office of Chief Secretary (ABG, 2018, p. 1):

...we have faced high levels of institutional corruption and fraud, and many have actively sought to undermine efforts to implement good governance, public sector reform and sustainable peace (Office of Chief Secretary, 2018, p. 1).

As well as the new functions and powers available to the ABG (discussed later), the Constitution of the Independent State of Papua New Guinea and the Organic Law contain provisions that allow for ABG institutions to be established, such as a public service and police force. The passing of the Bougainville Public Services (Management and Administration) Act 2014 means that Bougainville now operates its own public service. While the Bougainville Police Service and Community Auxiliary Police are in operation, they continue to operate within a framework of national law (Dinnen & Peake, 2013, p. 1) as “no Bougainville law relating to the establishment of and the provision of powers, functions and duties of the police service has been enacted” (JSB, 2013, p. 79). This indicates deficiencies in the status of Bougainville’s ownership of law enforcement and the maintenance of peace and order for public security (JSB, 2013, p. xi).

### **2.2.2 Exercise of powers and functions**

The BPA provides for a gradual realisation of autonomy through the transfer of powers and functions from the National Government to the ABG. It was accepted during the peace negotiations that the ABG would need time to develop the capacity to implement laws and undertake functions that had never been its responsibility. At the same time, there was recognition of the “Bougainville concern that considerations of capacity and resources should not constitute insurmountable obstacles...” (Regan, 2013, p. 433).

The BPA outlines a ‘two list system for dividing powers and functions’ between the National Government and the ABG. The National Government powers are consistent with those traditionally associated with national sovereignty (e.g. foreign relations, immigration and currency). In contrast, the Bougainville powers and functions are organised into three main categories:

- functions and powers ‘inherited’ by the ABG from the Interim Bougainville Provincial Government at the time the ABG was established;
- 59 functions and powers available to the ABG under section 290 (2) of the PNG Constitution; and
- an additional five sub-categories of functions and powers available to the ABG under other provisions of the PNG Constitutional laws (JSB, 2013, p. 20).

The method for the transfer of powers and functions to the ABG is outlined in:

- the BPA (Part B (7));
- Constitution of the Independent State of Papua New Guinea (Sec. 295–297);
- the Organic Law (Sec. 3–6); and
- The Constitution of the Autonomous Region of Bougainville (Sec. 43).

In the spirit of the BPA as a joint creation, both governments are obliged to collaborate on the transfer of eligible powers and functions to the ABG but the transfer process has been slow and remains incomplete. Aside from limited capacity and funds (discussed later), Regan (2013, p. 433) outlines three reasons why not all autonomy powers envisioned in the BPA have been drawn down:

- the complexity of the arrangements;
- a change of virtually all key PNG personnel since the 2001 agreement was negotiated; and
- limited political commitment on the part of ministers in the PNG government (Regan, 2013, p. 433).

In 2006, the ABG requested the transfer of 34 powers and functions out of the available 59 (JSB, 2013, p. 8). As at 31 July 2013, the 2013 Joint Review outlined the status of transfer of powers and functions through 'proposed legislation' shown in Table 1.

**Table 1: 2013 Status of transfer of powers (JSB, 2013, p. 8–9)**

No.	Proposed legislation	2013 status
1.	Bougainville Public Service	<ul style="list-style-type: none"> <li>• Bougainville Executive Council (BEC) has approved drafting instructions.</li> <li>• Second draft to be reviewed by Joint Technical Working Group week of 10 November.</li> <li>• Legislation in house early December 2013.</li> </ul>
2.	Bougainville Public Finance	<ul style="list-style-type: none"> <li>• Drafting instructions available week of 14 October.</li> <li>• Bill based on Sir James Frazer's 2005 draft and <i>PNG Public Finance (Management) Act</i>.</li> <li>• Most of the issues had been addressed by the Joint Technical Working Group with the Department of Finance.</li> <li>• Legislation in house early December 2013.</li> </ul>
3.	Bougainville Mining (Transitional Arrangement) Bill	<ul style="list-style-type: none"> <li>• 2nd draft complete and approved by BEC. ABG engaged in consultations with the Mineral Resources Authority and Department of Mining Policy.</li> <li>• To be introduced into Special House sitting in early November 2013.</li> <li>• Widespread public consultation to follow in its final stage, and BEC is happy with the current draft (Funding needed for consultations).</li> </ul>
4.	Bougainville Marine Resource Authority	<ul style="list-style-type: none"> <li>• BEC policy paper and drafting instruction to be prepared.</li> <li>• Draft law prepared by former adviser will be reviewed.</li> </ul>
5.	Bougainville Environment Bureau	<ul style="list-style-type: none"> <li>• Policy paper approved by BEC.</li> <li>• Notice of intention under section 290 has been given to the National Government.</li> <li>• Preparation of drafting instructions is underway.</li> </ul>

No.	Proposed legislation	2013 status
6.	Education	<ul style="list-style-type: none"> <li>BEC has approved the Bill. In house October special sitting.</li> </ul>
7.	Inward investment	<ul style="list-style-type: none"> <li>BEC has approved the Bill. In house October special sitting.</li> </ul>
8.	Health	<ul style="list-style-type: none"> <li>Initial discussions held with national Department of Health and progress towards MoU.</li> <li>Next step policy submissions to BEC.</li> </ul>
9.	Commodities	<ul style="list-style-type: none"> <li>Policy paper to be prepared for BEC for Commodities Board.</li> </ul>
10.	Works	<ul style="list-style-type: none"> <li>Agreed work plan being implemented including transfer of staff, budget and assets with target date 2015 but could be earlier.</li> <li>Policy paper to be prepared for Infrastructure Services Bill.</li> </ul>
11.	Police	<ul style="list-style-type: none"> <li>2003 delegation operational; 2012 revised draft is to be finalised and signed.</li> <li>Policy paper to BEC in 2014.</li> </ul>
12.	Community development	<ul style="list-style-type: none"> <li>MoU signed on 23 October 2013.</li> </ul>
13.	Bougainville time zone	<ul style="list-style-type: none"> <li>BEC has approved. Drafting instructions needed to start working on it.</li> </ul>
14.	Council of Elders validation for Titalato, Halia, Tonsu and Titalato	<ul style="list-style-type: none"> <li>Recently approved by BEC. Work is underway and should be ready for the special October session of the house.</li> </ul>
15.	Mining safety	<ul style="list-style-type: none"> <li>Working Committee is working in developing the drafting instructions for the bill.</li> </ul>
16.	Bougainville Women's Federation	<ul style="list-style-type: none"> <li>Hasn't gone to BEC yet, but members of the Federation are consulting with us for this Bill. Drafting in progress.</li> <li>Immediate need to resolve the legal issue with the PNG National Council of Women.</li> </ul>
17.	Flags, emblems etc	<ul style="list-style-type: none"> <li>Policy paper to be prepared.</li> </ul>
18.	Customary land	<ul style="list-style-type: none"> <li>Policy paper to be prepared.</li> </ul>
19.	Alienated land	<ul style="list-style-type: none"> <li>Policy paper to be prepared.</li> </ul>

As of 10 August 2018, the ABG website (ABG, 2016d) lists 75 acts passed in the Bougainville House of Representatives from 2005 to 2017. Since the 2013 Joint Review, 23 acts have been passed. Table 2 presents an update of acts passed, against proposed legislation contained in the 2013 Joint Review.

**Table 2: 2018 Status of transfer of powers**

No.	Proposed legislation	2018 status
1.	Bougainville Public Service	<i>Bougainville Public Services (Management and Administration) Act 2014.</i>
2.	Bougainville Public Finance	<i>Bougainville Public Finance (Management and Administration) Act 2014.</i>
3.	Bougainville Mining (Transitional Arrangement) Bill	<i>Bougainville Mining (Transitional Arrangements) Act 2014.</i> <i>Bougainville Mining Act 2015.</i> <i>Bougainville Mining (Amendment) Act 2015.</i> <i>Bougainville Mining (Amendment) Act 2016.</i>
4.	Bougainville Marine Resource Authority	No acts passed.
5.	Bougainville Environment Bureau	No acts passed.
6.	Education	<i>Bougainville Education Act 2013.</i>
7.	Inward investment	<i>Bougainville Inward Investment Act 2013.</i>
8.	Health	<i>Bougainville Health Partnerships Act 2017.</i> <i>Bougainville Health Administration Act 2017.</i>
9.	Commodities	No acts passed.
10.	Works	No acts passed.
11.	Police	No acts passed.
12.	Community development	No acts passed.
13.	Bougainville time zone	<i>Bougainville Standard Time Act 2014.</i>
14.	Council of Elders validation for Tsitalato, Halia, Tonsu & Tsitalato	No acts passed.
15.	Mining Safety	No acts passed.
16.	Bougainville Women's Federation	No acts passed.
17.	Flags, emblems etc	No acts passed.
18.	Customary land	No acts passed.
19.	Alienated land	No acts passed.

Aside from this list of powers and functions ‘drawn down’ through legislation, it is difficult to calculate the exact number of powers that have now been transferred to the ABG. One complexity is that a number of powers have been transferred through the signing of memoranda of understanding (MoU) between the two governments, rather than acts passed in the Bougainville House of Representatives. A notable example is an MoU signed in March 2008 on the handover of mining, oil and gas powers which preceded the 2015 Bougainville Mining Act (see Table 2). The MoU outlined a 15-step process for the transfer, resulting in a joint plan (supported by the World Bank) to establish a mining department in the ABG (JSB, 2013, p. 75). The 2013 Joint Review was critical of the use of an MoU in this transfer as it circumvented the strict time sequence of the constitutional processes for the transfer of powers and functions (JSB, 2013, p. 75). If the constitutional procedure had been followed, the 2013 Joint Review suggests the two governments would have been forced to attend to important deficiencies in the public service (JSB, 2013, p. 75). Nonetheless, the mining, oil and gas MoU set somewhat of a precedent as, by August 2013, another 13 MoUs had been signed across various sectors (JSB, 2013, p. 74). There

is limited information publicly available on the 13 MoUs, but one informant involved in the process suggests they vary in detail and regulatory substance. They do not include, for example, a 15-step process such as that contained in the mining, oil and gas MoU.

On 20 March 2017, the two governments also signed an overarching MoU on the drawdown of powers to act as a guiding document for future transfers. This ‘overarching’ MoU was developed in response to concerns about a lack of understanding of Bougainville’s autonomy and transfer arrangements (discussed later), as well as coordination problems between the ABG and some National Government departments (ABG, 2016d, p. 43–44). The MoU also intends to integrate different aspects of the transfer arrangements to “provide clear evidence to any agency or department called upon, under the transfer arrangements, to prepare for transfer, [and] of the commitment of both governments to the transfer process” (ABG, 2016d, p. 44). On the announcement of the overarching MoU, ABG Vice President, Raymond Masono, highlighted the ongoing need to ensure adequate human and financial resourcing to effectively execute the functions drawn down (Masono, 2017, p. 2).

Progress on the autonomy arrangements is not only about the number of powers and functions transferred but the extent to which they have been transferred into appropriate laws, policies, strategic plans and programmes (JSB, 2013, p. 19). A proposal for the establishment of a new Bougainville institution legally requires consideration of the financial and human resource competencies needed to exercise their new functions (JSB, 2013, p. 24). The 2013 Joint Review identified “serious capacity issues” across the Bougainville administration as one of the reasons that has limited Bougainville’s potential to drawdown the full list of powers and functions available to it (JSB, 2013, p. 49; 59).

A particular challenge for the ABG is its limited human resources and budget (Nisira, 2017, p. 7; Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 14). This includes the absence of public policymakers experienced with the particular context of Bougainville (Nisira, 2017, p. 7). Employees that do have knowledge of policy development are mainly trained in the administration of PNG public service programmes, rather than Bougainville’s autonomy arrangements (Nisira, 2017, p. 7). Nisira (2017, p. 7) also reports difficulties attracting competent public servants from elsewhere in PNG “when they know housing, education and health services are of such low standards compared with those available in major urban centres such as [Port] Moresby and Lae” (Nisira, 2017, p. 7). The Parliamentary Bipartisan Committee on Bougainville Affairs (2017, p. 15) further notes the practical challenges of recruiting and maintaining staff in the absence of adequate funding and budget certainty.

Changes in political leadership in both governments is also a factor. Bougainville has experienced the loss of a number of matured and revered leaders such as the late Alexis Sarei, Leo Hannett and Joseph Kabui (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 15). These losses are compounded by political and administrative changes at the national government-level, resulting in the absence of senior national politicians and bureaucrats with a prior working relationship with Bougainville (JSB, 2013, p. 15). Some PNG leaders at the National Conference on Bougainville Referendum, however, dismissed claims that they do not understand the referendum and refute accusations that they do not understand the Bougainville situation enough.

One institution that has been particularly highlighted as in need of capacity and resourcing is the BPS. External evaluations of the BPS describe it as lacking in staffing and structure, leadership, management, accountability and professionalism (Dinnen & Peake, 2013a, p. 2; UNDP, 2014, p. 13; UNDP & UNDP, 2012, p. 19–20). The 2013 Joint Review raised inadequate resourcing of the police as a human rights issue (e.g. due to the overcrowding of police lockups in Buka) (JSB, 2013, p. 64). The review also found that police capacity to maintain law and order has been impeded by inadequate funding to rebuild infrastructure destroyed during the conflict. Restoration of this infrastructure is seen as a vital priority before the ABG requests the transfer of police powers and functions (JSB, 2013, p. 80). The ABG suggests, however, that the law and order situation is improving in Bougainville since the BPS was established in Torokina Wakunai, Arawa and Buin (ABG, 2016d, p. 7). The community-based CAP is also evaluated positively for working in accordance with local beliefs and collaboration with local-level government (e.g. the Council of Elders), clan leaders and chiefs (Dinnen & Peake,



2013a, p. 1). The UN (2016, p. 29) cites the CAP as an example of an innovative approach to policing in PNG that is having “measurable outcomes in terms of improved safety, security and access to justice for citizens”. While the CAP programme has been supported by the Government of New Zealand, in 2012 the ABG paid all of its allowances for the first time, “making it a more sustainable programme of Bougainville” (UNDPA & UNDP, 2012, p. 19). The concluding chapter of this report expands on a potential role for the CAP in providing security and preparations for the referendum.

### 2.2.3 Fiscal autonomy

During the peace negotiations it was acknowledged that the ABG would initially financially rely on grants from the National Government (Regan, 2013, p. 435). This was largely due to the absence of revenue from the Panguna mine and the destruction of infrastructure that supported the pre-conflict economy (Chand, 2018, p. 31). The BPA therefore contains a ‘grants system’ of financial assistance from the National Government to support Bougainville towards a goal of fiscal self-reliance,<sup>3</sup> defined as “the year in which the revenue from company tax, 70 percent of Value Added Tax and customs duties is equal to the value of the recurrent grant on a sustainable basis” (BPA, 2001, Part B (Sec. 9 (137))). Four kinds of grants are listed:

- recurrent unconditional grants;
- restoration and development grants (RDGs);
- specific purpose conditional grants, including the recurrent grant for policing, and;
- the one-off establishment grant (BPA, 2001, Part B (9c)).

The RDGs have been most controversial of these grants. The ABG has criticised the National Government for delayed payments and calculation of the grants. Disagreements between the two governments peaked in 2010, when the national budget of that year did not include provision for the K15 million RDG (Wallis, 2012, p. 34). The ABG raised the issue at a JSB meeting in December 2009 to which “the PNG Government claimed that it regarded other kinds of funding as compensating for the grant.” (Wallis, 2012, p. 34). Although the National Government eventually agreed to pay the 2010 grant in February 2011, it was over 14 months late (Regan, 2013, p. 438). Problems with timeliness continued the following year as the payment of the 2011 grant was almost another 10 months late (Regan, 2013, p. 438). Further to these delays, the 2010 and 2011 payments “were not calculated in accordance with the provisions of the Organic Law [sub-sections 49(1) and (2)] on annual adjustment of the grant, resulting in significant underpayments for both years” (Regan, 2013, p. 438). In 2013, the ABG again challenged the National Government on calculation of grants payable, demonstrating that the 2013 payment should have been K66 million and not the K15 million received (JSB, 2013, p. 36).

At a JSB meeting in December 2017, the two governments attempted to resolve the dispute and reached a two-fold compromise. First, they agreed that the amount owing to the ABG was K437 million. Of this sum, K40 million will be paid in 2018 and a further K95 million to be paid in 2019, “subject to prevailing economic conditions” (Joint Technical Team, 2018, p. 66). The remaining K302 million “is to be financed by [the] National Government in 2018 and onwards” (Joint Technical Team, 2018, p. 66). The second compromise is that the two governments will develop a new formula to clarify RDG payments for 2018 and the years to come.

Participants at the National Conference on Bougainville Referendum considered this compromise a breakthrough, for which President Momis and Prime Minister O’Neill deserve credit. Yet the ABG remains uncertain as to whether National Government will be in a position to meet the agreed repayments for either 2018 or 2019 (Joint Technical Team, 2018, p. 66). This is due to the financial strains it is experiencing, particularly following the 2018 earthquake in Hela province and a significant national budget shortfall (Banks & Namorong, 2018).

Adding to fears that the National Government is not delivering on its financial obligations contained in the BPA, is the failure to pay the ABG significant amounts of tax revenue due to accounting errors (JSB, 2013, p. 55-56). According to the Chief Bougainville Collector of Taxes, the total amount outstanding is between K3 million

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<sup>3</sup> For an in-depth analysis of the progress made on fiscal autonomy, see Chand (2018).



and K5 million (JSB, 2013, p. 55-56). The inability of PNG tax authorities to clarify the amounts payable to the ABG for the two main taxes in question, personal income tax and stamp duty, adds to the confusion (Regan, 2013, p. 439).

Even allowing for delays and miscalculations on monies owed to the ABG, the 2013 Joint Review found that neither government has scored well on making effective use of grants (JSB, 2013, p. 56). Reasons provided for this include:

- lack of plans and high degree of disconnect between project financing;
- little or no documentation to support individual projects;
- weak monitoring of projects and their implementation (although improving);
- lack of scrutiny of quarterly reports and some major expenditures;
- lack of strategic prioritisation; and
- lack of people in the administration to manage the financial system and to implement projects (JSB, 2013, p. 48).

Some in ABG circles, however, divert blame for poor outcomes to the slow transfer of powers and functions to the ABG and incorrect calculations of the RDG. As former ABG Vice President, Patrick Nisira (2017, p. 10), argues:

...in the absence of the correct levels of RDG, we in the ABG could be excused for feeling that our role has been reduced to little more than oversight of basic service delivery! So much for the goal of achieving self-determination through autonomy.

Yet Nisira's frustrations might be symptomatic of a broader and unanticipated outcome of the grants. Questions have been raised by analysts of Bougainville's financial arrangements as to whether the grants contained in the BPA have set the conditions for fiscal dependency. As Chand (2018, p. vii) writes:

...what was not anticipated by the architects of the legislation on fiscal transfers was the fact that 'gap-filling' grants eroded the incentives for the ABG to grow its own tax base. The mandatory nature of the grants lent the incentives for the ABG to blame the National Government for shortfalls in funding and supply of public services.

From 2002 to 2013, 80 percent of the ABG budget had been derived from national government grants (JSB, 2013, p. 39). In 2016, the value of recurrent grant was K41.3 million, whereas "revenues from company taxes, custom duties, and 70 percent of value added taxes amounted to K2.4 million" (Chand, 2018, p. v). This means that by 2016, the ABG had reached "just 6 percent of the distance to fiscal self-reliance" (Chand, 2018, p. v), while "on the broader considerations of fiscal autonomy, revenues from all internal sources for 2016 amounted to K23.2 million; that is, equal to 56 percent of the value of recurrent grant provided to the ABG by the National Government" (Chand, 2018, p. v).

Deficient internal revenue generation is partly attributed to a Bougainville economy which "is too small to generate the tax revenues needed to finance itself" (JSB, 2013, p. 44). Although there have been moves to expand the internal tax base by imposing a sales tax on alcohol and tobacco (Regan, 2013, p. 437), enforcement and collection of this revenue has also suffered weak capacity within the Bougainville administration (JSB, 2013, p. 50). Other factors identified in the 2013 Joint Review to have inhibited growth in the local economy are:

- delays in policymaking to enable access to customary land for economic development due to delays in the transfer of powers and functions to the ABG Division of Lands;
- insufficient attention to agriculture despite 90 percent of citizens depending on ecosystem services (especially cocoa and copra) for their livelihood;
- a dilapidated large plantation sector;

- lack of access to markets for people based in remote areas; and
- law and order problems, poor access to credit and poor infrastructure (JSB, 2013, p. 27).

Research conducted by Chand (2018, p. vii) indicates an independent Bougainville nation would require a budget of approximately two to three times more than the total budget for the ABG in 2016, which was around K286 million. Large-scale mining has long-been viewed as a realistic means of improving Bougainville's financial position and negotiations on the potential reopening of the Panguna mine have dominated this discussion. Key stakeholders, including President Momis, have argued that independence without the Panguna mine might not be possible (cited in Tlozek, 2017). Yet negotiations between the ABG and Panguna landowners on a potential return of Bougainville Copper Limited failed to reach a consensus and an indefinite moratorium on mining was subsequently imposed (Graue, 2018). Although this closed the door on Bougainville Copper Limited, attention to large-scale mining is not expected to cease as other companies are thought to be keen to invest (Graue, 2018).

Alternative sources of revenue to support fiscal autonomy in Bougainville include: fishing resource rents (Chand, 2018, p. 25); downstream processing of cocoa and copra; a targeted tourism industry; high value mid-altitude vegetables farming; and harnessing the labour and entrepreneurship of the large youth population (JSB, 2013, p. 28).

#### **2.2.4 Impacts of autonomy and community perspectives**

While recognising limitations in the data available, the 2013 Joint Review concluded that the “autonomy arrangements have had limited social impact on the lives of citizens” (JSB, 2013, p. 29). The main justifications provided for this finding are:

- service delivery has not yet reached pre-crisis levels;
- many social and economic divisions have poor levels of capacity (human resources and funding); and
- most ABG divisions are still in the process of drawing down powers and are not yet in a position to make appropriate laws and policies that would impact on the lives of citizens in ways that would be different under normal provincial government arrangements (JSB, 2013, p. 29).

Access to health care and basic education are the primary human development concerns raised in the 2013 Joint Review. Health services were found to be particularly poor in remote areas and access to basic education is well below universal (JSB, 2013, p. 31). The World Bank (2016) also reports that “Bougainville is only beginning to recover: many essential services, like health care, are scarce and poorly maintained”. There are particular concerns about the impacts on women and children, given Bougainville has some of the highest rates of maternal mortality in the Asia-Pacific region (World Bank, 2016). Limited infrastructure and impassable terrain add further challenges to accessing health services and education (World Bank, 2016). Yet lack of data, including level of access to basic services for marginalised populations (UN PNG, 2016, p. 17), remains an obstacle to evaluating the social and economic impacts of the autonomy arrangements.

Poor access to basic health care and education is a difficulty experienced by people across many provinces of PNG (JSB, 2013, p. 29). What is unique to Bougainville, however, is the “continuing social and psychological after-effects of the conflict” (JSB, 2013, p. 29). This takes the form of trauma-related symptoms, grief, anger, alcohol and substance abuse, domestic violence and sexual assault (Tierney et al., 2016). A particular group identified at risk are young people in the age range of 16–30 years, and who were born or grew up during the conflict (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 10). Referred to as the ‘lost generation’, many of these young people grew up with limited or no formal education, resulting in consequential problems such as illiteracy, unemployment and social dislocation (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 10). Community consultations undertaken by the UN in 2012 identified undereducation and drug abuse by young people as among their top three concerns (UNDP & UNDP, 2012, p. 22). The UNDP (UNDP, 2014, p. 23), however, challenges the negative portrayal of young Bougainvilleans as there are many exceptional cases. Calls have been made for increased engagement with the ‘lost generation’ as they

will constitute the bulk of young people who will be participating in the upcoming referendum (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 10).

Reasons given in the 2013 Joint Review for the unsatisfactory social benefits of Bougainville's autonomy to date largely highlight planning and coordination problems in the ABG (JSB, 2013, p. 27). These include, for example, an absence of a cohesive strategy in the drawdown of powers that are dispersed across various divisions and economic sectors, and the development of new buildings without links to the recurrent budget and staffing (JSB, 2013, p. 27). The review suggests this outcome primarily stems from "an absence of a vision for the type of Bougainville society people should be encouraged to aspire to" (JSB, 2013, p. 28) – a weakness that is impeding strategic planning and adherence to basic service delivery aspirations (JSB, 2013, p. 28). A UNDP report (2014, p. 23) echoes this criticism, noting a lack of administrative direction in the design and implementation of programmes and the strategic use of funding.

Another insight of the 2013 Joint Review (JSB, 2013, p. 29) is a mismatch between the perceptions of ABG representatives and the reality on the ground. The review documented significant impatience across Bougainville on a lack of observable outcomes, highlighting six main themes:

- the people do not know what is happening. Both governments have been implementing projects and services are being restored. However, the impact is not recognised or being attributed to autonomy;
- the public service is seen widely as deficient with a serious lack of capacity;
- services are not meeting the needs of the people;
- the National Government is widely blamed for not funding Bougainville's restoration;
- corruption and a lack of transparency over projects is a serious and emerging issue; and
- the people feel that they are not involved in decision-making, nor are they consulted (JSB, 2013, p. 18).

A key difference noted in 2013 compared with earlier observations is that many of these frustrations were being directed towards the ABG, rather than the National Government exclusively (JSB, 2013, p.14). The UNDP (2014, p. 12) suggests this is because the ABG is now the main governance actor most identifiable to the people. This is supported by Patrick Nisira, who writes:

...the much slower than anticipated progress in transfer of powers has resulted in frustration, and contributed to widespread criticism of the ABG for lack of performance, and failure to meet expectations (Nisira, 2017, p. 7).

A more recent report of the Parliamentary Bipartisan Committee on Bougainville Affairs (2017, p. 12) indicates a continuation of community frustrations about progress on autonomy. The report revealed:

- fears that the JSB is not effectively meeting the demands of the ABG and "that it was in danger of becoming a 'rubber stamp' and existing at the behest and convenience of the national government";
- uncertainty about the National Government's understanding of, and commitments to, Bougainville's autonomy arrangements;
- the slowness in the drawdown of powers and responsibilities – and institutions in some instances – from the national government to the ABG;
- concern about funding from the national government (which overshadowed all other concerns);
- autonomy is a misunderstood concept and often used interchangeably with independence; and
- people need to know and understand the BPA before the autonomy issue is properly grasped (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 12).

In another study, the UNDP (2014, p. 11–12) engaged in community consultations with 1,100 people across Bougainville. While this report is broader in scope than the autonomy arrangements per se, it supports many of

the frustrations noted earlier:

- confusion at all levels about division of powers and functions between the National Government and the ABG;
- difficulties in the collaboration between the National Government and ABG;
- a disconnect at many levels within the ABG (political, administrative and legislative components); and
- a major disconnect between the ABG and the citizens of Bougainville (UNDP, 2014, p. 13).

Adding to community frustrations and uncertainty about the benefits of autonomy is the 2013 Joint Review finding that “the lack of understanding in Papua New Guinea and Bougainville of the autonomy arrangements is the single largest issue facing PNG and Bougainville today” (JSB, 2013, p. 14). A more recent study of communications in Bougainville (Thomas et al., 2017) suggests this remains a key issue. Reporting on a survey of 1,114 community members in Bougainville, the study found 77 percent feel unsure or do not know much about the BPA, and 83 percent feel they do not receive enough information on related topics (Thomas et al., 2017, p. 9). Representatives of the ABG, public servants and the community alike continue to call for greater information on the autonomy arrangements to go hand-in-hand with awareness on the referendum (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 15).

Aside from the limited reach of media sources in Bougainville (Thomas et al., 2017, p. 2), the 2013 Joint Review directs blame at both governments for the lack of understanding of the autonomy arrangements among political leaders and the Bougainville public (JSB, 2013, p. 15). On the one hand, it criticises the ABG for failing to “present a united vision of what autonomy is and how it benefits the people of Bougainville” (JSB, 2013, p. 15). On the other hand, it argues that the National Government has “not demonstrated a coordinated approach to understanding its critical role in making autonomy work” (JSB, 2013, p. 15).

## 2.3 Shortfalls identified

Some progress has been made on implementing the governance and administrative aspects of autonomy. Key milestones include enacting the Bougainville Constitution, establishing the Bougainville House of Representatives and founding Bougainville’s own public service. Yet, overall, progress has been evaluated as slower than anticipated, primarily attributed to the absence of a clear and cohesive strategy on autonomy, weak coordination between the two governments on its implementation, and capacity and resourcing weaknesses in the Bougainville administration.

### 2.3.1 Slow drawdown of powers and coordination problems

A particular shortfall identified is the slow drawdown of powers and functions from the National Government to the ABG. Those powers that have been drawn down have been evaluated as “highly fragmented with each department (division doing its own thing), resulting in lopsided and uneven progress” (JSB, 2013, p. 61). The main update to the 2013 Joint Review on the transfer of powers and functions is that 23 acts have been passed in the House of Representatives since 2013. Thirteen MoUs have also been signed across a range of sectors, and one new overarching MoU on the future drawdown of powers. The full status of the powers and functions is unclear, however, as there is a dearth of public information and analysis on this.

Failure to follow the constitutional processes for the transfer of powers and functions through the signing of MoUs has also been criticised as it has not forced the two governments to respond to important deficiencies in the public service. It is possible to argue, therefore, that the ABG has the potential to exercise wide powers and functions as intended by the autonomy arrangements, but the potential to do this effectively has been limited by human and financial resourcing and coordination issues. The concluding chapter discusses the need for clarity on the status of powers and functions, as well as the risks that could be associated with a hasty transfer before or after the referendum.

### **2.3.2 Capacity, resourcing and service delivery concerns**

Particular concerns have been raised about the capacity and resourcing of the BPS. No new pieces of legislation related to the police have been passed since 2013 and as already noted, the BPS continues to national law (Dinnen & Peake, 2013a, p.1). Lack of funding to rebuild police infrastructure destroyed during the conflict is considered a major setback.

Also concerning to external organisations is the state of health and education services in Bougainville, with particular impacts on women and young people. Limited development outcomes and social benefits of the autonomy arrangements have been attributed to lack of strategic planning in the Bougainville administration, which is noted as suffering significant resourcing and capability weaknesses.

### **2.3.3 Delayed payments and miscalculations of grants**

Monies owing to the ABG by the National Government have been controversial due to delayed payments, miscalculations and accounting errors. This is thought to have fuelled distrust of the National Government among the Bougainville public, raising questions as to whether it is committed to honouring the BPA. In 2017, however, the two governments met to resolve the dispute and agreed to a repayment plan. Still, the ABG remains uncertain as to whether PNG will be in a financial position to deliver on its promise. As funding from the National Government remains a dominant concern among the Bougainville public (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 12), this is an issue that may need a proactive approach from the National Government to instil confidence among voters in the lead-up to the referendum.

Bougainville is a long-way short of achieving fiscal self-reliance (Chand, 2018, p. 1). Aside from delayed payments of the RDG grant and limitations in the Bougainville economy, lack of cooperation between the ABG and National Government departments has again been noted as an explanatory factor (ABG, 2016d, p. 43–44). The Bougainville public are also thought to be worried about the effectiveness of the JSB in responding to the needs of the ABG and fulfilling its responsibility to facilitate intergovernmental relations (Parliamentary Bipartisan Committee on Bougainville Affairs (2017, p. 12). Collaboration between the two governments through the JSB on referendum preparations could therefore have the potential to diminish, or strengthen, the guiding principle of the BPA as a joint creation.



## Ch. 3 Weapons disposal

This chapter examines progress on disarmament in Bougainville, beginning with an introduction to the three-stage Weapons Disposal Plan contained in the BPA and the complexities of determining compliance. The number, types and impact of weapons thought to remain in circulation in Bougainville today are then presented. This is followed by a discussion of recent ABG efforts to engage ‘outlying factions’ in the ongoing peace process, and advancements towards unification and reconciliation.

### 3.1 Key provisions

Part E of the BPA endorses a Weapons Disposal Plan to be implemented in three stages alongside the withdrawal of remaining PNG Defence Force and Police Mobile Unit personnel. As mentioned earlier, fulfilling the implementation of the Weapons Disposal Plan would trigger amendments to the PNG Constitution to allow for a separate Bougainville Constitution and the holding of the first ABG elections (Nisira, 2017, p. 5). This was a strong incentive for armed factions to engage in the weapons disposal process (Nisira, 2017, p. 5), and provided the mutual security needed to finalise the BPA (Wolfers, 2007, p. 96).

Stage one of the Weapons Disposal Plan commenced on 9 May 2001. This initial stage required ex-combatants willing to disarm to place their weapons in small lockable containers. These containers were held under the control of BRA and BRF unit commanders and sealed and verified by the UNOMB. Containers were distributed across Bougainville by Peace Monitoring Group helicopters, which also transported ex-combatants around Bougainville with the aim of encouraging women, chiefs and church leaders to convince their communities to disarm (Spark & Bailey, 2005, p. 605).

Stage two of the Weapons Disposal Plan required company commanders to place contained weapons into larger shipping containers at a number of central locations. Weapons were to remain in these double-locked containers until their final fate was decided. The BPA required one of the keys to the containers to be held by the UNOMB, and the other key by the relevant company commander (Spark & Bailey, 2005).

A decision on the final fate of the weapons would mark attainment of stage three. The BPA required this decision be made “4 ½ months of the coming into effect of the constitutional amendments” (BPA, 2001, p. 65), which would be activated on UNOMB assessment of compliance to stages one and two of the Weapons Disposal Plan.

A decision to destroy weapons was made in December 2003 and most were destroyed in 2004 (Spark & Bailey, 2005, p. 602). On 19 May 2005, the UNOMB determined that the Weapons Disposal Plan had been implemented and elections could be planned for the first Bougainville elections (UNDPA & UNDP, 2012, p. 4). Parties to the BPA then agreed that it would be the responsibility of the ABG, in collaboration with the National Government, to address the issue of residual weapons (UNDPA & UNDP, 2012, p. 12).

### 3.2 Progress

#### 3.2.1 The UNOMB supervised process

Based on UN (2008, p. 455) figures, the UNOMB supervised weapons disposal process resulted in:

- 2,016 weapons collected and kept in containers;
- 1,896 weapons initially destroyed;
- an additional 155 weapons collected and destroyed by the UNOMB;
- 2,051 weapons destroyed in total.

Of the 2,051 weapons destroyed, 56 percent were homemade, while the remainder comprised: sporting/hunting weapons (16 percent); high-powered weapons (15 percent) and World War II rifles and machine guns (13%) (UNDPA & UNDP, 2012, p. 12). Almost all of these weapons belonged to BRA and BRF fighters (UNDPA &



UNDP, 2012, p. 12).

One limitation of the Weapons Disposal Plan is that it is impossible to say what proportion of weapons present in Bougainville were collected and destroyed as a result of this process. This is because there “is no reliable estimate of the number of weapons present in Bougainville prior to the implementation of the Weapons Disposal Plan” (UNDPA & UNDP, 2012, p. 12). The UN does estimate, however, that the number of weapons not collected and destroyed could be around 600, but it is impossible to offer anything more than a rough guide (UNDPA & UNDP, 2012, p. 13).

### **3.2.2 Complexities of ‘compliance’**

The UNOMB held the decision-making power to determine what would constitute ‘significant compliance’ to the Weapons Disposal Plan (Spark & Bailey, 2005, p. 603). The BPA does not provide “a benchmark for what levels of disposal are acceptable” (Joint Technical Team, 2018, p. 49).

It is recognised that the notion of ‘significant compliance’ is vague and continues to allow for different interpretations as to whether it was been achieved (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 18). This ambiguity stemmed from acknowledgement at the signing of the BPA that a number of individuals and groups remained outside of the peace process (Spark & Bailey, 2005, p. 603). In particular, negotiations failed to convince former BRA Supreme Commander, Francis Ona, and his Me’ekamui Defence Force (MDF), to join the peace process (Regan, 2002, p. 115). The Weapons Disposal Plan would therefore only secure a proportion of the weapons known to be in circulation.

Completion of the weapons disposal process is also debateable as not all weapons were relinquished. Up to 120 weapons were stolen from containers during stage two of the process (Woodbury, 2015, p. 9). It was also widely understood that some high-powered weapons held by BRA and BRF combatants were not handed in (Ipp & Cooper, 2013, p. 14; Nisira, 2017, p. 5; UNDPA & UNDP, 2012, p. 10–11). This may have been “due to suspicion of PNG or of one another, or for the purpose of sale, or for use in criminal activities” (Nisira, 2017, p. 5).

### **3.2.3 Weapons collected since 2005**

In 2002, there was “dramatic progress” on implementation of the BPA Weapons Disposal Plan (Regan, 2002, p. 123). This was attributed to the two-way link between the constitutional amendments that enabled the establishment of the ABG and the Weapons Disposal Plan (Regan, 2002, p. 123). Once the constitutional amendments had been made, however, momentum was lost and thought difficult to recover. Moreover, no formal ABG-led Bougainville-wide weapons disposal process immediately succeeded the Weapons Disposal Plan (UNDPA & UNDP, 2012, p. 22).

Localised conflicts in the South of Bougainville between 2004 and 2011 were another serious setback as they prompted the influx of weapons from within Bougainville and from the Solomon Islands (UNDPA & UNDP, 2012, p. 23). Significant events documented in the UN (UNDPA & UNDP, 2012, p. 23) evaluation are:

- the conflict in Siwai (2004–2007);
- the arrival of Noah Musingku in Tonu in 2004;
- the establishment of an armed unit to provide security to Musingku’s self-proclaimed ‘Kingdom of Papala’;
- a 2006 attack on Musingku’s compound by the BPS in cooperation with the Bougainville Freedom Fighters; and
- localised conflict around Konnou (2006–2011).

A UN evaluation of weapons disposal (UNDPA & UNDP, 2012, p. 27) found that between 2005–2012, the ABG made little progress, meaning “the number of weapons present in Bougainville today may be largely the same as it was in 2005”. This is supported by Starygin (2013, p. 71) who argues that since 2005, “there has been no significant change” and by Ipp and Cooper (2013, p. 14) who argue that, “though the government recognizes

the need to remove weapons from community life, it has struggled to do so effectively”. Further, Central Bougainville MP, Sam Akoitai, told the audience at the National Conference on Bougainville Referendum that weapons disposal was taking so long that the governments need to identify a new approach (Radio New Zealand, 2018).

Despite consistent evaluations of weapons disposal since 2005 as ‘slow’, there is limited data to support or deny this. Figures that do exist suggest only a small number of weapons have been handed in to the police as a result of local-level reconciliations and/or seized through criminal activities (UNDPA & UNDP, 2012, p. 23). An unofficial weapons disposal programme between 2005–2007 supported by the New Zealand High Commissioner resulted in the surrender of approximately 12 weapons (UNDPA & UNDP, 2012, p. 23) and reconciliation and weapons disposal activities conducted by the UNDP between 2008–2010 collected less than 10 weapons (UNDPA & UNDP, 2012, p. 23). A more significant, but undisclosed number of weapons have been contained under the authority of factional commanders and Chiefs as a result of the resolution of localised conflicts in the south of Bougainville (UNDPA & UNDP, 2012, p. 23). Yet as of 2012 (UNDPA & UNDP, 2012, p. 23), no decision had been made on the final fate of these weapons. More recently, in April and June 2018, internal reconciliations (discussed later) resulted in the destruction and disposal of another eight modified rifles, one active explosive and a sizeable quantity of small arms ammunitions (Joint Technical Team, 2018, p. 70).

#### **3.2.4 Number of weapons in circulation**

Apart from the figures already listed, it is unclear how many weapons the ABG has collected and destroyed since the 2005 process and a database on weapons remaining in Bougainville is yet to be finalised (Blades, 2018). One estimate provided in 2015 is that there are up to “2000 arms of mixed quality still in circulation” and “14 armed militia groups still openly carrying weapons in southern Bougainville alone” (Woodbury, 2015, p. 10). Yet there is limited supporting evidence for this. Sources provided by Woodbury (2015, footnote 83) are: The Economist (2010) which provides the figure of 14 armed militia and roughly 1,500–2,500 weapons in circulation; and Strygin (2013, p. 56–76), who examines the personas of seven “protagonists of ‘Rambo-style leadership’ ” but does not provide figures on the number of weapons in circulation. Other reports simply refer to a “large number of weapons” yet do not provide specific records (Ipp & Cooper, 2013, p. 13; Wallis, 2012, p. 36). The notion of a ‘large number’ also contradicts the finding of the 2012 UN evaluation that, “a relatively small but potentially destabilising number of weapons remain in Bougainville” (UNDPA & UNDP, 2012, p. 1).

Figures provided in the 2012 UN report include:

- a rough estimate that around 600 ‘residual crisis weapons’ remained after the implementation of the Weapons Disposal Plan;
- it is impossible to estimate with accuracy the quantities of WWII remnants but “the numbers are likely to be significant”;
- arms trafficking groups may have around 400–500 weapons at any one time; and
- although the BPS is officially unarmed, in 2009 it had access to 56 weapons of various types and distributed among police stations across Bougainville. But the evaluators were unable to verify the accuracy of the inventory on which this figure is based (UNDPA & UNDP, 2012, p. 12–16).

A meeting of the JSB held on 15 December 2017 endorsed the ongoing need for a Joint Weapons Disposal Secretariat to collect data against which weapons disposal completion can be measured (Joint Technical Team, 2018, p. 41).

#### **3.2.5 Types of weapons in circulation**

Despite uncertainty about the number of weapons in circulation, Bougainville leaders and the public alike are concerned about the continued presence of firearms in communities (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 18). One concern is that “they could be used in the future to fuel further localized

conflict or even to bring political pressure to bear on the ABG” (UNDPA & UNDP, 2012, p. 18). More broadly, many people in Bougainville are thought to believe that the availability of weapons is a threat to personal safety (Thomas et al., 2017, p. 78).

Review documents suggest four main categories of weapons remain in circulation:

- ‘residual crisis weapons’ not disposed of as part of the Weapons Disposal Plan (UNDPA & UNDP, 2012, p. 12). These comprise firearms held onto by the various MDF factions; weapons supplied to former BRF members by contacts in the PNG Defence Force; and weapons possessed by BRA commanders that were not destroyed (Nisira, 2017);
- other ‘new’ weapons believed to have been brought into Bougainville since the BPA was signed (Regan, 2016a, p. 18). These come to Bougainville from a range of sources such as smuggling and sale from the Solomon Islands (UNDP, 2014, p. 9);
- WWII remnants found in Torokina and other parts of Bougainville (Regan, 2016b, p. 18). Although deemed to be “more modest in quantities”, unexploded ordinance from WWII further contribute to the availability of weapons (Ipp & Cooper, 2013, p. 14); and
- police weapons (UNDPA & UNDP, 2012, p. 12) and weapons procured and held under the PNG Firearms Act (Joint Technical Team, 2018, p. 39).

### **3.2.6 Impact of weapons**

While firearms are mostly not used in Bougainville, misuse does occur alongside alcohol and drug abuse (UNDPA & UNDP, 2012, p. 18). This has negative consequences on women, who the UN suggests have been marginalised from playing a meaningful role in weapons disposal (UNDPA & UNDP, 2012, p. 21). In some areas of Bougainville, women are thought to be anxious to travel on the weekend (a time when men often drink alcohol) and fear retaliation if they report on the misuse of guns (UNDPA & UNDP, 2012, p. 22). The presence of firearms also weakens the authority of the BPS and the CAP (UNDPA & UNDP, 2012, p. 19). More broadly, they threaten the exercise of democracy in Bougainville and respect for basic human rights (Joint Technical Team, 2018, p. 44). This includes, for example, the use of firearms in extrajudicial killings of suspected sorcerers (UNDPA & UNDP, 2012, p. 21). Yet the UN (UNDPA & UNDP, 2012, p. 18) reports that the presence of weapons in Bougainville rarely results in firearms-related injuries. Rather, injuries are more commonly inflicted by bladed weapons that are used as everyday tools for gathering food (UNDPA & UNDP, 2012, p. 18). This raises questions as to the types of ‘weapons’ that should be of most concern in the lead-up to the referendum.

### **3.2.7 Weapons holders**

Despite inadequate data on the number of weapons present in Bougainville, numerous armed groups and individuals are thought to still pose a threat to peace (Ipp & Cooper, 2013, p. 14). In 2018, UN-sponsored consultants identified three ‘outlying factions’ thought to retain arms and whose support is crucial to ensure implementation of remaining provisions of the BPA:

- the MDF, led by Moses Pipiro and based around Panguna;
- the Twin Kingdom of Noah Musingku; and
- Damien Koike (Joint Technical Team, 2018, p. 50).

Aside from the outlying factions, other categories of people thought to be in possession of weapons include:

- arms traffickers;
- businesses who use weapons to provide security for their premises and operations;
- non-ex-combatant civilians who acquired weapons during or after the crisis, particularly young men;
- a small number of private security companies that possess, or at least have easy access to, weapons; and

- the BPS, officially unarmed yet with access to a range of weapons (UNDPA & UNDP, 2012, p. 16–17).

There are a variety of reasons as to why people and groups in Bougainville could be reluctant to relinquish arms. In order of importance, the UN (UNDPA & UNDP, 2012, p. 17–18) provides the following list of motivations:

- political uncertainty (e.g. will the Referendum be held? What will the outcome be? Will the PNG Parliament endorse the outcome? Will the PNG Defence Force be redeployed to Bougainville in the event that the PNG Parliament does not endorse the outcome?);
- security (e.g. fear of retaliation for acts during the crisis; inter-clan/inter-faction conflicts; protection of business activities);
- monetary (e.g. income through the illicit arms market);
- criminal (e.g. trafficking in arms and illegally acquiring land);
- display of masculinity by young men (e.g. enhanced status and power among friends); and
- sentimental (e.g. an heirloom for the grandchildren of ex-combatants) (UNDPA & UNDP, 2012, p. 17–18).

Adding to this list, Dennis Kuiai spoke at the National Conference on Bougainville Referendum about the historical status of weapons in Melanesian culture. A problem Kuiai identified, however, is that firearms are now being used in place of spears. Melanesian social structures and bilateral relations (e.g. with the Solomon Islands) also provide windows of opportunity for illicit trade (Joint Technical Team, 2018, p. 38).

Trafficking in small arms to other parts of PNG and to Indonesia is a lucrative trade “due to price differentials that exist between the Solomon Islands, Bougainville and the final destinations of trafficked weapons” (UNDPA & UNDP, 2012, p. 15). The mark-up could range from 300–1,500 percent depending on their destination (UNDPA & UNDP, 2012, p. 15). Recovered WWII weapons also fetch high prices on the black market (UNDPA & UNDP, 2012, p. 13). A potential unintended consequence of weapons disposal in Bougainville is that “any reduction in the supply of readily available weapons and ammunition in Bougainville would lead to an increase in their black market value” (UNDPA & UNDP, 2012, p. 14). It is also possible that some people are holding onto weapons based on hopes for an official gun buy-back scheme (UNDPA & UNDP, 2012, p. 17). But the UN reports no plans for a buy-back scheme or “economic projects in exchange for weapons” (UNDPA & UNDP, 2012, p. 26).

### 3.2.8 Engagement with ‘outlying factions’

From 2012, the ABG began a gradual shift away from a focus on weapons disposal exclusively to a more holistic approach focused on community development and security (UNDPA & UNDP, 2012, p. 26). This change stemmed from experiences gained in peacebuilding activities in the South of Bougainville (discussed later) (UNDPA & UNDP, 2012, p. 26).

There have been a number of positive steps towards disarmament in Bougainville through dialogue among the Me’ekamui fighters, and between ex-combatants and the ABG (UNDP, 2018). Former commanders, including Panguna Me’ekamui, have committed to make ‘Bougainville weapons free’<sup>4</sup> no later than December 2018 (Joint Technical Team, 2018, p. 19). ABG officials have also been meeting with people such as Noah Musingku and Damien Koike (Joint technical Team, 2018, p. 51).

Koike is said to be clear in his support of a peaceful referendum as he is confident it will lead to independence (Joint Technical Team, 2018, p. 50). MDF leader, Moses Pipiro, has also declared his support for the referendum, whereas Musingku is thought to “be a harder nut to crack since his motivations for holding weapons presumably stem as much from concerns about his personal safety in view of his involvement in a failed pyramid scheme” (Joint technical Team, 2018, p. 50). It is also thought that some people and factions continue to retain weapons based on suspicions that the National Government will either not allow the referendum to occur or will reject a result in favour of independence (Joint Technical Team, 2018, p. 50; Radio New Zealand, 2016). Nisira

<sup>4</sup> The term ‘weapons-free Bougainville’ is used in commentary on weapons disposal in the lead-up to the referendum but it is not contained in the BPA (Joint Technical Team, 2018, p. 49).

(2017, p. 5), however, suggests these suspicions could be weakening as progress is made on preparations for the referendum.

### **3.2.9 Reconciliation and unification**

The Peace Process Consultative Committee Resolution on Weapons Disposal contained in the BPA (Part E) recognises that “that weapons disposal and reconciliation are both mutually reinforcing and necessary to lasting peace by peaceful means”. Reconciliation between past adversaries and ‘unification’ of former Bougainville factions remains a peacebuilding priority.

Bougainville has made significant progress towards reconciliation through collaborative approaches since the signing of the BPA. A major accomplishment was brokering the 2011 Konnou Peace Agreement, which ended a six-year localised conflict in the South of Bougainville (UNDP, 2018). While the ceasefire did not result in the handover of a significant number of weapons, “it did lay the foundation for intensified mediation and community-based peacebuilding efforts...” (UNDPA & UNDP, 2012, p. 24). Another important milestone occurred on 7 May 2017 when former BRA, Me’ekamui Government of Unity, Twin Kingdom factions and the MDF agreed to pursue peace by all means leading up to the referendum and beyond (Post Courier, 2017).

Under the ABG House of Representatives’ Constituency Referendum Ready Concept, internal reconciliations are also occurring at the village and constituency level (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 23). In 2018, mass reconciliations took place in five constituencies across Bougainville and resulted in the destruction of a number of firearms (of various sizes) and an active explosive (Joint Technical Team, 2018, p. 71).

Women leaders and churches also continue to play an important role in promoting reconciliation in Bougainville. This includes facilitating joint conferences with national women’s organisations, as well as planning an interdenominational reconciliation in Arawa (Joint Technical Team, 2018, p. 71). Another category of reconciliations is ‘high profile cases’ involving former prominent political leaders (Joint Technical Team, 2018, p. 71). Yet some of these are incomplete, reasons for which include: waiting for the retrieval and repatriation of remains; unification among Me’ekamui factions; and awaiting the National Inquiry Report on the late Theodore Miriung case (Joint Technical Team, 2018, p. 71).

Lack of money is considered to be one obstacle to reconciliation, as ceremonies require logistics, food and other items. The 2012 UN evaluation of weapons disposal, however, heard strong complaints that implementation of the reconciliation and weapons disposal components of the BPA “had turned into a money-making scheme” and that “this was undermining not only the Agreement itself but also some important Bougainville values and traditions” (UNDPA & UNDP, 2012, p. 11). Nonetheless, the Parliamentary Bipartisan Committee on Bougainville Affairs (2017, p. 23) is of the view that “without an infusion of significant resources, there could be little time left to conduct a thorough reconciliation process throughout the AROB before the referendum”.

### **3.2.10 Recent weapons disposal activities**

In 2016, the ABG (2016d, p. 59) listed nine weapons disposal programmes as part of the Joint Bougainville Referendum work plan to occur between 2016 and 2018 with an unspecified budget. Activities listed during this period focused on information gathering (e.g. determining completion of the Weapons Disposal Plan under the BPA); the development of new strategies to address law and order issues associated with illegal firearms; and seeking external assistance (ABG, 2016d, p. 59).

At a JSB meeting held on 15 December 2017, the two governments endorsed a resolution on the ‘Revised Four Phase Weapons Disposal Plan’ and rehabilitation and reintegration of former combatants (Joint Technical Team, 2018, p. 39). The National Government will provide K12 million in budgetary support for the plan over three years (2018–2020), with a commitment of K7 million in the 2018 financial year. Overseen by the Joint Weapons Disposal Secretariat, the four ‘key result areas’ of the revised plan are:

- awareness and sensitisation;



- collection, registration and storage of firearms, ammunitions and explosives;
- disposal of weapons in accordance with the Decision on Final Fate of Disposal; and
- certification of weapons disposal compliance (Joint Technical Team, 2018, p. 39-46).

Guidelines have also been developed for the staging of a weapons disposal ceremony, or a ‘gun destruction day ceremony’. Such a ceremony would be intended as “an event involving a visit by a GOPNG [Government of PNG] representative for the purposes of witnessing a significant weapons destruction or disposal ceremony” (Joint Technical Team, 2018, p. 54). The plan is focused at the district level and designed to be implemented by respective community governments.

Compared with the 2005 weapons disposal process, there is a stronger focus on district-level leadership and implementation. In the lead-up to the referendum, community government members across Bougainville will be required to undertake a weapons survey to ensure that each constituency can “declare themselves referendum ready by December 2018” (Joint Technical Team, 2018, p. 17–18). Instead of UNOMB certification, compliance will be marked by the public declaration of former combatants, Me’ekamui factions and other groups (Joint Technical Team, 2018, p. 47). Any remaining weapons found in Bougainville from January 2019 will be treated as a normal peacetime law and order issue under the PNG Firearms Act and all people “who continue to hold weapons after 31 December 2018 could face 10 years in jail and a fine of up to K10,000 (Joint Technical Team, 2018, p. 39). Both governments are to ensure adequate funding to support continued weapons disposal activities, and to seek technical and financial support from countries with WWII remnants in Bougainville (Joint Technical Team, 2018, p. 39).

### 3.3 Shortfalls identified

#### 3.3.1. Limited data to assess the threat posed by weapons

In 2005, the UNOMB determined compliance on implementation of the BPA Weapons Disposal Plan. On paper, it is therefore technically complete. Yet it was known at the time of signing the BPA that this process would only secure a proportion of weapons in circulation. Doubts have also been raised about compliance with the Weapons Disposal Plan due to a number of weapons being stolen or never relinquished. It is also unclear how many weapons remain in Bougainville and there are discrepancies as to whether this number might be ‘large’ or ‘small’. This makes it difficult to assess the magnitude of the threat posed by firearms relative to other ‘weapons’ such as bladed instruments that are readily available. This reinforces the need to expand emphases on a peaceful referendum beyond a focus on weapons disposal exclusively, and to continue to support reconciliation and unification activities.

#### 3.3.2 Localised conflict, incomplete reconciliation and political uncertainty

A notable limitation in the BPA provisions is that no formal weapons disposal process immediately followed the UNOMB supervised Weapons Disposal Plan, and progress since 2005 is widely evaluated as slow. Firearms have been put to use in localised conflicts and there are fears that local conflicts could escalate, or re-escalate, in the name of the referendum outcome (Ipp & Cooper, 2013, p. 12). Incomplete reconciliations and unresolved hostilities heighten this risk.

Reasons for holding onto weapons are diverse but political uncertainty is a key issue. Reducing this uncertainty will take time and some may not feel appeased until the final outcome is endorsed by the PNG Parliament. An important lesson to be drawn from the UNOMB-supervised process is that momentum on disarmament activities can be lost when tied to political processes with a finite deadline. It appears similarly important to develop strategies to maintain the current impetus towards unification and reconciliation following the referendum.

#### 3.3.3 Criminal activities

A final noteworthy issue is that there are thought to be a number of weapons holders in Bougainville who are not ex-combatants and whose motivations are not political (e.g. monetary and criminal). Paradoxically, it is thought

that progress on weapons disposal could be increasing sales prices of firearms on the black market, potentially heightening financial incentives to hold onto weapons. Although these weapons might be conceived of as a 'law and order issue', rather than one of post-conflict disarmament, the presence and misuse of firearms during the referendum could jeopardise evaluations of the vote as 'free and fair' (discussed later).



## Ch. 4 Referendum

This chapter outlines the key BPA provisions for the Bougainville referendum and provides an update on preparations. This is followed by an introduction to relevant literature on ‘good governance’ and ‘free and fair’ due to the inclusion of these concepts in the BPA.

### 4.1 Key provisions

‘Agreed principles for the Bougainville Referendum’ are set out in detail in Part C of the BPA. Through amendments to the National Constitution, the Bougainville referendum is guaranteed but the outcome is non-binding. It is therefore “technically ‘consultative’ only” (Regan, 2016b, p. 5). In the spirit of the BPA as a joint creation, implementation of the result is to occur through consultation between the two governments. If an agreement is reached, the result can be referred to the National Parliament as the final decision-making authority (Bougainville Referendum Communications Committee, 2016, p. 4). In the event of disagreement, Bougainville’s existing autonomy arrangements under the powers of the BPA will continue until a final decision is made (Bougainville Referendum Communications Committee, 2016, p. 3).

#### 4.1.1 The question(s)

There are no limitations on the number of options to be made available in the referendum, but one option must include separate independence for Bougainville. Despite this flexibility, the referendum is generally thought of as a choice between two options: independence or continued autonomy and the two governments very recently agreed (October 2018) that the question posed to voters will be:

Do you agree for Bougainville to have (i) Greater Autonomy or (ii) Independence? (Kenneth, 2018).

Yet some participants at the National Conference on Bougainville Referendum argued that even limiting the options to a choice between independence or autonomy risks definitional problems such as the degree of autonomy sought-after and/or the time at which independence should commence. At the same time, it was acknowledged that there is a need for simplicity as autonomy ‘is confusing for the people’.

#### 4.1.2 Eligibility

The BPA states that “eligibility to vote in the national elections will be the same as for national elections in Bougainville plus non-resident Bougainvilleans (detailed criteria to be finalised through consultation)” (2001, Part C (15)). One source of controversy is that non-Bougainvillean citizens of PNG will be eligible to vote in the referendum, “subject only to having been resident [in Bougainville] for six months” (Maclellan & Regan, 2018, p. 12). There was, however, clear agreement on this aspect of the BPA during the peace negotiations (Maclellan & Regan, 2018, p. 12).

At a JSB meeting held on 29 June 2018, the two governments agreed that a non-resident Bougainvillean eligible to vote in the referendum is a person who is:

...Bougainvillean, as defined in Section 7(1) of the Bougainville Constitution; and entitled to enrolment under Section 52(1) of the Organic Law on National and Local-level Government Elections for an electorate in Papua New Guinea outside the AROB (JSB, 2018, p. 5).

Voting in the referendum is not compulsory and “there are no provisions setting a quorum for either voter turnout or results” (Maclellan & Regan, 2018, p. 12).

#### 4.1.3 The conduct of the referendum

At a JSB meeting in May 2016, the two governments agreed to establish an independent administrative agency, the Bougainville Referendum Commission (BRC), to prepare for and conduct the referendum (Maclellan & Regan, 2018, p. 13). The establishment of the BRC under the BRC Charter signed in August 2017 officially

kick-started electoral preparations for the referendum (International Foundation for Electoral Systems, n.d., p. 2). The BRC is responsible for the design of the ballot paper and translation of the agreed question. The BRC comprises seven members: the PNG and Bougainville electoral commissioners and two members each from the national government and the ABG, one male and one female (Muapi, 2017). The ABG has appointed Patrick Nisira and Ruby Mirinka, while the PNG Government has appointed Professor Thomas Webster and Robert Igara. Bertie Ahern has been confirmed as Chair of the BRC, chosen on the basis of his involvement in the Northern Ireland peace process (Dineen, 2018).

The main ‘stumbling block’ to the operation of the BRC to date is funding (Maclellan & Regan, 2018, p. 13). According to Maclellan and Regan (2018, p. 13):

...the indicative budget developed by the BRC indicates the total budget for the referendum will be around K127 million (about AU\$51 million). However as yet only K500,000 allocated by the ABG is available, while K20 million promised by the national government towards meeting 2018 costs has yet to be released.

Delays in the release of funds could be pushing back important preparatory work for the referendum, such as compilation of voter rolls (Maclellan & Regan, 2018, p. 13).

#### **4.1.4 Timing**

A vote must be held no later than 15 years after the election of the first ABG which was inaugurated in 2005 under President Joseph Kabui. Although a target date for the referendum has been set, the actual date is yet to be confirmed. It could be held on a date later than 15 June 2019, so long as it occurs before 15 June 2020. One problem noted is that the target date “has since become widely accepted in Bougainville as the actual date” (Maclellan & Regan, 2018, p. 12). But the actual date cannot be determined until the two governments consult over two conditions listed in the BPA:

- weapons disposal; and
- good governance (BPA, 2001, Part C (312 (b))).

Reference to these two conditions in the BPA has been a source of considerable confusion. There is misunderstanding among key stakeholders that a lack of good governance and/or inadequate progress on weapons disposal can stop the referendum from going ahead, or that they are ‘pre-conditions’ for holding the referendum. Significantly, this includes warnings made by Prime Minister O’Neill that the referendum might not be possible if Bougainville does not fulfil these conditions (Radio New Zealand, 2017a). As already stated, this is incorrect as the referendum is constitutionally guaranteed, with the only exception that the ABG decides in accordance with the Bougainville Constitution that it should not be held (The Constitution of the Autonomous Region of Bougainville, 2004, Sec. 194 (2)). This is unlikely given ABG President, John Momis’, statement in response to O’Neill:

...They [weapons disposal and good governance] are considerations that we need to take into account in determining the date for the referendum. That’s all. The referendum is inevitable. It’s been decided. We will have a referendum (Radio New Zealand, 2017c).

At the National Conference on Bougainville Referendum in June 2018, Prime Minister O’Neill assured the audience that Bougainville has the right to a referendum and stated that no government is going to stop it from going ahead.

#### **4.1.5 Weapons disposal**

As discussed earlier, the BPA outlines a formal Weapons Disposal Plan and a procedure for establishing compliance on implementation of this Plan. The National Constitution (Sec. 338(3)(b)) also states that consideration of weapons disposal is to be conducted “in accordance with the Agreement”. The BPA “is silent, however, on what would constitute adequate progress on weapons disposal” (UNDPA & UNDP, 2012, p. 10). Nonetheless, weapons disposal is expected to be considered in setting the referendum date as there is widespread agreement among Bougainville leaders, including leaders of former combatant groups, that further weapons disposal is

needed (Maclellan & Regan, 2018, p. 11).

#### **4.1.6 Good governance**

The BPA (2001, Part C (313 (a))) provides a definition of good governance that can be thought of as comprising an international and a local dimension. The BPA states:

...the benchmarks to be used in determining good governance will take account of internationally accepted standards of good governance as they are applicable and implemented in the circumstances of Bougainville and the rest of Papua New Guinea. These benchmarks include democracy and opportunities for participation by Bougainvilleans, transparency, and accountability, as well as respect for human rights and the rule of law, including the Constitution of Papua New Guinea (BPA, Part C (313 (a))).

Evaluations as to whether the ABG is performing in accordance with international standards of good governance “shall be determined in accordance with the review and the dispute resolution procedure” (Constitution of Papua New Guinea, Sec. 338 (4)). As stated elsewhere in this report, the second of these reviews is underway and a report is expected in December 2018. According to Maclellan and Regan (2018, p. 11), “if for any reason the review does not occur, then the governments would not be able to meet the requirement for taking good governance issues into account” but the referendum would still need to be held before mid-June 2020.

#### **4.1.7 Defining ‘good governance’**

The notion of good governance is ambiguous as there is no universal guideline as to how it should be measured and achieved (Office of the High Commissioner Human Rights, 1996-2018). Some analysts start with a more general definition of ‘governance’, to clarify what ‘good governance’ might mean (Graham et al., 2003, p. 1).

The international literature tells us that governance is not merely a synonym for ‘government’ (Graham et al., 2003, p. 1; Weiss, 2000, p. 800). Governance includes, but also transcends, the formal government apparatus (Weiss, 2000, p. 800). A public policy issue could be considered to stem from a problem of ‘governance’ but this does not mean “that the onus for ‘fixing’ it necessarily rests with government” (Graham et al., 2003, p. 1). The sovereign state is just one source of power (Braithwaite, 1999, p. 90) and many other individuals and institutions, both public and private, play an important governing role in society (Weiss, 2000, p. 795–796). Governance therefore, is “about how governments and other social organizations interact, how they relate to citizens, and how decisions are taken in a complex world” (Graham et al., 2003, p. 1). Key entities involved in governance include: government, the private sector, military, media and civil society, and interactions between these institutions and citizens are influenced by traditions, history, culture and technology (Graham et al., 2003, p. 1–2).

#### **4.1.8 Governance in Bougainville**

At the everyday level of Bougainville’s rural communities, non-state authorities such as churches, elders and chiefs also play an important governing role (Boege, 2014, p. 247). As these categories are a modern product of the interaction between local indigenous societies and external forces, however, there can be disagreements and uncertainty as to who is a ‘real’ chief (Boege, 2014, p. 247). In practice, and with ramifications for current weapons disposal activities, ‘traditional chiefs’ can find it difficult to exert their authority over competing leadership sources, such as those that command loyalty from young people and/or are in possession of firearms (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 13, p. 24; UNDPA & UNDP, 2012, p. 22).

Each of these different sources of authority in Bougainville, whether ‘traditional’, governmental or religious, do not operate in silos. Rather, they intersect with, and mutually reinforce, one another in ways that often enhance stability in communities (Parliamentary Bipartisan Committee on Bougainville Affairs (2017, p. 10). It might be more helpful, therefore, to think of governance in Bougainville as comprising a number of ‘hybrids’ (Boege, 2014, p. 248), rather than clearly demarcated powers. It is important to acknowledge this in the lead-up to the referendum, both in terms of seeking ‘buy-in’ from ‘outlying’ groups and identifying possible conflict-prevention

strategies.

The origins and complexity of governance in PNG nationwide is beyond the scope of this paper.<sup>5</sup> Yet it is important to note that PNG has long been the subject of international concern regarding governance standards, particularly about transparency, law and order, poor education and health services, and gender inequality (Australian Government Department of Foreign Affairs and Trade, n.d.). Relevant also to a ‘free and fair’ referendum (discussed later) is that Transparency International PNG (2017, p. iii) heavily criticised the 2017 PNG National Parliamentary elections to be “flawed to an unforgiveable extent”. Reasons for this include: security and election-related violence; bribery and intimidation; double, multiple and block voting; and lack of election awareness.

#### 4.1.9 Measuring and evaluating good governance in Bougainville

Due to ambiguities in defining governance, delineating principles of ‘good’ governance is difficult and controversial (Graham et al., 2003, p. 1–2). There are, however, a number of characteristics commonly emphasised. The UN Economic and Social Commission for Asia and the Pacific (2009), for example, lists eight principles:

- participation;
- rule of law;
- transparency;
- responsiveness;
- consensus oriented;
- equity and inclusiveness;
- effectiveness and efficiency; and
- accountability.

The 2013 Joint Review also outlines five different points of view (see Table 3) as to how good governance can be measured (JSB, 2013, p. 62).

**Table 3: Five `points of view on measuring good governance (JSB, 2013, p. 62–69)**

Perspective	Indicators
Section 338(5) of the Constitution indicators	<ul style="list-style-type: none"><li>• democracy</li><li>• opportunities for Participation by Bougainvilleans</li><li>• transparency and accountability</li><li>• human rights and the rule of law</li></ul>
UNDP view	<ul style="list-style-type: none"><li>• legitimacy and voice (participation and consensus orientation)</li><li>• direction (strategic vision)</li><li>• performance (responsiveness; effectiveness and efficiency)</li><li>• accountability (transparency)</li><li>• fairness (equity and rule of law)</li></ul>

<sup>5</sup> For an examination of policy-making and public-sector reform in PNG since independence, see May (2009).

Perspective	Indicators
ABG view	<ul style="list-style-type: none"> <li>• an ideal difficult to achieve in totality</li> <li>• BPA and National Constitution indicators</li> <li>• apply good governance benchmarks “<i>as they are applicable and implemented in the circumstances of Bougainville and Papua New Guinea as a whole</i>”</li> </ul>
International indices	<ul style="list-style-type: none"> <li>• UNDP’s Human Development Index</li> <li>• Freedom House’s Freedom in the World</li> <li>• Transparency International’s Corruption Perception Index</li> <li>• World Bank’s Governance Matters Series</li> <li>• Pacific Institute of Advanced Studies in Development and Governance Good Governance Indicators</li> </ul>
The Provincial Performance Improvement Initiatives Key Result Areas	<ul style="list-style-type: none"> <li>• Provincial and District Management Team Work</li> <li>• management team relations with stakeholders</li> <li>• performance management</li> <li>• managing the budget and financial systems with the province</li> <li>• managing human resources</li> <li>• managing the assets of the province</li> </ul>

Of these different perspectives, the 2013 Joint Review (JSB, 2013, p. 62–64) responds in greatest detail to Section 338 (5) of the National Constitution indicators. The review Team did not intend to use the international indices in the review for reasons including:

- many of the indicators are inappropriate to Bougainville now;
- little data is available for an assessment under these indices;
- the independent experts did not have the resources to undertake the research to collect the data; and
- the ABG does not have responsibility for many of the areas of assessment (JSB, 2013, p. 66).

The 2013 Joint Review’s (JSB, 2013, p. 69) overall assessment of good governance in Bougainville is “that it is doubtful if it could be said that Bougainville was achieving the required standard of good governance as at mid-2013”. Reasons provided for this include:

- weak capacity and poor compliance with recognised good practice, even in the PNG context;
- serious capacity issues in the competencies of individuals and the capability of various parts of the administration of government to do their respective tasks; and
- in other broader areas there is simply a lack of data which makes it impossible to make a valid assessment (JSB, 2013, p. 69).

A second autonomy review is vital to understanding any improvements that have been made on good governance over the past five years.

#### 4.1.10 Contested legitimacy

As already stated, the BPA requires that international benchmarks of good governance be considered based on their applicability to the particular circumstances of Bougainville and the rest of PNG (BPA, 2001, Part C

(313 (a)). A range of groups and individuals vie for authority in Bougainville and therefore appeal to different audiences. At the government level, the ABG is recognised as the official governing body of the AROB and “Bougainville has a vibrant and working system of elected government at the upper level” (JSB, 2013, p. 63). The ABG also has the authority to represent all Bougainvilleans in preparations for the referendum (Nisira, 2017, p. 4). Yet there are a number of ongoing contests against the ABG, including the presence of a road block at Morgan Junction, which still limits access to the Panguna area at times (Nisira, 2017, p. 5). Former combatant leaders have also become more politically active, some of whom hold business interests (e.g. relationships with mining investors) and have sought to bypass the ABG to advance these interests (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 25). Finally, recent events indicate that the Bougainville administration can be easily disrupted. This became highly evident at the National Conference on Bougainville Referendum, to which President Momis and other Bougainville leaders arrived a day late due to the forced closure of Buka Airport by disgruntled workers (Radio New Zealand, 2018). An observation made in 2006 by Wolfers (2006, p. 9), that the ABG’s authority is not Bougainville wide, therefore appears to remain pertinent today.

In part, this situation has arisen as a result of some individuals and groups not joining the peace process from its very beginning. The conflict itself also caused many opposing factions, deep divisions and mistrust (Nisira, 2017, p. 5). As discussed earlier, however, the ABG has made significant engagements with outlying factions – some of which have pledged their support for a peaceful referendum.

#### **4.1.11 ‘Free and fair’**

Additional to weapons disposal and good governance, the BPA states that “the referendum will be free and fair” (BPA, 2001, Part C (317)). The UN has used the term ‘free and fair’ in the context of referendums on independence since the 1950s (Elkit & Svensson, 1997, p. 32), but it is more commonly used in relation to general elections. Free and fair elections, although not an end in themselves, are seen as an essential requirement for “any state to be considered truly democratic” (UNDP, 2014, p. 3).

The international community will be keen to declare the Bougainville referendum has been free and fair, and the BPA (2001, Part C (319)) states that “international observers will be invited to observe the conduct of the referendum”. This would take the form of declarations by international observer groups (e.g. Commonwealth Secretariat, Transparency International, Pacific Islands Forum Secretariat) that the referendum has been conducted in a peaceful atmosphere, and that polling stations have been run in an effective and transparent manner.<sup>6</sup>

Significantly, Bougainville has already held a series of elections declared free and fair by international observers (Australian High Commission PNG, 2015; Pacific Islands Forum Secretariat, 2010). Regarding the 2005 ABG elections, for example, the UN Security Council (2005) reported that “despite some minor reported incidents, all eligible voters had been given the opportunity to vote in a calm and peaceful environment, and the outcome had reflected accurately the will of the people of Bougainville”. The referendum will also benefit from procedural lessons learned through past elections such as problems with the electoral roll (ABC, 2015) and protecting illiterate voters from interference (ABC, 2015). Yet the focus of the referendum differs considerably from an election in that it will rely heavily on the performance of new institutions (especially the BRC) and the political will of both governments to negotiate the result.

#### **4.1.12 Characteristics of free and fair**

Similar to good governance, there is no internationally accepted definition of ‘free and fair’ and the BPA does not offer specific benchmarks. Entities that support free and fair elections in post conflict societies do, however, provide an indication of the types of issues that get considered. The United States Agency for International Development (USAID, 2018) for example, outlines 10 elements to fair elections and political processes:

##### **1. Impartial electoral framework;**

<sup>6</sup> See for example, the joint international observation media statement on the 2015 ABG election (Australian High Commission PNG, 2015).



2. Credible electoral administration;
3. Effective oversight of electoral processes;
4. Informed and active citizens;
5. Representative and competitive multi-party systems;
6. Effective governance by elected leaders and bodies;
7. Inclusion of women and disadvantaged groups;
8. Effective transfer of political power;
9. Consensus-building for democratic reform; and
10. Sustainable local engagement.

In contrast to specific criteria, a Transparency International PNG (2017, p. 19) observation questionnaire provides voters with a set of ‘situations’ to determine voter perspectives on the 2017 national parliamentary elections:

- voters being offered bribery or asking for bribery to vote for a particular candidate;
- voters being threatened if they do not vote for a particular candidate;
- voters not being able to vote in secret;
- voters not being able to vote by themselves; and
- late start of polling time causing voters to miss out.

It is also important to note that determinations as to whether an election has been free and fair extend beyond what occurs on polling day itself (Ndulo & Lulo, 2010, p. 158). One ‘checklist’ for example, divides the process into three linear stages:

1. before polling day (e.g. freedom of movement and impartial voter education programmes);
2. on polling day (e.g. opportunity to participate in the election and secrecy of the ballot); and
3. after polling day (e.g. legal possibilities of complaint and acceptance of the election results by everyone involved) (Elkit & Svensson, 1997).

Also notable in Elkit and Svensson’s (1997) checklist is that ‘freeness’ tends to be associated with opportunities to participate without fear (e.g. freedom of movement and speech), while ‘fairness’ is more aligned to procedural issues (e.g. transparency of the voting process and secrecy of the ballot).

#### **4.1.13 Does context matter?**

The BPA does not state that free and fair should be determined as applicable to the unique circumstances of Bougainville nor the rest of PNG. Classifications of free and fair by the international community can at times be at odds with indigenous values and local concepts (Hohe, 2002, p. 69). Transparency International PNG (2017, p. 19), for example, reports that “the issue of bribery is complex in the Melanesian culture of reciprocity. People receive gifts in cash and kind from candidates especially during the campaign period, but often do not regard these handouts as bribes”. International agencies such as USAID however, assert that “a country cannot be truly democratic until its citizens have the opportunity to choose their representatives through elections that are free and fair” (USAID, 2018).

Some commentators argue that context also matters in that elections conducted in post-conflict societies “should not be judged solely by the standards of well-established democracies” (Ndulo & Lulo, 2010, p. 165). Rather, the primary purpose is to establish whether the results “overall, reflect the will of the people, and whether the



election advances the peace process and the establishment of democratic dispensation” (Ndulo & Lulo, 2010, p. 165). Ndulo and Lulo (2010, p. 165) cite the example of the 1994 South African elections which had suffered some logistical and administrative problems in parts of the country. Instead of declaring the election ‘free and fair’, international observer groups agreed to use the term “the election reflected the will of the people” (Ndulo & Lulo, 2010, p. 166). This example has relevance to the Bougainville referendum due to the aforementioned procedural issues experienced in past elections, as well as the logistical challenges of reaching Bougainville’s remote communities.

## 4.2 Shortfalls identified

In summary, preparations on the referendum are underway and a number of important milestones have been reached, most notably, establishing the BRC; setting the criteria of eligibility for non-resident Bougainvilleans; and agreeing the referendum question. Yet time is running short and there have been a number of misunderstandings around good governance and weapons disposal. The BPA provides little guidance as to what constitutes adequate weapons disposal, beyond compliance with the Weapons Disposal Plan. While definitions of good governance are vague, broad characteristics and benchmarks do provide some guidance on key principles to consider. Concerning, however, is the 2013 Joint Review’s finding that as of mid-2013, Bougainville was falling short of standards of good governance and without a second autonomy review, the two governments cannot be said to have considered good governance. The referendum must be free and fair but there are also definitional imitations to this concept. Still, international observers will want to affirm that the referendum was held in a safe environment, conducted through a transparent process, and reflects the ‘will of the people’.

The findings of this report suggest the key risks to the conduct of a credible referendum, insofar as the international community is concerned, are:

- the vote is viewed as not reflecting the free will of the people of Bougainville;
- the hasty transfer of powers in the lead-up to the referendum is undertaken without due regard to local human and financial capacity; and
- the presence of weapons and/or spoilers obstructing voting thus undermining the credibility of the referendum.

The concluding chapter expands on these risks and suggests ways in which they might be mitigated or prepared for.

## Ch.5 Conclusion: Risks and implications for the referendum

Significant achievements have been made towards peace building in Bougainville since the signing of the BPA. The absence of large-scale violence is unquestionable evidence of the strengths of the agreement. A number of key milestones in the implementation of the BPA have been reached, most notably, the establishment of the ABG under a Bougainville Constitution and UN certification of compliance on implementation of the Weapons Disposal Plan. It is acknowledged, however, that there have been some shortfalls in the implementation of the three pillars of the BPA. Two key themes highlighted in this report are:

- Bougainville has the potential to exercise wide powers and functions as intended by the BPA, yet effective implementation of these powers has been limited by resourcing and coordination problems in the ABG, weak collaboration with the National Government and delayed payments of grants; and
- implementation of the Weapons Disposal Plan contained in the BPA is technically complete. Yet an unknown number of weapons remain in circulation, and numerous armed groups and individuals are thought to continue to pose a threat to the ongoing peace process.

This discussion now turns to possible implications of these gaps on preparations, conduct and the outcome of the referendum.

### 5.1 Autonomy: transfer and exercise of powers and functions as per BPA

The current status of the transfer of powers and functions from the National Government is unclear. This lack of clarity could lead voters to underestimate the number and/or type of powers and functions currently vested in the National Government, as well as the gradual process that will need to follow a vote in favour of a change to Bougainville's political status (Maclellan & Regan, 2018, p. 15). What is clear however, is that progress is evaluated as slow, incohesive and has suffered coordination problems between the two governments. With possibly less than six months (depending on the release date of this report) left before the target date for the referendum, it is unlikely that the full list of powers and functions available to the ABG will be transferred before polling day.

A risk in the lead-up to the referendum, and in the period after the result is known, is a hasty transfer of remaining powers and functions. This could diminish the recognised need for capacity, human and financial resourcing needed to develop policies and regulations to make effective use of those powers and functions. This could both exacerbate existing weaknesses in service delivery in Bougainville across a range of sectors (e.g. health, education and law and justice) and heighten frustrations among the community, which may hold unrealistic expectations for immediate outcomes following the vote. It might also reinforce coordination problems between the ABG and some National Government departments (JSB, 2013, p. 61) at a particularly sensitive time in this relationship.

It appears vital, therefore, that both governments clarify the current status of Bougainville's autonomy arrangements as envisioned by the BPA. This could include, for example, an outline of the powers and functions yet to be drawdown, a timeline for remaining transfers and resourcing needs. This information would helpfully be contained in the second autonomy review.

The completion of the second autonomy review is also vital for the consideration of good governance. Principles of good governance such as transparent and responsive institutions, rule of law and the promotion of human rights are important to foreign donors as they are thought to provide the "foundations for economic growth, private sector investment and trade" (Australian Government Department of Foreign Affairs and Trade, 2018-19). A promise of support from the international community to uphold the result of the referendum was a key factor in the acceptance of a delayed referendum among Bougainville parties to the BPA, but this support does not appear unconditional.

## 5.2 Voter decision-making and heightened scrutiny of the ABG and National Government

Inadequate information on autonomy and its outcomes could mean that voters will base their decision on factors other than evidence-based evaluations of a higher degree of autonomy or an independent Bougainville. The emphasis on a potential resumption of mining at Panguna to fund independence, for example, could lead voters to base their decision on whether they are for or against mining. A participant at the National Conference on Bougainville Referendum also raised uncertainty around currency and the need for a passport to travel throughout PNG as factors that might inform voter decision-making.

As highlighted in Chapter 1, evaluations of autonomy reveal significant frustrations among the Bougainville public towards the ABG for lack of progress made in the implementation of the autonomy arrangements, tangible outcomes and engagement with the community. Preparations for the referendum provide both governments an opportunity to highlight the services that have been restored and can be attributed to autonomy. The referendum also presents an opportunity for the ABG to increase dialogue with the community, and young people in particular, to bridge the observed communication gap. It is also a chance for the ABG to outline a vision for the future of Bougainville, something which the 2013 Joint Review found to be lacking (JSB, 2013, p. 28).

In the lead-up to the referendum, the two governments will also likely face a number of unique challenges as a result of heightened public scrutiny. The ABG for example, has suffered instances of institutional corruption and fraud (ABG, 2018, p. 1). Further revelations of this kind could weaken trust in its integrity and at worst, risk disruptions to the Bougainville administration (e.g. through protests or boycotts). A particular focus point for the National Government, on the other hand, is the repayment of monies owing to the ABG. Community consultations held in Bougainville reveal this to be a prevalent concern among the Bougainville public (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 12). Doubts raised as to whether the National Government will be in a financial position to meet the agreed on repayments of RDG grants for either 2018 or 2019 (Joint Technical Team, 2018, p. 66) suggest this is a risk that may need a proactive approach.

There are already serious concerns about a lack of understanding of the BPA provisions among political leaders and the general public. A possible implication of this on the referendum is the continued proliferation of misunderstandings around all stages of the voting process. A particular risk is if the National Government is perceived to be delaying, obstructing or rejecting the result of the vote. Political uncertainty and mistrust are reasons that some people may continue to retain firearms. Incorrect or misleading information about the referendum could diminish the good efforts that have been made to engage 'outlying factions' in the peace process. As people in Bougainville are thought to be worried about inadequate collaboration between the two governments, and the effectiveness of the JSB in particular (Parliamentary Bipartisan Committee on Bougainville Affairs (2017, p. 12), strengthening confidence in this body could be a further avenue to reaffirm and revitalise the BPA as a joint creation.

## 5.3 Weapons disposal, security and risks to a free and fair referendum

One issue that ties the shortfalls of autonomy and weapons disposal together are concerns about the capacity and resourcing of the BPS. The BPS operates within a framework of national law and has been referred to disparagingly in some parts of Bougainville as the 'PNG Police' (Dinnen & Peake, 2013b, p. 576). Providing security for the referendum and handling law and order disruptions therefore appear to be particularly sensitive issues for all stakeholders to manage, especially given the historical link between the actions of security personnel and the escalation of the Bougainville conflict.

Previous successes in resolving localised armed conflict in Bougainville point to the strengths of collaborative approaches. The CAP in particular, has attracted praise from the UN (UN, 2016, p. 29). This suggests an important role that CAP officers could play in promoting a safe and secure referendum in their communities. As many CAP offices already undertake functions beyond policing (Dinnen & Peake, 2013a, p. 1), they might also be tasked with awareness raising and ongoing reconciliation activities. Yet, as Dinnen and Peake (2013b,

p. 580–581) argue, it is important not to overstate the strengths of the CAP as a professional police service and restoration of infrastructure destroyed during the conflict is still needed to meet a rise in public disorder.

Although inadequate data means it is difficult to estimate the threat posed by weapons in Bougainville, all stakeholders are concerned about their ongoing presence. An important lesson to be drawn from the UNOMB-supervised process is that momentum on disarmament activities can easily be lost once a political milestone has been attained, suggesting the need for a long-term engagement well beyond referendum polling day.

A further risk associated with the presence of weapons and ‘No Go Zones’ (e.g. the road block at Morgan Junction) is that they could undermine the notion of a free and fair referendum. Weapons use could be seen as a threat to vote for a particular outcome (Joint Technical Team, 2018, p. 52) and if violent incidents were to occur, there are fears that the National Parliament might use this as a reason not to ratify the result. It could also jeopardise pressure from the international community on the National Parliament in the event of a disagreement between the two governments.

It is also important to note that non-violent actions could similarly be seen to be at odds with a free and fair referendum. The forcible closure of Buka Airport in June 2018 and roadblocks, for example, also limit ‘freedom of movement’. Momis’ speech to the National Conference on Bougainville Referendum highlighted the period after the result as particularly crucial. In preparation for the referendum, Momis called for all parties to agree not to use weapons, and in the event that the National Government does not immediately support the outcome, to disarm and negotiate.

As discussed in Chapter 2, efforts have been made to ensure freedom of mobility and there are positive signs that former BRA, Me’ekamui Government of Unity, Twin Kingdom factions and the MDF will pursue peace by peaceful means before, during and after the referendum (Post Courier, 2017). Unification and reconciliation among former adversaries, however, are incomplete. One fear is that unresolved tensions could risk renewed conflict during the referendum period (Ipp & Cooper, 2013, p. 12). A particular danger is that localised conflict, in which weapons have been used in the past, could re-emerge under the umbrella of the referendum outcome (Ipp & Cooper, 2013, p. 12). There is also potential for ‘spoilers’ to disrupt the referendum vote and which would threaten the security of voters. For those who are against independence “disrupting the poll – a high profile event – could be perceived as an effective protest strategy” (Ipp & Cooper, 2013, p. 11). A split between ex-combatant groups would also pose a serious security risk to the conduct of the referendum (Tanis cited in Dateline Pacific, 2017). Emotions during the referendum will be running high as individuals and groups “try to make sense of an uncertain and unpredictable political future” (Ipp & Cooper, 2013, p. 11). The outcome will never be unanimous (Woodbury, 2015, p. 14–16) and without continued efforts towards reconciliation, there is a risk that the referendum could resurface old divisions.

## 5.4 Awareness raising and equal opportunity to participate

The ABG has been working to distribute information on the referendum through awareness raising materials and collaborations between ABG members, community governments, young people and women to make Bougainville ‘referendum ready’ (Radio New Zealand, 2018c). But there are significant practical challenges to informing voters of the Referendum arrangements which are seen as essential to guaranteeing an equal opportunity to participate. First, “it is said that between 50–60 percent of the AROB population is either illiterate or are not educated to adequate levels” (Parliamentary Bipartisan Committee on Bougainville Affairs, 2017, p. 15). Second, much of the infrastructure needed to support communication channels was destroyed during the conflict (Thomas et al., 2017, p. 2). Third, there are geographical challenges to reaching Bougainville’s remote communities and it is understood that women have lower access to media sources than men (Thomas et al., 2017, p. 2). It seems particularly important to clarify the exact date (as opposed to the target date) as soon as possible to dispel fears, particularly among those people believed to have firearms, that the National Government will stop the referendum from being held. Any obstruction to participation in the referendum could heighten the risk of individuals and groups believing that the agreed principles of referendum have not been applied justly.

## 5.5 Opportunities

The referendum on Bougainville's future political is the next major milestone towards implementation of the BPA. One of the strengths of a delayed referendum is that it draws attention to the achievements and weaknesses in implementation of the autonomy arrangements and Weapons Disposal Plan contained in the BPA. Rather than focusing on the identified shortfalls as negatives, however, they can also be seen as providing important insights into how the PNG National Government and the ABG can continue to strengthen peace in Bougainville, regardless of the referendum outcome. These opportunities point towards:

- a considered approach to the handover of remaining powers and functions to the ABG;
- enhanced collaboration between the two governments and revitalisation of the concept of the BPA as a joint creation;
- fostering deeper connections between the ABG and the broader community; and
- maintaining current momentum on disarmament, unification and reconciliation.

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