



THE BOUGAINVILLE MEMOIR

Arguing the Bougainville Case

**BOUGAINVILLE LEGACY, SHAPING THE
PRESENT AND INSPIRING THE
FUTURE**

Presented to Sir Jerry Mataparae, Moderator, April 2025

PICTURES OF BOUGAINVILLE LEADERS PAST AND PRESENT



Photos: Bougainville Leaders, Web Search and Supplied

Cover Page:

Pioneer Leaders (Deceased):

ABG President, H.E. Hon. Ishmael Toroama (2020-2025)

R1 (L-R): Gerard Sinato, Theodore Miriung, Sir Paul Lapun, Donatus Mola, Ruben Siara, Leo Hannett, John Teosin, Sir. Alexis Sarei

R2 (L-R) Hilary Masiria, Moses Havini. Francis Ona, Joel Banam, Joseph Watawi, Thomas Tari, Damien Dameng, Sam Akoitai, Fr. Simon Dumarinu

Peace Process Leaders:

R3 (L-R) Chris Uma, Donald Hamao, Andrew Miriki, Theresa Jaintong, Sam Kauona

ABG Leaders (Current & Former):

R4 (L-R) Patrick Nisira, Ezekiel Masatt, Albert Punghau, Francesca Semoso

ABG Presidents (2005-2025):

R5 (L-R) Late President Joseph Kabui, James Tanis, John Momis, Ishmael Toroama

ACKNOWLEDGEMENTS

The great people in the shared photos of the Bougainville Memoir are Bougainville Leaders who have contributed to Bougainville's fight for independence. Some of these leaders have passed on but their legacies still influence the current crop of leaders who have taken on the mantle to continue the fight for Bougainville's rights to independence.

The current Bougainville leadership under the direction of the Autonomous Bougainville Government (ABG) President, H.E. Hon. Ishmael Toroama and Minister for Independence Mission Implementation and Attorney General, Hon. Ezekiel Masatt acknowledge the pictures of these Bougainville leaders, past and present, used in the Bougainville Memoir, and thank the families of these leaders.

Many leaders who have contributed immensely are not included in the Bougainville Memoir. Their contributions are however highly valued and appreciated for the unconditional and unequivocal stand for our freedom and independence.

Please note; most of the photos were accessed online through internet searches and family members supplied some photos. There was no intention or preference of leaders chosen to be included in Bougainville Memoir. Most were chosen through availability of photos accessed online.

Nevertheless, like our forefathers in the past, our present and future generations will not waver and will fight on until independence for Bougainville is achieved.

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FOREWORD

Minister for Independence Mission Implementation and Attorney General, Hon. Ezekiel Masatt

The Bougainville Memoir, is a Bougainville Story. It is a story of our peoples' pains, struggles, betrayal, aspirations and self-determination. The Bougainville Memoir captures these stories by reflecting on the past history, the present and the future.

Bougainville was separated from its Solomon ties and reluctantly forced to be part of the colonial rules under German in 1884 despite Bougainvilleans objections to colonization. Then in 1905, when Papua New Guinea (PNG) came under Australia, Bougainvilleans remained with German. By 1914, Bougainville finally came under Australia with PNG.

Yet, history tells us that Bougainvilleans never wanted to be colonized. In 1975, Bougainvilleans showed their objections by staging the first Unilateral Declaration of Independence (UDI) on the 01st of September, 1975, 15 days before PNG was fully independent. Bougainvilleans were then promised greater autonomy through the Bougainville Agreement 1976 by becoming the first province of PNG.

To the dismay of the Bougainvilleans, this special agreement was quickly diminished when the same privileges were given to new upcoming provinces of the newly Independent State of Papua New Guinea. Bougainvilleans refer to this arrangement of the Bougainville Agreement 1976 as the "betrayal".

Eleven years from the special agreement, the civil war commonly known as the "Bougainville Crisis" broke out between Bougainvilleans and the Government of Papua New Guinea (GoPNG). The objections of colonisations, the betrayal of the people, and the rejections of being under the rule of others, the unfair treatments and benefit sharing all resulted in the civil war. During the Bougainville Crisis, Bougainvilleans again staged the second UDI on the 17th May, 1990.

This 1990 UDI was also rejected by PNG and international communities; but this time, the civil war escalated as Bougainvilleans fought for complete independence. The Bougainville Crisis lasted for more than 10 years with no basic services and complete blockade from the rest of the world. Bougainvilleans became resilient by depending on themselves. More than 20,000 lives were lost. Bougainvilleans agreed to lasting peace through the Bougainville Peace Agreement signed on the 30th August 2001.

This Bougainville Memoir reflects on our past, present and future.

Hon. Ezekiel Masatt
Minister for Independence Mission Implementation
And Attorney General

FOREWORD



H.E President. Hon. Ishmael Toroama: The Bougainville Aspirations for Independence

When I called for Bougainville's independence timeline to be 'no earlier than 2025 and no later than 2027', this request was deeply rooted in the Biblical timelines as conveyed to the Israelites through Prophet Moses.

The Israelites were on their journey to the Promised Land after 40 years in the wilderness when the Lord instructed Moses on Mt. Sinai to speak to the Israelites and tell them what to do as they entered Israel regarding the redemption of land and its people between the Jubilee years

Leviticus Chapter 25:8 to 23. The Year of Jubilee

25:10 "Consecrate the fiftieth year and proclaim liberty throughout the land to all its inhabitants. It shall be a Jubilee year for you; each of you is to return to your family property and to your own clan. The fiftieth year shall be a Jubilee for you, do not sow or eat what grows itself or harvest the unintended vines. For it is a jubilee and is to be holy for you, eat only that is taken directly from the fields".

Papua New Guinea proudly identifies as a Christian nation, a fact enshrined in the Constitution. As we enter this pivotal year of 2025, which marks 50 years since independence in 1975, it is crucial to reflect on our past and the road ahead.

Will PNG seize this momentous occasion to sound its Jubilee trumpet, celebrating freedom and unity while grappling with the heavy legacy of land appropriated by colonizers? The people of Bougainville have long endured suffering, and it is time for us to address this injustice.

Let us make 2025 not merely a year of commemoration but a pivotal Year of Redemption. This is our moment to rectify a historic wrong by returning all land in Bougainville to its rightful owners—a crucial step in healing deep-seated wounds that have persisted for generations. If we turn away from this urgent call to action, can we not anticipate the consequences, perhaps even inciting the wrath of God upon ourselves? It is time for us to unite as a nation, confront our past, and embrace a brighter future where justice is not merely an ideal but a reality for all citizens, especially the marginalized voices of Bougainville. Together, we have the power to forge a path toward true reconciliation and ensure that our jubilee is a celebration of genuine freedom for every Papua New Guinean and Bougainvillean. Let us rise to this challenge and honor our commitment to peace.

The Independence Package Framework

"This consultation is about the role of parliament in endorsing the independence choice because the negotiations, the constitutional arrangements, and the referendum had all been concluded in good faith over a period of 34 years since the Bougainville Peace Negotiations and the implementation of the Bougainville Peace Agreement".

The goal of the negotiators during the Post-Referendum Consultations was to ready both the governments of Papua New Guinea and Bougainville to accept the referendum's outcome without contesting it again.

Bougainville's perspective on the moderation process features the imperative for the Papua New Guinea National Government to adhere to its obligations as outlined in the Bougainville Peace Agreement and the associated constitutional frameworks. A crucial aspect of this process is obtaining a unanimous vote in the National Parliament to endorse the referendum's result for independence. Subsequently, it is vital to finalize the necessary formalities for that approval.

Moreover, it is crucial to confront the differing interpretations of s342 (2) by agreeing on a clear and universally accepted definition of "ratification". For both parties involved, it is essential to collaboratively establish a pathway or mechanism—be it within Parliament or through another viable means—to formally endorse the outcome of the independence referendum. This consensus will not only ensure clarity but also strengthen democratic legitimacy and public trust in the process.

If a formal vote in Parliament is necessary, the proposed wording of the motion should be carefully articulated, particularly under section 342 (2), regarding the Minister's taking of the referendum results along with the consultation report. Additionally, it may be beneficial for the two sides to reach an agreement on these formalities outside of Parliament through this moderation phase before introducing the results for noting and formal resolution within the national parliament.

Parliament's formal declaration endorsing Bougainville's independence instructs both governments to agree on the transition to independence for Bougainville. It seeks necessary international support and United Nations supervision to assist both governments during this transition while also establishing a transition package to facilitate this process.

Papua New Guinea has committed to several crucial international treaties that uphold individuals' fundamental rights to self-determination. By acceding to the International Covenant on Civil and Political Rights in July 2008, PNG willingly embraced the responsibility to adhere to the principles enshrined in this important treaty. It is imperative to recognize that Papua New Guinea is, therefore, legally and morally bound to respect and support the aspirations of the people of Bougainville for internal self-determination—aspirations clearly articulated in the outcome of the referendum. This is not merely a legal obligation; it reflects a commitment to the democratic voice and will of the people, emphasizing the importance of honoring their choices and rights.

This jubilee year offers a unique chance for the National Government to truly dedicate itself to its people by making significant progress toward what is just and honorable for Bougainvilleans.

H.E Hon. Ishmael Toroama
President, ABG

1. GENERAL INTRODUCTION

The Bougainville Memoir is a document that captures Bougainville aspirations for freedom, self-determination and independence. In very simple and clear narrative, the Bougainville Memoir argues the Bougainville Case for Independence. As seen and documented widely, Bougainvilleans continue to fight for their freedom with the Government of Papua New Guinea (GoPNG).

Today, Bougainville Leaders through the Autonomous Bougainville Government (ABG), are going through the Moderation Consultation Process because the two Governments have exhausted the Bougainville Peace Agreement (2001) agreement process, which gave Bougainvilleans fundamental rights under Part XIV of the National Constitution to hold a Referendum for Independence. Bougainvilleans voted 97.7% for Independence.

Despite this overwhelming majority votes for independence, and the agreed processes through the Post-Referendum Consultations, in Kokopo, Wabag and Port Moresby, the GoPNG continues to deny Bougainvilleans, the rights to independence. Both governments had diverging views of s342 of the National Constitution, on the manner in which the Bougainville Referendum Results will be taken to the floor of the National Parliament. Sessional Order was eventually the agreed process to take the Referendum Results with the Post-Referendum Consultations report to the floor of the 11th National Parliament.

The Bougainville Memoir reflects on the past (colonial era), the pre-crisis era and the post-crisis era. It also captures the current processes, which includes the Bougainville Peace Agreement (2001), the Referendum Process, the Post-Referendum Consultations and briefly on the current Moderation Consultations. The main objectives of the Bougainville Memoir is to argue Bougainville's Case for Independence and at the same time educate people about Bougainville's aspirations for Independence.

2. THE PAST HISTORY 1884 – 1975

The Bougainville History is filled with pains of struggles and self-determination. There is no other province in Papua New Guinea that has seen more devastation for freedom and aspirations for independence than Bougainville. Since 1884, Bougainville's struggles for self-determination is well documented. Bougainvilleans have always felt that they were unjustly put under colonial rules. One thing that frustrates Bougainvilleans more is the fact that they were forcefully severed from their Solomon Islands connections. Therefore, they started fighting to be free from colonialism.

2.1 The Historical Independence Aspirations of the Bougainville People

Bougainvilleans' aspirations for independence are deeply rooted in their blood. Time and time again, it has been proven that Bougainvilleans will not be easily removed from their desire to be a free, and independent people. This memoir aims to inform the Moderator¹ about PNG's independence through the United Nation's decolonization process and Bougainville's independence aspirations. The argument is structured in two parallels; 1) the PNG Decolonization independence process and; 2) the Bougainville aspirations for independence process.

¹ Use of Moderator, agreed on JSB 31st July 2024

This Memoir further point out through these two great parallels, we can learn so much on both the PNG and Bougainville political processes. It can be concluded that while PNG was going through its decolonization process, leading to its independence, Bougainvilleans countered these steps with their aspirations for independence. The PNG parallel led to its independence on the 16th of September, 1975. The Bougainville parallel, however, led to the ten-year conflict commonly known as the Bougainville Crisis with the PNG Government from 1987 to 1997. It is estimated that more than 20,000 Bougainvilleans lost their lives during this conflict. The two parallels are seen in Table 1 (pg21).

The BPA signed in 2001 paved way for the peace process leading up to Bougainvilleans finally having a constitutionally sanctioned referendum in 2019. The referendum had two options; 1) greater autonomy and 2) independence. In a free, fair and credible referendum process, more than 97.7% of Bougainvilleans voted overwhelmingly for independence.

This memoir also highlights the parallels of two political journeys, namely PNG and Bougainville. The PNG independence process sets a precedent that can be applied to Bougainville today despite the two different processes of decolonization and the BPA. The discussions on this memoir will provide information on the PNG Decolonization and the Bougainville Independence aspirations political journeys and analyze how Bougainville can adopt the precedent set by its parent country, PNG.

Bougainville is presently in the latter phases of the mishandled decolonization process, representing a disturbing case of disenfranchisement. Bougainvilleans were not afforded the opportunity to partake in the decolonization deliberations, and the decisions made during this period did not align with the best interests of the Bougainvilleans. As the custodians of this indigenous group, we are steadfast in our resolve to pursue the struggle for liberation initiated by our predecessors, with the ultimate objective of attaining independence.

This independence is sought beyond the confines of PNG and transcends the boundaries imposed on our people through unilateral arrangements. The unresolved decolonization issues have engendered numerous insurrections against the ruling powers, culminating in one of the most distressing episodes since the conclusion of World War II, The Bougainville Crisis.

Throughout Bougainville's colonial history, the island experienced the unilateral decisions of its colonizers, who imposed their authority without the consent of the native population. The initial exploration of the island was conducted by the Dutch in 1767, followed by the Portuguese, Spanish, Germans, and the English. In 1886, Bougainville was traded for Western Samoa by Germany and England, without the agreement of the local inhabitants through a simple exchange of notes as described by Late Leo Hannett in 1975².

About the same time, the Solomon Islands to the north of the colonial demarcation line were allocated to Germany again, without the consent of the locals. This decision led to the establishment of a permanent German colonial post in Kieta in 1905, resulting in the

² Meanjin Quarterly Spring 1975

rapid expansion of Cocoa and Copra plantations. Yet, again, unilaterally decided without an understanding of the culture and ethnic context of these islands. Australia took over colonial control of Bougainville in 1914 during World War I, and the island remained under Australian control until 1945 when it became part of the Territory of Papua and New Guinea.

Acts of resistance and self-affirmation were expressed in various forms as external influences persistently unsettled established cultural norms and practices. It is imperative to acknowledge that the population of Bougainville has consistently pursued independence from PNG and has never relinquished its political sovereignty to any foreign entity. The collective will of Bougainvilleans to maintain our independence and sovereignty has manifested in various forms of political protest and non-cooperation.

This sentiment was evident as early as 1968³ when 25 Bougainvilleans, led by the late Sir Paul Lapun and the late Leo Hannett, initiated the Mungkas Society in Port Moresby, requesting a referendum on their province's future. [Griffin 1973b] [Hannett1969].



Figure 1: Bougainville in 1885⁴

2.2 The Historical Backgrounds of PNG Independence Precedent 1884 – 1975

This section highlights and discusses PNG's decolonization process in detail and chronological order according to PNG's historical political milestone events. PNG decolonization process dates back to the late 1800s and early 1900s.

2.2.1 Papua and New Guinea Territories 1884 – 1914

Before World War 1 (WW1), PNG consisted of two separate colonial territories. The territory of Papua was a British colony from 1884 and was later ceded to Australia to administer in 1905. New Guinea was part of the German Empire until WW1 when it was occupied by Australian forces in 1914. The territory was given to Australia to administer after the end of the War as part of the Treaty of Versailles⁵.

³ Anthony Regan & Halga M Griffin (2015); Bougainville Before the Conflict, ANU, Australia

⁴ <https://bougatours.com/1800-2/>

⁵ Source:

<https://pngcanberra.org/history/#:~:text=Prior%20to%20the%20First%20World,by%20Australian%20forces%20in%201914.>

2.2.2 The PNG Act 1905

The Papua 1905 Act provided for the acceptance of British New Guinea under the authority of the Commonwealth.⁶ This was comprised of the former British protectorate of Papua, which became had been an Australian territory since 1906 – and the former German colony of New Guinea, which became Australia's responsibility as a Mandated Territory of the League of Nations (1921– 1942) and a United Nations Trust Territory following World War II.

2.2.3 The PNG Act 1949

PNG was administered by Australia as a single territory from 1945. The PNG Act 1949⁷ approved the placing of the Territory of New Guinea under the International Trusteeship System, to provide for the Government of the Territory of Papua and the Territory of New Guinea, and for other purposes.

2.2.4 The Legislative Council 1951-1963

From 1951, the Administrator was assisted by an appointed Legislative Council. The Legislative Council of Papua and New Guinea⁸ was a legislative body in PNG between 1951 and 1963. It was established by the Papua and New Guinea Act 1949⁹ of Australia, which provided for the combined administration of the Territory of Papua and the Territory of New Guinea under the United Nations trust territory system.

The Legislation Council had the power to make Ordinances for the "peace, order, and good government" of the territory, subject to the assent of the Australian-appointed Administrator. The PNG Act 1949¹⁰ historically approved placing the Territory of New Guinea under the International Trusteeship System by means of, and upon the terms of trusteeship embodied in, the Trusteeship Agreement.

2.2.5 PNG First House of Assembly 1964

The first House of Assembly of PNG was elected in 1964. This House of Assembly immediately replaced the Legislative Council. The first House of Assembly of Papua and New Guinea¹¹ came into effect in following a United Nations Trusteeship Council (UNTC) report that had recommended the establishment of a parliament in the territory.

Mr. LW Johnson the Administrator¹² later said that in the first House of Assembly in 1964, the members were uncertain about their role and future. However, it must be noted that the first House of Assembly was very critical to the decolonization process of PNG under the United Nations Trusteeship Council.

⁶ PNG Act 1905

⁷ PNG Act 1949

⁸ Source: https://en.wikipedia.org/wiki/Legislative_Council_of_Papua_and_New_Guinea

⁹ PNG Act 1949

¹⁰ Ibid

¹¹ Ibid

¹² The Canberra Times (ACT: 1926 - 1995) Thu 25 Nov 1971 Page 8; Source:

<https://trove.nla.gov.au/newspaper/article/110690007?searchTerm=PNG%20First%20House%20of%20Assembly%2C%201964>

2.2.6 PNG Second House of Assembly 1968

According to LW Johnson, the Australian Administrator¹³, PNG's second House of Assembly was important in the sense that it brought the territory to the door of nationhood. He further predicted that the next house might well open the door for nationhood.



Figure 2: PNG's aspiring leaders in the second House of Assembly (1968-1972)¹⁴

2.2.7 PNG Third House of Assembly 1972

The third House of Assembly was the most crucial House in the independence process of PNG. This House provided for Self-Government and the Constituent Assembly that cemented PNG's independence.

2.2.8 PNG Self-Government 1973

As a prelude to independence, PNG became a self-governing territory¹⁵ on 01st of December 1973. The process of self-government prepared PNG for the Constituent Assembly to adopt the new constitution for an independent state of PNG. Papua New Guineans by this time were embracing the new independence state as seen in the 1973

Post Courier article¹⁶ that they wanted independence “ready or not”, and claiming also that if PNG was independent, it would be like the bird of paradise; free¹⁷. According to the United Nations,¹⁸ the Termination Agreement (A/RES/3284 (XXIX)) was reached on December 13, 1974, merging the Trust Territory of New Guinea with the Territory of Papua to become PNG.

2.2.9 Constituent Assembly 1974

By the 9th of July 1974, PNG's third House of Assembly resolved that PNG was moved to independent nation status as soon as practicable after a constitution was enacted by the third House of Assembly and that any proposed date of independence was endorsed by the House. Noting also the continued willingness of the administering Power and of the Government of PNG to receive, at an

¹³ Ibid

¹⁴ <https://www.nbc.com.pg/post/14920/central-governor-urges-reflection-on-pngs-development-journey>

¹⁵ Source: <https://www.naa.gov.au/help-your-research/fact-sheets/independence-papua-new-guinea>

¹⁶ Source: <https://trove.nla.gov.au/newspaper/article/52260954?searchTerm=Papua%20New%20Guinea%20independence>

¹⁷ The Canberra Times (ACT: 1926 - 1995) Tue 7 Jan 1975 Page 2 Elusive independence for PNG

Source: <https://trove.nla.gov.au/newspaper/article/110631820?searchTerm=CPC%20PNG%201974>

¹⁸ United Nations: <https://research.un.org/en/docs/tc/newguinea>

appropriate time, a visiting mission to be composed as recommended in General Assembly resolution 2590 (XXIV) of 16 December

Interestingly, in 1974, the Bougainville Constituent Assembly¹⁹ became the first Provincial Government in the country. The Chief Minister, Mr. Michael Somare, announced the move in a statement as "a landmark in PNG's history", which demonstrated the Government's commitment to one of the main aims of the Eight Point Improvement Plan, namely, the decentralization.

2.2.10 Constitution Planning Commission (CPC) Report 1974

The Final Report of CPC²⁰ was tabled in the third House of Assembly Parliament in August 1974. Despite differences, the CPC Report concluded the development of the new Constitution for the new independent PNG. However, according to recorded history²¹, PNG's decolonization and independence process, notably, in 1974 failed to produce the necessary pre-requisite for a government bent on building an independent State on the strong foundation of unity.

Disunity was apparent in most facets of life, even as the Chief Minister nominated December 1, 1974, the first anniversary of self-rule, as the target date for PNG's independence. The most prominent disunity was caused by East New Britain and of course Bougainville who continued to push for secession²² and self-determination. For Bougainvilleans, this disunity would eventually have a profound impact on the nation as a whole through the Bougainville Crisis.

2.2.11 PNG Independence 1975

On the 16th of September 1975, PNG was decolonized and became an independent state, separate from Australia. This was the process by which PNG gained independence as part of the United Nations decolonization process through the right to self-determination through the PNG Independence Act 1975²³.



Figure 3: PNG Road to independence: Chief Minister Michael Somare hands out PNG flags to school children in 1974. (Supplied: Denis Williams' estate/PNG Post Courier)²⁴

¹⁹ Post-Courier (Port Moresby: 1969 - 1981) Mon 29 Jul 1974, Page 3

Source: <https://trove.nla.gov.au/newspaper/article/250476751?searchTerm=PNG%20Constituent%20Assembly%201974>

²⁰ Final CPC Report 1974 Source: <https://www.paclii.org/pg/CPCReport/main.htm>

²¹ The Canberra Times (ACT: 1926 - 1995) Tue 7 Jan 1975, Elusive independence for PNG

Source: <https://trove.nla.gov.au/newspaper/article/110631820?searchTerm=CPC%20PNG%201974>

²² Ibid

²³ PNG Independence Bill, 1975

²⁴ <https://www.abc.net.au/news/2015-09-16/timeline-of-papua-new-guinea-road-to-independence/6748374>

2.3 The Bougainville Independence Aspirations 1960 -1975

The Bougainville independence aspiration is not new. Bougainvilleans have been calling for self-rule since the 1900s. But the real first seeds for secession started to emerge in the late sixties and through the seventies. This section will reflect on some historical facts that indicate and showcase Bougainville's position on its quest for self-determination.

2.3.1 First Seeds of Session 1960s – 1970s

A number of issues contributed to Bougainville's struggle and fight for self-rule. Bougainvilleans have always wanted to be separate from PNG for a number of reasons. Some of these reasons are that Bougainvilleans felt that they were always different from PNG and were more related the Solomon Islands. Also, the unfair distribution of the wealth from Panguna Copper mine and the associated environment damages contributed significantly to Bougainville's secession movements.

2.3.2 UN Petition 1962

The issue of secession is not new for Bougainvilleans. In 1962 Bougainville²⁵ applied by petition to the UN Mission to have the administration transferred to the United States. In 1975, dissatisfaction regarding mining operations, environmental damage, the relocation of landowners and the influx of outsiders led to another attempt at secession.

Bougainville declared itself independent as the Republic of the North Solomons fifteen days before PNG gained its independence from Australia on 16 September 1975. After eleven months of negotiations with then Prime Minister Michael Somare, Bougainville agreed, somewhat reluctantly, to remain part of PNG after being granted a degree of autonomy through a provincial system of government²⁶.

2.3.3 Hahalis Welfare Society 1962

The Hahalis Welfare Society, established in 1960 by John Teosin and Francis Hagai, played a vital role on Buka Island. Its primary objectives were encouraging collective agriculture, self-sufficiency, and opposition to colonial taxes²⁷. The Society was formed to enhance the well-being of the Halia people through collective endeavors and to oppose the head tax enforced by the colonial administration. The Society's defiance of the head tax resulted in a significant clash with the colonial government.

In February 1962, a confrontation between the Society members and police led to injuries and arrests. The Society also contested traditional customs, such as the bride-price system, and established distinctive social structures like the "Baby Garden²⁸". Despite its decrease in the 1980s, the Hahalis Welfare Society played a vital role in Bougainville's history, influencing subsequent movements for self-governance and sovereignty. The Hahalis Welfare Society's actions represented a

²⁵ Anthony Regan & Halga M Griffin (2015); Bougainville Before the Conflict, ANU, Australia

²⁶ S Dorney, The Sandline Affair, ABC Books, September 1998, p. 39 sighted in [file:///C:/Users/User/Downloads/https_aphref.aph.gov.au_house_committee_ifadt_bougainville_by_chap2%20\(9\).pdf](file:///C:/Users/User/Downloads/https_aphref.aph.gov.au_house_committee_ifadt_bougainville_by_chap2%20(9).pdf)

²⁷ The Mixed Legacy of the Hahalis Welfare Society, Buka Island - Nesian Nomad. <https://nesiannomad.com/the-mixed-legacy>

²⁸ Hahalis Welfare Society - Wikipedia. https://en.wikipedia.org/wiki/Hahalis_Welfare_Society.

combination of social reform and opposition to colonial policies, leaving a lasting impact on Bougainville's socio-political.

2.3.4 Rorovana Dispute 1969

The Rorovana Protest of 1969 represents a pivotal moment in Bougainville's history. This protest arose when the Australian Administration in PNG, in conjunction with Conzinc Rio Tinto of Australia Ltd (CRA), sought to acquire land in the Rorovana village for the development of the Panguna copper mine²⁹.

The local landowners vehemently opposed this acquisition, resulting in a confrontation that involved police utilizing force to remove protesters from the area³⁰. Despite the initial violence, the situation was ultimately resolved peacefully by September 6, 1969. This protest emphasized the significant tensions between local Bougainvillean communities and external entities aiming to exploit their land for mining purposes.



Figure 4: Rorovana dispute in 1969³¹

2.3.5 Napidakoe Navitu 1969

Napidakoe Navitu was established in 1969, initially comprising predominantly members of the Nasioi people. The organization experienced rapid growth, claiming 6,000 members within a year from 116 villages across the Kieta District³². Its support extended beyond linguistic and religious divisions, demonstrating a significant degree of inclusivity.

Napidakoe Navitu was generally opposed to the government and viewed the Kieta Local Government Council as being heavily influenced by kiaps (local government officers).

²⁹ <https://www.jstor.org/stable/25169052>

³⁰ *ibid*

³¹ <https://trove.nla.gov.au/newspaper/article/250153641?searchTerm=napidakoe%20navitu>

³² <https://press-files.anu.edu.au/downloads/press/p66801/html/ch04.html>

The group also criticized the expatriate dominance in local business enterprises. While they raised concerns about various aspects of the mining project in Bougainville, particularly the share of profits retained locally, they did not oppose the mine or the operating company. Over time, Napidakoe Navitu increasingly advocated for Bougainville's secession and supported holding a referendum on the issue of independence. In 1971, the late Sir Paul Lapun, chairman of Napidakoe and representative of Bougainville in the House of Assembly, introduced a bill for a Bougainville referendum, which was denied once again.

2.3.6 Calls on Vote for Secession (Referendum) 1971

History records that Bougainvilleans wanted to secede from PNG as early as the 1970s. Several calls for referendum and secession were made. For instance, in 1971, Bougainvilleans told the Parliament Select Committee³³ on Constitutional Development that they would not answer the questions until the government agreed to their calls for referendum to decide whether Bougainville should secede.

2.3.7 Bougainville Special Political Committee 1973

The momentum for Bougainville's separatist aspirations increased in conjunction with PNG's pursuit of independence, particularly following the establishment of self-government in 1973. As the imminent resolution of Bougainville's constitutional status approached, the secessionist movement became more structured. In that same year, the late Leo Hannett founded the Bougainville Special Political Committee (BSPC) to engage in negotiations regarding Bougainville's future with the PNG government.

The committee garnered support from various sectors within the district and incorporated localized political expressions, such as Napidakoe Navitu. The BSPC's proposals varied, advocating for options ranging from semi-autonomous provincial status to complete sovereignty; however, the central authorities at that time were unwilling to entertain any arrangement less than full integration.

2.3.8 Petition to the United Nations Trusteeship Council 1975

On August 21, 1975, John Momis and John Teosin brought a Nine-Point Petition to the United Nations Trusteeship Council (UNTC)³⁴ on behalf of the people of Bougainville. The main argument for this Petition was to protect Bougainville's interest in seceding as an indigenous and ethnic group.

The problem was that Bougainville was part of the Territory of Papua and New Guinea, which was to be decolonized and become an independent nation on the 16th of September 1975, and Bougainvilleans as part of the Trust Territory of PNG felt betrayed, they were being forcefully put in a position to be part of the independent process of PNG.

The Petition (Point 5) argued that granting PNG independence and terminating the Trusteeship Agreement 1946 by the United Nations would clearly breach the basic objectives of the Trusteeship system as defined and set out in Article 76 of the

³³ Post Courier 1971, Calls for Vote on Secession;
<https://trove.nla.gov.au/newspaper/article/250345124?searchTerm=calls%20on%20vote%20for%20secession>

³⁴ John Momis and John Teosin 1975; Petition from the People of Bougainville to the Secretary General of the United Nations

Charter of the United Nations, and the Administering Authority in a breach of articles 3 and 8 of the Trusteeship Agreement 1946.



Figure 5: Grand Chief Dr. Momis and Teosin Petition to UN 1975³⁵

However, records indicate unfortunately that the Bougainville leaders³⁶, John Momis and John Teosin, expected that some consideration would be given to their request for Bougainville's self-determination, only to find that the United Nation's concept allowed only for decolonization within the imperially determined boundaries, not for choice of nationhood by groups within such boundaries [Griffin et al. 1979: 214–61]. The Australian ambassador³⁷ recorded how Momis and Teosin were bewildered by the lack of concern of Afro-Asian representatives³⁸ [personal communication Ambassador R. Harry to J. Griffin 1979].

In August 1975, when the recommendations from the Constitutional Planning Committee for Bougainville were not incorporated into the constitution, Father John Momis petitioned the UN Trusteeship Council to safeguard the rights of the Bougainville people as a trust territory. However, the governments of Australia and PNG did not acknowledge this petition, claiming that the petitioners were acting in a private capacity and did not represent the people of Bougainville.

2.3.9 Response to the Petition by Grand Chief Dr. Momis and Teosin 1975

The response from the Government of Australia on the 27th August 1975³⁹ as the Administering Authority and the Government of PNG provided their observations and commentaries and pointed out that the terms of reference endorsed by the PNG House of Assembly for the Constitutional Planning Committee were to make recommendations for a constitution for full internal self-government in a united PNG with a view to eventual independence. This meant that the Constitution was to be one for a united PNG.

³⁵ <https://trove.nla.gov.au/newspaper/article/250396170?searchTerm=Momis%20and%20Teosin%20petition%20UN>

³⁶ Sighted in Anthony Regan & Halga M Griffin (2015); Bougainville Before the Conflict, ANU, Australia

³⁷ Ibid

³⁸ Personal communication Ambassador R. Harry to J. Griffin 1979].

³⁹ Observations of Government of Australia as Adminstrating Authority, 27th August 1975

The Constitution was adopted as a whole⁴⁰ (and without a chapter on provisional government) after careful consideration over many months in the PNG House of Assembly by the freely and duly elected representatives of the people of PNG, namely the members of the House of Assembly meeting as a constituent Assembly. Both the Trusteeship Council and the United Nations General Assembly had agreed to the termination of the Trusteeship Agreement for New Guinea (including Bougainville) in accordance with resolution 3284 (XXIX).

Following the nomination by the House of Assembly on 18th June 1975 of 16th September 1975 as the date for independence and the notification by the Australian Government to the Secretary-General (contained in General Assembly document A/10122) that the Governments of PNG and Australia had agreed to that date the Trusteeship agreement will cease to be in force on that date.

The Australian Independence Bill which was introduced into the Australian Parliament on 20 August 1975 will have the effect of withdrawing Australian sovereignty, sovereign rights, and rights of administration in respect to the whole of New Guinea, including Bougainville. In reality, the response confirmed that the Petition by Momis and Teosin failed to convince the United Nations to stop the process of decolonizing PNG.

The decolonization concept under the United Nation Trusteeship Council was in motion, and there was simply no way the UN could consider Bougainville's case at the time decolonization process was going on holistically based on decolonized boundaries only and not with cases within the boundaries such as the case of Bougainville's self-determination within PNG.

2.3.10 First Bougainville UDI 1975

Following the outcome of the Petition to the United Nations by Momis and Teosin, and as a sign of defiance and frustrations over the way the Bougainville secession process was being handled, Bougainvilleans declared the first UDI on the 01st September 1975⁴¹.

On the 01st of September 1975⁴², the new Bougainville flag was raised at Arawa. The Chief Minister, Somare refused to use violence against secessionist leaders and concentrated his police on the maintenance of law and order. Although in early 1976 there were a few acts of riot, the issue was resolved by talks that began in February [Momis, this volume] and, to the credit of both sides, by August agreed on provincial government for Bougainville.

The Bougainville leaders at that time declared that it was a long-standing wish and aspiration of the people of Bougainville to become a separate independent nation. The Republic of the North Solomons was an unrecognized state that purported to exist for about six months from 'Unilateral Declaration of Independence of the Republic of North Solomons' and a failed bid for self-determination at the UN.

⁴⁰ Ibid

⁴¹ Anthony Regan & Halga M Griffin (2015); Bougainville Before the Conflict, ANU, Australia

⁴² Ibid

Bougainville leaders claimed their people possessed distinct geographical, cultural, and linguistic characteristics from the rest of PNG. However, despite the populace's objections, Bougainville was integrated into the Independent State of PNG on September 16.

2.3.11 Bougainville Agreement 1976

The Bougainville Agreement of 1976⁴³ dated 07th August 1976 was the great comprise, a promise made to the Bougainville people of greater power and autonomy. Bougainville became the first provincial government known as the North Solomons Provincial Government in 1976.

The National Government and Bougainville leadership, in a true Melanesian spirit, reached an agreement that guaranteed the Bougainville people an effective role in running their affairs within the framework of the PNG National Government. Supposedly, there was a Special Package for the Province of Bougainville⁴⁴ set out in the agreement within the scheme of decentralization of powers in a united PNG, the National Government considered parts of these arrangements as unique and special provisions for the Province of Bougainville.

Under these new arrangements, Bougainville was given the exclusive right to legislate for all matters concerning community and village schools, the sale and distribution of alcoholic beverages, control of public entertainment, cultural centers and sporting activities, local and village governments, and village courts and penalties for enforcing provincial laws. A model that provided Bougainvilleans with a certain degree of autonomy from other centers.

Unfortunately, reflecting on the Bougainville Constituent Assembly of 1974⁴⁵, it is now obvious, PNG was implementing the provincial government system, which was focused more on increased decentralization and Bougainville was renamed "North Solomons Province", in recognition of its geography, and re-absorbed politically into PNG with increased self-governance powers, a model later replicated to delineate provincial powers throughout PNG.

In August 1976, a compromise was reached; Somare and Momis signed an agreement establishing Bougainville as the North Solomons Province of PNG to represent its geographical location better and was politically reintegrated into PNG with increased self-governance authority. Somare had hoped to head off further secession threats and preserve the nation's unity.

2.3.12 The Betrayal and the Bougainville Crisis 1987 – 1997

Unfortunately, these expanded powers were short-lived, as the organic law on provincial governments was introduced in 1977, dissolving the special arrangement for Bougainville, which was perceived as a betrayal of the original agreement by the people of Bougainville. Other provinces emerged as part of the decentralized process. The failure to successfully implement the Bougainville Agreement 1976

⁴³ Bougainville Agreement 1976

⁴⁴ Ibid

⁴⁵ Post-Courier (Port Moresby: 1969 - 1981) Mon 29 Jul 1974, Page 3

Source: <https://trove.nla.gov.au/newspaper/article/250476751?searchTerm=PNG%20Constituent%20Assembly%201974>

quickly turned sour and obviously resulted in the ten-years of Bougainville Crisis from 1987 – 1997.

This conflict destroyed Bougainville's government systems and institutions. Education, Health, Law and Order (rule of law) were tremendously affected. Nearly 20,000 lives were lost and many were displaced. Bougainville was left with a generation gap of education, all infrastructures were gone, and the economy was completely demolished. Bougainvilleans felt betrayed by the Government of PNG. To this day, the Bougainville Crisis remains the darkest history in Bougainville's fight for self-determination and aspirations for independence because unlike Bougainville, PNG did not shed any blood to gain independence.

2.3.13 Second Unilateral Declaration 1990

In May of 1990, during the peak of the Bougainville Conflict, the Late Francis Ona announced the second Universal Declaration of Independence. On May 17, 1990, a UDI Letter was sent to the Government of PNG, the United Nations, and the global community. This letter declared that Bougainville was an autonomous, democratic, and sovereign state, established on the principles of justice and freedom.



Figure 6: Late Bougainville Revolutionary Leader Francis Ona declared Bougainville's second UDI on the 17th May 1990⁴⁶

2.4 The PNG-Bougainville Parallels

The political journeys of PNG and Bougainville has shown different progresses on both sides. Through the decolonization process, PNG successfully gained its independence in 1975. The legal process by which PNG achieved its independence is well documented beginning in the 1800s when Papua and New Guinea were parts of British and German rules.

The Bougainville aspirations for independence are also well recorded throughout the history. The PNG and Bougainville parallels of key political activities are highlighted to understand the parallels.

⁴⁶ Late Bougainville leader, Francis Ona and Bougainville Revolutionary Army, 1990

TABLE 1: PARALLELS OF PNG AND BOUGAINVILLE POLITICAL EVENTS

| YEAR | PNG DECOLONIZATION AND INDEPENDENCE PROCESS (PRECEDENT) | BOUGAINVILLE ASPIRATIONS FOR INDEPENDENCE PROCESS |
|-------------|---|---|
| 1884 | <ul style="list-style-type: none"> Papua under British | <ul style="list-style-type: none"> New Guinea under German including Bougainville Bougainville is forced to be under German, separates from Solomon |
| 1905 | <ul style="list-style-type: none"> Papua under Australia | <ul style="list-style-type: none"> New Guinea remains under German including Bougainville Bougainville is forced to be under German, separates from Solomon |
| 1914 | <ul style="list-style-type: none"> Papua and New Guinea came under Australia rule when Germans were defeated in WW1 | <ul style="list-style-type: none"> Bougainville part of New Guinea, come under Australia |
| 1918 | <ul style="list-style-type: none"> Australia takes over Papua and New Guinea | <ul style="list-style-type: none"> Bougainville now remains part of Australia Signs of reluctant evident |
| 1949 | <ul style="list-style-type: none"> PNG Act 1949 provides basis for Papua and New Guinea under Australia to be decolonized under UN Trusteeship Council | <ul style="list-style-type: none"> Bougainville reluctantly placed under Australia to be part of PNG independence – leading to Petitions to the UN by Bougainville Leaders (1962) Momis and Teosin (1975) |
| 1951 | <ul style="list-style-type: none"> PNG Legislative Council provides for Papua and New Guinea territories to be under UN Trusteeship system – processing decolonization for PNG | <ul style="list-style-type: none"> Bougainville reluctantly placed under Australia to be part of PNG independence – leading to Petitions to the UN by Bougainville Leaders (1962) Momis and Teosin (1975) |
| 1962 | <ul style="list-style-type: none"> PNG decolonization process continues | <ul style="list-style-type: none"> First Bougainville secession petition to the UN Hahalis Welfare Society led by John Teosin and Francis Hagai oppose head tax |
| 1964 | <ul style="list-style-type: none"> PNG First House of Assembly – in preparation for decolonization | <ul style="list-style-type: none"> Signs of Bougainville revolt and secession evident |
| 1968 | <ul style="list-style-type: none"> PNG Second House of Assembly – strengthens decolonization process | <ul style="list-style-type: none"> Signs of Bougainville revolt and secession evident |
| 1969 | <ul style="list-style-type: none"> PNG decolonization process continues | <ul style="list-style-type: none"> Napidakoe Navitu an independence action group established Sir Paul Lapun and Napidakoe Navitu calls for secession and referendum Rorovana Dispute against PNG and Australian Administration |
| 1971 | <ul style="list-style-type: none"> PNG decolonization process continues | <ul style="list-style-type: none"> Bougainville calls again for Referendum – Sir Paul Lapun |
| 1972 | <ul style="list-style-type: none"> PNG Third House of Assembly – provided for Self-Government and Constituent Assembly that approved PNG's independence | <ul style="list-style-type: none"> Signs of Bougainville secession persists with leaders like Sir Plau Lapun, John Momis, John Teosin, Napidakoe Navitu Movement, Damien Dameng, Sir Alexes Sarei, Leo Hannet |
| 1973 | <ul style="list-style-type: none"> PNG Self-Government | <ul style="list-style-type: none"> Bougainville Special Political Committee established by late Leo Hannett Bougainville secession calls continue |
| 1974 | <ul style="list-style-type: none"> PNG Constituent Assembly | <ul style="list-style-type: none"> Signs of Bougainville secession persists with leaders like Sir Plau Lapun, John Momis, John Teosin, Napidakoe Navitu Movement, Damien Dameng, Sir Alexis Sarei, Leo Hannet |
| 1974 | <ul style="list-style-type: none"> Final CPC Report | <ul style="list-style-type: none"> Signs of Bougainville secession persists with leaders like Sir Paul |

| | | |
|------|--|--|
| | | Lapun, John Momis, John Teosin, Napidakoe Navitu Movement, Damien Dameng, Sir Alexis Sarei, Leo Hannet |
| 1975 | <ul style="list-style-type: none"> • PNG gains full independence – Decolonization | <ul style="list-style-type: none"> • John Momis and John Teosin – second petition to United Nations for self-determination • Bougainville declares first UDI – wants secession on the 01st September 1975 |
| 1976 | <ul style="list-style-type: none"> • Bougainville Agreement – PNG gives Bougainville first provincial government | <ul style="list-style-type: none"> • Bougainville Agreement – Bougainville becomes first province • Bougainville Agreement is short-lived as provinces emerge |
| 1987 | <ul style="list-style-type: none"> • PNG send troops to Bougainville – Bougainville Crisis begins | <ul style="list-style-type: none"> • Bougainvilleans are not happy (Betrayal) • Bougainville Crisis begins – more than 20000 lives are lost • Bougainville Crisis begins fight for independence • Bougainville Crisis lasts for 10 years from 1987-1997 |
| 1990 | <ul style="list-style-type: none"> • GoPNG and others including | <ul style="list-style-type: none"> • Bougainville declares second UDI on the 17th May 1990 |
| 2001 | <ul style="list-style-type: none"> • PNG National Government agrees to Bougainville Peace Agreement | <ul style="list-style-type: none"> • Bougainville Peace Agreement (BPA) is signed – War ends • Bougainville Peace Process starts with the three pillars of BPA; <ul style="list-style-type: none"> ○ Autonomy ○ Weapons Disposal ○ Referendum on independence sanctioned by National Constitution |
| 2004 | <ul style="list-style-type: none"> • PNG National Government amends its Constitution to add Part XIV on Bougainville | <ul style="list-style-type: none"> • Weapons Disposals is completed • Bougainville through Bougainville Transitional Government adopts ABG Constitution |
| 2005 | <ul style="list-style-type: none"> • GoPNG witnesses inaugural of ABG First House | <ul style="list-style-type: none"> • Bougainvilleans vote new Autonomous Bougainville Government |
| 2019 | <ul style="list-style-type: none"> • PNG National Government (and others) observed the Bougainville Referendum • Reported that the Referendum was free, fair and credible | <ul style="list-style-type: none"> • As agreed in the BPA, a constitutionally guaranteed Referendum is conducted • Two Options: 1) Greater Autonomy and 2) Independence • Bougainvilleans voted 97.7% for independence |
| 2021 | <ul style="list-style-type: none"> • GoPNG engages in Post-Referendum Consultation process at Kokopo, Wabag and APEC Haus, Port Moresby • Opposing (Divergence of views) become evident • Prolongs Ratification process | <ul style="list-style-type: none"> • Post-Referendum Consultations begin • Three consultations; <ul style="list-style-type: none"> ○ Kokopo ○ Wabag ○ APEC Haus, Port Moresby • Both parties agree to; <ul style="list-style-type: none"> ○ Kokopo Resolutions ○ Wabag Roadmap ○ Era Kone Covenant (Treaty) • Opposing views on the final ratification process on the floor of the National Parliament |
| 2024 | <ul style="list-style-type: none"> • Post-Referendum consultations continue • Opposing views continue | <ul style="list-style-type: none"> • Post-Referendum consultations continue • Opposing views continue |

| | | |
|------|--|--|
| | <ul style="list-style-type: none"> Both ABG and GoPNG agree on the engagement of an independent Moderator | <ul style="list-style-type: none"> Both ABG and GoPNG agree on the engagement of an independent Moderator A Moderator has been engaged to finalize the Ratification process |
| 2025 | <ul style="list-style-type: none"> Moderation Consultations with GoPNG | <ul style="list-style-type: none"> Four Moderation Consultations in 2025 <ul style="list-style-type: none"> March 2025 April 2025 May 2025 June 2025 Ultimate ABG aim is finalize independence for Bougainville |

On the one hand, PNG's Decolonization process clearly captures its independence process from as early as 1905 right through to the 16th September, 1975 when PNG becomes fully independent. On the other, Bougainville's resistance and aspirations of independence are also well documented beginning around the same period when Bougainville is reluctantly forced to be part of the colonial rules under British, German and Australia in 1884.

2.5 The PNG Independence Precedent 1975

The PNG Independence precedent was based on the decolonization process which have been discussed in detail in this document. Based on the decolonization process, a number of steps were taken a part of PNG's rights to self-determination, including importantly the Constitution Planning Committee⁴⁷ and Development process and the establishment of the Constituent Assembly.

According to the PNG State Solicitor's advice, the right to self-determination is enshrined in the International Covenant on Civil and Political Rights and rightly so has largely applied in context of the decolonization where former colonies pursued this form of claim, such as in the case of PNG.

Once all the boxes in the PNG's self-determination (decolonization) process; the following steps apparently established PNG's Road to independence as PNG's precedent;

- 1) Legislative Council 1951 that provided legislative pathway for PNG
- 2) First House of Assembly 1964 replaced the Legislative Council and grounded PNG's independence process
- 3) Second House of Assembly 1968 brought the territory to the door of nationhood
- 4) Third House of Assembly 1972 cemented PNG's independence and provided for Self-Government by 1973 – PNG's independence was imminent
- 5) Self-Government 1973 prelude to PNG independence, PNG became self-governing in preparation for the Constituent Assembly
- 6) Constituent Assembly 1974 resolved the Third House of Assembly and moved PNG to independence status, preparations to adopt new PNG Independence Constitution
- 7) CPC Report 1974 finalized the development of PNG's new Independence Constitution. It was adopted by the Constituent Assembly
- 8) PNG Independence 1975 – PNG became fully independence on the 16th September 1975

⁴⁷ CPC Report 1974

3. THE PRE-CRISIS ETHNIC TENSIONS 1975 – 1988

There are recorded tensions of pre-crisis ethnic tensions between Bougainvilleans and non-Bougainvilleans. These tensions helped triggered the Bougainville Crisis.

3.1 Tensions with non-Bougainvilleans

Tensions with non Bougainvilleans – summary executions that is a common behavior on New Guinea mainland is a completely foreign behavior in Bougainville until introduced by the Security forces into Bougainville during the Crisis. Educated Bougainvilleans have been subjected to killings throughout PNG beginning with the executions of Dr Luke Rovin and Mr Raphael Moini in Goroka in 1969. Other lessor known Bougainvilleans have also been killed throughout PNG and Bougainville wants no part of such hideous behavior.

3.2 Squatter Settlements

Squatter Settlements at the scale they proliferated (Panguna, Tunuru, Arawa, Kieta, Toniva, Aropa) was a new phenomenon that caught well-behaved Bougainvilleans by surprise, many of whom freely accommodated the “red skins” on their land because of their Christian beliefs. The “good Samaritan” nature was reciprocated with endless social problems including harassment of women in front of their husbands and brothers in a society where matrilineal respect rules everyday conduct. This further deepened animosities against PNG.

3.3 Landowners’ dissatisfaction

Landowners’ dissatisfaction – Panguna landowner dissatisfaction are well documented and is common knowledge. These issues revolve around the (i) failure/refusal by BCL and PNG Government to renegotiate the Mining Agreement (1.5% royalty payments) over a period of time; environmental destruction and the distribution of royalty payments amongst the Landowners. The patience of landowners finally ran out when a New Zealand environmental scientist tested and denied that the Jaba River tailings system was polluted.

The scientist refused to drink the water at a meeting with the leaders of the Landowner militant group Francis Ona – the refusal by the Scientist was the proof that the PNG Government and BCL were lying to the Landowners and the people of Bougainville. This further deepened the Bougainville peoples’ lack of Trust on the PNG Government.

3.4 The Resource Owners

The Lihir LOs, Simberi Ok Tedi LOs, The Pogeru LOs and the Oil and Gas LOs are receiving better benefits and recompensation because of the lessons from Panguna and Bougainville - and yet the Bougainville trail blazers continue to suffer the effects of their fight for their rights! Truly PNG is showing its meanest spirit!

3.5 Killing of a Bougainvillean nurse in Arawa

Killing of a Bougainvillean nurse in Arawa – to add fuel to an already highly flammable situation, settlers at Aropa Plantation raped and killed an off-duty Nurse who was tending to her family garden. Bougainvilleans mobilized and started harassing settlers who in turn mobilized and rioted in the Toniva Township destroying shops and hotels – again a

completely new behavior to Bougainvilleans – enough is enough karim pasin blo yupla go back lo New Guinea!

3.6 Domination of Bougainvilleans by non Bougainvilleans

The Domination of Bougainvilleans by non Bougainvilleans – this fact is illustrated in the points A to E above. An additional point that needs to be highlighted here was the infiltration of non-Bougainvilleans into rural Bougainville who started to take advantage of the peaceful and friendly behavior of Bougainvilleans.

This included squatting on land outside of the Panguna-Arawa-Kieta-Aropa urban squatter-areas into real asples land. These were lands that the New Guinea native thought was “no man’s land”. Their removal led to the issues that have become common place in New Guinea.

4. THE BOUGAINVILLE CRISIS 1987 – 1997

The Bougainville Crisis is also well documented and started in 1989 and concluded in 2001 with the signing of the BPA. Core issues as noted elsewhere were:

- 1) Indigenous Rights against Environmental Destruction of their land
- 2) Failure of the state to protect its citizens from foreign exploitation
- 3) Protection of Foreign Interests by the state
- 4) Failure of government to show good leadership and governance practice to the Bougainville people

4.1 State Funded Genocide: Human Rights Abuse and 20000 lives lost

The State funded genocide against its citizens who were fighting for their God given rights customary rights and human rights. The best response of the PNG Government was to use state instrumentalities including the Riot Squad, the Correctional Services, the PNG Army, and the Economic Blockade over a ten-year period.

Any sensible Government would have supported the peoples cause but it chose to support BCL and kill its citizens – this was genocide against its people and after all this, Bougainvilleans had no choice but to defend themselves through the Bougainville Revolutionary Army. PNG expects Bougainvilleans to have collective amnesia and easily forget these atrocities and remain with PNG.

Declaration of the all-out war which lasted 10 years as the PNG Army packed up and returned to the barracks because they lost the war through their indiscriminate behaviors. There are mass graves all over Bougainville whose remains have not yet been returned. Bodies of young men were thrown into the ocean using Australian Army supplied gun-fitted Helicopters and their remains will never come home.

Economic and Military Blockade was another systematic genocide tool aimed at stopping humanitarian aid - many Bougainvilleans died because of the lack access to basic health services due to the Economic Blockade. Many Bougainvilleans were killed at sea by the PNG Security forces as the Bougainvilleans were crossing the sea for medical help. Bougainville has signed a Peace Agreement with PNG but these memories will forever be etched in people’s hearts. This was a state funded genocide against Bougainvilleans that resulted in human rights abuse and more than 20000 lives lost.

4.2 Australian Iroquois Choppers used to dump Bodies at Sea

Bougainvilleans always accuse Australia for supplying PNG security forces the Iroquois choppers that were used to dump bodies of Bougainvilleans at sea. Most of the victims were not rebels as claimed. Today many of these bodies are still missing and are categorized under “mission persons”. Colonel Nuia confirmed that bodies were thrown into the sea from the Iroquois and that he knew the troops involved⁴⁸.



Figure 7: Australian Supplied Iroquois choppers used to dump bodies at sea⁴⁹

4.3 Missing Persons

There are records of missing persons from throughout Bougainville because of the Bougainville Crisis. There are terrifying records and ordeals of Bougainville youths taken by PNGDF and never returned. Most of these bodies were buried at unknown locations and dumped at seas.



Figure 8⁵⁰: Retrieved bones of missing persons; families continue grieve; emotional releasing memories through rituals

Families of loved ones still mourn for their children, who were victims of the PNGDF and from the supplied Iroquois. Bougainvilleans want answers. The process of locating them is an ongoing process. Regardless, Bougainvilleans blame the Governments of PNG and Australia over these human rights atrocities Bougainvilleans will continue to search for their loved ones who were killed and dumped at unknown locations. Years after the Bougainville civil war, Bougainvillean families searching for answers are being ignored by the GoPNG. Whilst the ABG established the missing persons policy 2014 to enable

⁴⁸ <https://www.youtube.com/watch?v=DZnSZ-mB8xY>

⁴⁹ https://www.soldierspng.com/?page_id=5348

⁵⁰ Photos supplied

government intervention in searching for both Papua new guinea Missing Persons and Bougainvilleans, the GoPNG national executive council have rejected five times passing a national government policy on missing Persons on Bougainville.

In refusing to make it a priority of the national government to help restore peace, heal people and help find closure of families of the missing, the PNG government is in breach of the United Nations Human Rights International Convention for the Protection of All Persons from Enforced Disappearance.

4.4 Human Rights and the Rights to Self-Determination

Bougainville's aspiration for political independence and the conduct of the 2019 Bougainville Referendum is an exercise of human rights and the right to self-determination by indigenous Bougainvilleans. Indigenous peoples right are part of the decolonization process and global agenda for human rights and are referred to as the moral entitlements that are necessary for the restoration and redress of alleged wrongs inflicted in the past by explorers and colonizers.

The fundamentals of human rights and the right to self-determination are elaborated in the United Nations Charter (1945) and the Universal Declaration on Human Rights, the United Nations International Covenant on Civil and Political Rights and the United Nations International Covenant on Economic Social and Cultural Rights.

In 2001, by amending the Constitution of PNG, the Parliament of PNG have accorded with the UN Charter on the (human) rights and principle of self-determination of peoples to its own people under the human rights regime of the Constitution. Internal self-determination, in international law, has now become the law of the land through the Constitution of Papua New Guinea.

The Era Kone Covenant acknowledged the 'final decision-making authority of parliament in respect to the referendum result' and also 'recognize PNG obligation under international law, particularly the Universal Declaration on Human Rights, the United Nations International Covenant on Civil and Political Rights and the United Nations International Covenant on Economic Social and Cultural Rights'.

In the philosophical words of the Bougainville's senior statesman Dr. John Momis, man by nature is a rational self-determining being. If you deny him this right, then you are dehumanizing him. So, the government has a serious responsibility to facilitate the process of self-determination. The collective issue that lies at the heart of structural injustices in today's world is the result of lack of participation by people in determining their own future.

The war in Bougainville was the result of the National Government's unjust attack on us. We did not do anything wrong. In fact, we fought back to protect our resources and protect our right of self-determination. A government that has conscience would deal with this fundamental principle and come to some kind of agreement to resolve the crisis. They did not. During the formulation of the PNG Constitution, we did not ask for service, we did not want to be serviced, we wanted to be liberated and empowered. Because we knew if we did not become independent, we will forever be dependent and thus vulnerable to manipulation and exploitation.

Rejection of independence outcome of the referendum or proposing any other alternative is a violation of Human Rights and the international convention and declarations. Moreover, the rejection of independence outcome of the referendum is a denial of the inherent rights to self-determining endowed to the people of Bougainville.

4.5 The Sandline Affair 1997⁵¹

The Sandline Agreement was The Sandline Contract Agreement ⁵² was signed between GoPNG and Sandline International on the 31st January 1997 for the Provision of Military Assistance to PNG Defense Force in Bougainville. The deal was worth around \$36m (USD). Prime Minister Hon. Julius Chan stated that the Sandline involvement was a new approach to the Bougainville Peace Process. But in fact the Sandline International was a South African mercenary company aimed at suppressing Bougainvilleans.



Figure 9: Major Jerry Singirok during Sandline Crisis in 1998

The Sandline Affair became a big issue with the National Government and its security forces. By 1997, a group of PNGDF personnel including Major Jerry Singirok (retired), Major Walter Inuma and current Sandaun Green MP. Hon. Belden Nama chased Sandline out of the country. The Sandline Affair was a defining moment for both Bougainville and PNG. In terms of PNG it undermined PNG's national security and interest; however, for Bougainville, had Sandline gone in, there probably would have been a different level of result in terms of the suppression of Bougainvilleans.

5. THE POST-BOUGAINVILLE CRISIS 2001 – 2019

The Bougainville Crisis ended with the signing of the Bougainville Peace Agreement. The BPA 2001 signaled a new process through peace by peaceful means. A round table battlefront. The Bougainville leaders and the ex-combatants took a chance in the peace process knowing that gaining independence was now a guaranteed process.

5.1 The BPA 2001

The Bougainville Peace Agreement was signed in Arawa on the 30th August, 2001, by Bougainville leaders and GoPNG. The BPA subsequently ended the civil war in Bougainville. The BPA 2001 had three pillars: 1) autonomy, 2) weapons disposal and 3) referendum. The BPA was truly a significant milestone for the people of Bougainville.

⁵¹ https://en.wikipedia.org/wiki/Sandline_affair

⁵² file:///C:/Users/Imnux/Downloads/https_aphref.aph.gov.au_house_committee_jfadt_bougainville_bv_chap2.pdf

The BPA unified Bougainville Revolutionary Army (BRA), Resistance Fighters and all other factions directly or indirectly.



Figure 10: Former Resistance Fighters and BRA achieved the BPA (seen here are Resistance Fighters leaders late Hilary Masiria, and Patrick Laurie and Legal Advisor, Ezekiel Masatt during the peace talks and BRA strong man late Joseph Watawi who worked together to achieve the BPA

During his statement at the signing of the BPA, late President Joseph Kabui stated profoundly that, for peace to be sustained in Bougainville, a number of key challenges face all parties to the peace deal:

- 1) There is an imperative to honor, respect and implement every aspect of the peace deal
- 2) Honesty and transparency must prevail in all their dealings,
- 3) The PNG Government's challenge is for successive governments to respect and continue to implement the agreements. This is because in PNG politics, 10-15 years is a long time to wait for a referendum on Bougainville is ultimate political status. Given the regularity of votes of no confidence during any five-year term, the commitment of successive governments to the peace deal is vital.

5.1.1 Weapons Disposal

Weapons Disposal was one of the pillars of the BPA. Containment of the weapons was successfully conducted by the United Nations Observer Mission on Bougainville from 6th December 2001 to 30th June 2005. This paved the way for the establishment of ABG to implement the BPA.

The ABG was understood by all parties (including Australia and New Zealand) as an interim governance arrangement to a more permanent governance system to be decided through a deferred Referendum.

Therefore, PNG cannot use weapons as an argument because there are less weapons on Bougainville than the PNG Highlands – there are a lot more weapons related killings in the rest of PNG now than in Bougainville.

Therefore, cannot use the presence of a few weapons as an argument to deny the people of Bougainville their inalienable rights as cocoon in the Referendum results of 97.7% and witnessed by the international community as credible and legitimate.



Figure 11: Bougainville Weapons Disposal Program, 2001-2003⁵³

Weapons disposal was implemented as an Act of Good faith by Bougainville alone. The United Nations certified the weapons disposal exercise and “satisfactory compliance with the agreed weapons disposal plan was achieved. The Meekamui factions disposed of their weapons to containment witnessed by the National Government Minister for Bougainville affairs.

Any more weapons existing on Bougainville are normal law and order. Reconciliation between the PNG Security Forces and the Meekamui - Former Fighters Reconciliation and Understanding – Weapons Disposal 4.1, Section d. Special Arrangements for the Meekamui;

- 1) The Meekamui faction under Francis Ona controlling the Panguna Mine site refused to join the peace process and remained armed outside the peace process
- 2) With efforts of Joint leadership of Late Hon. William Samb, then Bougainville Affairs Minister and his counterpart Hon. Albert Punghau, the Meekamui, agreed to join the Referendum process but reluctantly,
- 3) Therefore, the Meekamui decided to dispose of their weapons following the Agreed Weapons Disposal Plan under the BPA,
- 4) The Meekamui were not bound by the BPA but in Good Faith they decided to implement, what they were not part of,
- 5) The Meekamui implemented the stage 1 with the understanding that they implement stage 2 after the ratification of the Referendum Result. This was assessed as very minimal by then Brigadier General Jerry Singirok of PNG Defense Force.

The Meekamui weapons containment ceremony was witnessed by the Bougainville Affairs Minister on behalf of the PNG Government. To date the weapons remain locked up in Panguna awaiting Ratification for their disposal.

⁵³ Lowy Institute 2018; <https://www.lowyinstitute.org/the-interpreter/overcoming-suspicion-reconciliation-australia-bougainville>

Failure to ratify the Referendum result will be a tremendous security risk to the process. The BPA states, standards of Good Governance applicable to Bougainville must be same as those in PNG. The Autonomy arrangements were reviewed in 2015 and 2018 with both reviews concluding that good governance and administration was being exercised in Bougainville comparable to the PNG situation.



Figure 12: Mekamui Faction Weapons disposal⁵⁴

PNG law on firearms (the Firearms Act) applies on Bougainville. All existing weapons on Bougainville is the responsibility of the RPNGC through the BPS to contain. Existence of weapons on Bougainville is a joint BPS/PNGRC responsibility and Bougainville cannot solely take the blame. Additionally, PNG has a serious proliferation of arms in their backyard. Until and unless they have cleared their house, the guns are not an issue. In any case, the bush knife is doing more killings than guns⁵⁵.

5.1.2 Implementing Autonomy

Through the BPA, the Bougainville Leaders were able to complete the weapons disposal under the UN Observer Mission and the Bougainville Peoples' Congress adopted the Bougainville Constitution in 2004. This led to the people of Bougainville voting in the new Autonomous Bougainville Government in 2005. The ABG has since implemented the autonomy arrangements.

However, there has been associated challenges with implementing the autonomy such as;

- 1) GoPNG's attempts to suppress the implementation of Autonomy through the partial payment of Restoration and Development Grants (RDG) not funded fully. PNG owes Bougainville in excess of K600 million in RDG funds. Had PNG fully funded the RDG in the 23 years and made life comfortable for Bougainvilleans, it would have won the hearts of Bougainvilleans and swayed their thinking away from Independence.
- 2) People's lack of trust on any model of independence within PNG has been clearly rejected and it is now a dead horse not worth flogging.

⁵⁴ Post Courier 2018, <https://www.postcourier.com.pg/meekamui-faction-give-guns-peace/>

⁵⁵ <https://www.theguardian.com/world/2021/feb/27/tribal-conflict-worsens-in-papua-new-guinea-as-firearms-rewrite-the-rules>

- 3) Withholding of RDG, demonstrate lack of commitment, with further withering of Bougainville's lack of trust PNG. Bougainvilleans are simply fed-up with a government that is mostly dishonest and not a willing partner in the BPA.



Figure 13: Late President Joseph Kabui and Members of the 1st ABG House 2005⁵⁶

6. THE AUSTRALIAN COMMITMENT TO RECOGNIZE BOUGAINVILLE'S INDEPENDENCE 2001

Argument Case: Australia had no choice but to recognize Bougainville's Independence.

6.1 Background

Australia was responsible for the birth of the Independent State of PNG that failed to respond to the Independence aspirations of Bougainville to form an Independent State separate from PNG. The UN Trusteeship Council entrusted Australia in administering two separate territories, 1) the Australian Mandated Territory of Papua, whom to this day, some Papuan leaders still argue that, they are still Australian Citizens and 2) the Trust Territory of New Guinea (that included Bougainville).

The Trust Territory of New Guinea was the territories taken over from Germany after WW1. Moreover, Bougainville ended up in New Guinea, because of the German/Anglo decision to cut off Bougainville from its traditional space in Solomons and join it to New Guinea.

This is historical injustice Australia failed to correct by refusing the Bougainville demands for separate independence. Australia failed to administer the territories distinctively and treated both territories as if they were both Mandated Territories. Australia used Panguna Mine as the bargaining chip and resource to build PNG, a country that Bougainville never wanted to be part of.

During the Bougainville Conflict, Australia funded, trained and supplied the War Machine that killed Bougainvilleans, only to protect the Mine and the country it created. In the eyes of the leadership of Bougainville, Australia was the creator of the Papua New

⁵⁶ <https://lfongroka.blogspot.com/2012/05/joseph-kabui-and-his-leadership-of.html>

Guinea Bougainville situation. Therefore, the Downer assurance of recognizing Bougainville Independence was the Golden Fleece for the End of War on Bougainville.

The Australian Commitment to Bougainville by Hon. Alex Downer, Foreign Affairs Minister of Australia is an issue that needs clarity that can give confidence to the people of Bougainville.

Some noted facts are:

- 1) The Australian Delegation was led by Hon. Alexander Downer, Foreign Affairs Minister, accompanied by Nick Warner, then Australian High Commissioner to PNG and Sarah Storey, First Secretary, the Australian High Commission in Port Moresby,
- 2) The Bougainville delegation, Late Joseph Kabui, the President of the Bougainville People's Congress, James Tanis, then Vice President and Late Robert Tapi as the Executive Officer to the President,
- 3) Venue: Buka, Greenhouse, then, Former BTG Office,
- 4) Time: Around after lunch,
- 5) There was a pre-Downer visit meeting by the Australian High Commissioner. In that meeting Nick Warner briefed President Kabui and that the Australian Foreign Affairs Minister was coming to break the deadlock on the referendum, therefore President Kabui must be ready to negotiate the proposal. He further informed the BPC delegation that the Foreign Affairs Minister will just pay a courtesy call on the PNG Prime Minister, then come straight to Bougainville and talk directly with the BRA side of the BPC leaders. The Foreign Affairs Minister will then see the Prime Minister again on his return, this time urge the PNG Prime Minister to accept the Referendum and that Referendum must have the option of separate independence for Bougainville.
- 6) After the Pre-Foreign Affairs Ministers Brief from the Australian High Commission, President Kabui and his BRA aligned leaders were ready to receive Downer. Note that the deadlock on Referendum was more with the BRA, the other factions were more towards Autonomy.

6.2 The Downer Visit

Recorded here are personal encounters by Bougainville Leaders including James Tanis⁵⁷. The leaders noted that Foreign Affairs Minister Downer arrived on Bougainville and the meeting happened as planned. Foreign Minister Downer said everything that, that High Commissioner briefed President Kabui about.

The meeting was brief as it was with High level, Diplomatic, international meetings. Minister Downer promised he would convince the PNG Prime Minister to accept the Referendum and the option of separate independence if Kabui equipped him with the bargain. Minister Downer proposed that there if the Bougainville side agreed;

- 1) that the Referendum would be delayed to give Autonomy a chance to prove that there was still a better life to remain part of PNG,
- 2) That the Referendum result must be ratified by the PNG Parliament,

⁵⁷ Recorded encounters

- 3) Kabui responded by telling Downer that he was unable to accept the proposal that the result of the Referendum would be ratified by Parliament. Because Bougainville will not stand a chance.
- 4) Downer then explained that, that was how it was done in East Timor and Australia has already got the experience
- 5) He said the Indonesian Government had no choice but to ratify the independence result.
- 6) He further said the international community including Australia had no choice but to recognize the East Timor Independence.
- 7) He assured the BPC leaders that, all that Bougainville must do is to score as high, and the PNG Parliament and Australia and the International Community will do what it did in East Timor with the Timor precedent.
- 8) Once Downer gave the assurance, Kabui accepted the proposal.
- 9) Kabui took the Downer assurance seriously because Downer was not on a private trip but was on an official Australian Government trip and the Downer assurance was an Australian Government assurance.
- 10) Australia was the source of the Bougainville Conflict, therefore the Australian Government assurance was the very shift of no independence to yes independence that was needed to end the armed conflict,
- 11) The meeting ended and the Australian Foreign Affairs Minister departed for Port Moresby to lobby for accepting of the Referendum and the option of separate independence by the PNG Prime Minister,
- 12) The Australian High Commission then relayed the message that the meeting of Prime Minister and the Australian High Commissioner has been successful, that the Prime Minister has accepted the Referendum and the option of separate independence for Bougainville.
- 13) Once the confirmation was done Bougainville was ready to expand Autonomy and the Weapons Disposal and reenter the Negotiations again,
- 14) The Downer compromise was an official Australian government commitment that saved the peace process from collapse and the walk away by the BRA.

6.3 Case against Australia

The Australian crime is the SILENCE about the Australian commitment to recognize Bougainville Independence once majority is secured by the Referendum or at least the NON-ACTION now to lobby the Government of PNG to ratify the independence result of the Referendum. After this assurance the BRA commanders in Good Faith, aggressively pushed for reconciliations and implementing the weapons disposal. This is the reason why BRA to this day has never walked away from the peace process. Even to the extent of tolerating Autonomy within PNG that has failed to deliver.

AUSTRALIA MUST SIMPLY DELIVER ON ITS COMMITMENT TO THE PEOPLE OF BOUGAINVILLE.

7. THE ROLE OF NEW ZEALAND IN PEACE BUILDING

After several unsuccessful peace accords and ceasefire agreements, New Zealand, unbound by Australia's historical associations on Bougainville, successfully established and facilitated a peace-building process that gained the trust of the Bougainvillean people.

7.1 Burnham Peace Talks I, July 1997

New Zealand played a pivotal role in hosting and facilitating the peace talks, gaining significant praise for its impartial and effective mediation efforts. The attempt to employ foreign mercenaries to resolve the conflict in Bougainville prompted greater attention from neighboring governments, particularly Australia and New Zealand, regarding the situation. Thanks to the efforts of individuals like Sir. Don McKinnon, New Zealand's Foreign Minister, leaders from various Bougainvillean factions were brought together at the Burnham military barracks in New Zealand.

These talks opened up a crucial channel for dialogue and helped build trust among the conflicting parties. For the first time, Bougainvillean leaders from differing factions came together to discuss peace and reconciliation. The outcomes of the Burnham Declaration marked a significant commitment from the warring factions towards achieving a peaceful resolution and set the stage for future negotiations and enduring peace.

The Declaration emphasized a key commitment to unity and reconciliation, outlined a framework for negotiations with the Papua New Guinea government, and announced a ceasefire. It additionally called for the gradual withdrawal of the Papua New Guinea Defense Force (PNGDF) and underscored Bougainvilleans' right to determine their political future. Demilitarization of Bougainville was viewed as an essential step in the peace process, with the Declaration urging leaders to develop a supervised disarmament and weapons disposal program. It also advocated for the establishment of a neutral peacekeeping force on Bougainville.

7.2 Burnham Talks II, October 1997

In October 1997, a second meeting was held at Burnham (referred to as Burnham II), bringing together representatives from all parties involved in the Bougainville conflict. This included officials from the Papua New Guinea (PNG) Government, the Bougainville Revolutionary Army (BRA), and the Resistance, along with senior officers from the PNG Defense Force (PNGDF) and the Royal Papua New Guinea Constabulary (RPNGC). On 10 October 1997, the participants signed a truce agreement that paved the way for an immediate ceasefire.

The agreement called for the parties to consider inviting a neutral Truce Monitoring Group (TMG) to Bougainville and highlighted the importance of reconciliation, the gradual withdrawal of the PNGDF, and the restoration of civil authority. Additionally, it set plans in motion for a 'Leaders Meeting' to deliberate on a potential political settlement.

Burnham II also lifted all restrictions on freedom of movement and access to essential services, laying the foundation for the upcoming leaders' meeting at Lincoln University.

7.3 Truce Monitoring group, December 1997

In December 1997, New Zealand led the deployment of the Truce Monitoring Group (TMG) to Bougainville. The primary role of the TMG was to monitor the ceasefire and support the peace process by collaborating with local factional groups and various international actors. Their deployment lasted for approximately five months.



Figure 14: Peacekeeping in Bougainville: travelling in convoy 1998-2003⁵⁸

7.4 Lincoln Agreement, January 1998

The next significant gathering after the Burnham talks took place in January 1998 at Lincoln University in the beautiful city of Christchurch, New Zealand. The Lincoln Agreement of 1998 represented a pivotal moment in the Bougainville peace process, marking a remarkable step toward establishing lasting peace following a decade of conflict. One of the standout accomplishments was the establishment of a permanent and irrevocable ceasefire, which was vital for putting an end to the violence and fostering an environment ripe for meaningful negotiations. The agreement outlined a thoughtful phased withdrawal of the Papua New Guinea Defence Force from Bougainville, ensuring that civil authority could be restored progressively.

Moreover, it set up a neutral regional Peace Monitoring Group to oversee the ceasefire and help build trust among all parties involved. Everyone committed to resolving future differences peacefully, turning away from armed conflict. In summary, the Lincoln Agreement laid a strong foundation for the upcoming Bougainville Peace Agreement, which aimed to explore long-term political solutions, including autonomy and a future referendum on Bougainville's political status.

7.5 Peace Monitoring Group, May 1998

The Peace Monitoring Group (PMG) was deployed to Bougainville on 1 May 1998, taking over from the New Zealand-led Truce Monitoring Group (TMG) that had been in place since December 1997. The PMG operated in Bougainville from 1998 to 2003 and comprised a mix of unarmed military and civilian personnel from Australia, New Zealand, Fiji, and Vanuatu.

They played an important role in facilitating the peace process between Papua New Guinea and Bougainville, by monitoring the ceasefire, increasing awareness of the peace process and providing a neutral presence to assist the discussion of important issues regarding the future of Bougainville.

⁵⁸ <https://teara.govt.nz/en/photograph/36090/peacekeeping-in-bougainville-travelling-in-convoy>

On June 30, 2003, the PMG decisively completed its operations, confidently transferring authority to the Bougainville Transition Team. This transition was a clear indication that the peace process had stabilized sufficiently, enabling the military to withdraw.

8. THE RECENT PRESENT EVENTS 2019 – 2025

The recent present events will mainly reflect on the period from 2019 to 2025. This period is significant to the Referendum process, when Bougainvilleans were able to freely and fairly vote, exercising their fundamental rights to vote for independence in a democratically and constitutionally guaranteed referendum process.

8.1 Joint Weapons Disposal Secretariat & Reconciliations

During the JSB Meeting on December 15, 2017, leaders jointly acknowledged that some former combatants in Bougainville, including those from the Meekamui factions, still held onto weapons. It was agreed that these weapons posed challenges to fostering a sense of safety and could impede both economic and social development. There was a collective understanding of the importance of promoting governance, upholding human rights, and reinforcing the rule of law in the region. The Meeting emphasized the vital link between the disposal of these arms and the timely scheduling of the referendum regarding Bougainville's future.



Figures 15 & 16: BRA Commander Ishmael Toroama (current ABG President) leading Weapons Disposal program in Bougainville.

The primary goal of peacebuilding and weapons disposal in Bougainville was to cultivate a supportive environment where the Autonomous Bougainville Government (ABG) could effectively promote good governance and facilitate a fair referendum on Bougainville's political status. The Joint Supervisory Body (JSB) deeply appreciated the dedication of the former Meekamui factions, acknowledging their willingness to see weapon disposal as a moral obligation. This commitment is an important step towards healing and fostering a brighter future for the community.

The four-phase plan was developed collaboratively and included awareness, registration of weapons, collection and storage, disposal (destruction/monumentation), as well as verification and reporting. It distinguished between weapons of war and those held by criminals, who could be prosecuted under the National Firearms Act.

Striving for a weapons-free Bougainville was an essential part of the Autonomous Bougainville Government's (ABG) initiative to prepare for a constituency referendum. This effort emphasised the importance of reconciling grievances related to the crisis, which significantly contributed to the process of weapon disposal and the unification of Bougainvilleans leading up to the referendum. Prior to the 2019 referendum, there were over 50 mass reconciliations and more than 4,000 cases related to the Bougainville conflict that were successfully resolved. As a result, thirty out of the thirty-three constituencies expressed their readiness for the referendum.

Under the Joint Weapons Disposal Secretariat, a total of 183 weapons have been registered, and we are pleased to report that 56 high-powered assault rifles have been successfully disposed of through destruction. In adherence to the Bougainville Peace Agreement and the United Nations Programme of Action (UNPoA) on Small Arms and Light Weapons, the ABG remains committed to addressing all remaining firearms, ammunition, and explosives in accordance with the National Firearms Act or a similar Act that will be adopted by the ABG. On September 29, 2019, all thirty-three constituencies submitted their final reports to parliament, officially declaring Bougainville weapons-free, united, and ready for a referendum.

8.2 Reconciliation between the Bougainville Veterans, the PNG Defense Forces, the PNG Constabulary the PNG Correctional Services

Under the leadership of Joint arrangements of the Government of PNG through the Bougainville Affairs and the ABG through the Bougainville Peace Implementation Department, the Bougainville Veterans and the PNGDF reconciled in Kokopo in 2019. During this Reconciliation the two sides had an emotional and heartbreaking dialogue and reached the following gentleman's agreement;

- 1) That the two sides will not fight again and risk their lives
- 2) The politicians must complete their obligation and respond to the Bougainville aspirations
- 3) The fighters understanding was that culturally Bougainville belongs to Bougainville only and no Non Bougainvilleans must not die again for the Bougainville Destiny and its resources
- 4) They agreed that the Kokopo Veterans Reconciliation was only stage 1,
- 5) The Stage 2 will be completed with a politician's Reconciliation after the Ratification of the Bougainville Referendum Result.

This Reconciliation in 2019 was with the PNGDF, PNGC and CIS from the PNG side. They chewed betelnut and broke bows and arrows. After the ceremony, at the Joint Reconciliation dinner at Rapopo Resort, Late Sir Rabbie Namaliu apologized for his Call Out Order on Bougainville. His apology was received by Late Gerard Sinato. And both leaders agreed that the Bougainville Peace processes must be implemented in full with both sides implementing their obligation. Bougainville had completed its obligations and now it's the Parliament that must deliver by ratifying Independence.

A coconut was planted at Vunapope church grounds where reconciling parties chewed betelnut and spitted. The coconut signifies this important ceremony and seals a deal amongst brothers. The Overall understanding was that PNG must let Bougainville go and they remain friendly neighbors. The East New Britain leaders then paid tabu (shell money) to seal the Reconciliation.

8.3 Implementing Referendum

There were 5 basic principles of agreement of the referendum provision, and they were,

- 1) The BPA provides for the right guaranteed in the PNG National Constitution for a referendum to be held among Bougainvilleans on Bougainville's future political status.
- 2) The BPA states that one of the choices available in the referendum will include a separate independence for Bougainville,
- 3) The referendum will be held no earlier than ten years and no later than fifteen years after the election of the first Autonomous Bougainville Government.
- 4) The actual date of the referendum will be set taking account of standards of good governance and the implementation of the weapons disposal plan.
- 5) The outcome of the referendum will be subject to ratification (final decision-making authority) of the National Parliament. The window of opportunity for the conduct of the referendum opened from 2015 to 2020.

The two governments agreed to conduct the referendum through a referendum charter administered by a neutral body known as the Bougainville Referendum Commission. The commission comprises representatives from PNG and Bougainville, chaired by Hon Bertie Ahern, the former Prime Minister of Ireland. While the Bougainville Referendum Commission focused on the administrative tasks involved in conducting the referendum, such as preparing the common roll, updating it, and printing the ballot papers, the two governments established a ministerial taskforce through the Joint Supervisory Board (JSB). This taskforce is co-chaired by ministers from the National Government and the ABG to provide political oversight for the preparations and execution of the referendum.

The Bougainville Referendum Commission requested the two governments through the ministerial taskforce on the question or options to be put to Bougainvilleans in the referendum. There were 4 options initially proposed to the taskforce to be put to the people of Bougainville in the referendum. These options included were;

- 1) Free Association
- 2) Federated State Government
- 3) Separate Independence and
- 4) Greater Autonomy.

Because the BPA stipulates that the referendum result must be clear and precise, and it must not cause confusion among Bougainvilleans, the ministerial taskforce felt that if 4 options were given to Bougainvilleans in the referendum, it would not show a clear and precise result. It would cause confusion. After much deliberation the two governments through the ministerial taskforce agreed to greater **Autonomy as option 1** and **separate independence as option 2** to be put into the ballot paper for Bougainvilleans to choose from in the referendum.

After the options of separate independence and greater autonomy were agreed to, the chairman of the Bougainville Referendum Commission requested that the two governments define independence and greater autonomy to be included or inserted in the ballot papers. The National Government defined independence as "*An independent nation state with sovereign powers and laws, recognized under international law and by other sovereign states to be an independent state, separate from the state of Papua New Guinea*".

The ABG defined greater Autonomy as "*A negotiated political settlement that provides for a form of Autonomy with greater powers than those currently available under constitutional arrangement*". The definition was confirmed through a letter made to former President Dr. Chief John Momis by the then Prime Minister Hon Peter O'Neil dated 16th May 2019⁵⁹.

8.4 Irrelevant Language creeping into the Post Referendum Consultations

The intention of the negotiators of the BPA to have Consultations prior to ratification was not to make the referendum non-binding but to allow the following intentions to transpire:

- 1) To allow time for the Meekamui factions to join. This task was completed by Late Hon William Samb MP and Minister Albert Punghau MHR,
- 2) To allow time for healing and reconciliation between the fighting groups, that would pose security threat to the ratification. The fear on the Bougainville side was that the PNG military would kill Bougainvilleans if independence was ratified. This issue was resolved through the Kokopo Reconciliation.
- 3) On the decision on Ratification by the Parliament as the highest decision-making body, was to express that, when the Parliament endorses independence, that endorsement could not be challenged by any other person or group in PNG. Because the endorsement is a decision made by the highest decision-making body in PNG. This was intended to prevent counter revolution in PNG against the Parliament or a military coup, and was not intended as a veto power of Parliament.
- 4) The Post Referendum Consultations did not start with Kokopo, but started with a Post Referendum Taskforce established by the JSB, led jointly by Ministers Albert Punghau MHR and Sir Puka Temu and later William Samb MPs PNG Parliament, the United Nations facilitated the discussions and operations of this group
- 5) The Kokopo consultations picked up the baton and completed the process and actioned with Era Kone Covenant,
- 6) The key consultation was the Wabag Consultation that produced the Joint Referendum Results Implementation Roadmap or the 'Wabag Road Map' with the Independence deadline.

The Bougainville Argument is that the Government of PNG has already agreed on Independence. All that the Prime Minister needs to do is table the Independence result of the Referendum and the Wabag Roadmap as Government position on Bougainville and produce the majority to endorse it. The armed confrontation is over, negotiations ended, consultation ended and all that is left is the completion of formalities of endorsement by Parliament.

The term "*Non-binding*", is not written anywhere in the BPA or in the PNG National Constitution. The BPA does not mandate the referendum result to be put in the Tari Bilum, but to be presented in the National Parliament. Even the use of name Greater PNG is discriminatory implying that Bougainville might be the lessor PNG. This is a process of equal parties, no one is greater and no one is lessor.

8.5 Part XIV of the National Constitution

Part XIV as the 23rd amendment of the National Constitution. Titled; Peace Building in Bougainville – Autonomous Bougainville Government and the Bougainville Referendum.

⁵⁹ Letter from Prime Minister, Hon. Peter O'Neil definitions of Greater Autonomy and Independence

It was brought twice to the national parliament, the first time on the 23rd January 2002 where it was voted unopposed 86 out of 109. The second vote was taken on the 27th March, again voted unopposed 85 out of 109.

Part XIV only applies to Bougainville and supersedes the rest of the constitution if inconsistent with this part (s276). Part XIV was intended to be interpreted broadly by referring to its objectives in the BPA without excessive reliance on technical rules of construct.

Part XIV is a procedural section of the constitution, with the ratification of the referendum results as the final component leading to its conclusion and invalidity. The ratification will not only bring this part to its natural end but also facilitate a new agreement to birth.

8.6 Summary of Part XIV

The Bougainville referendum was processed in compliance with the BPA and the PNG Constitution Part XIV which was specifically amended and created for Bougainville only (no other part of PNG), as outline in s276. The Bougainville Referendum was conducted by a neutral body called the Bougainville Referendum Commission (BRC) comprising of representatives of prominent Bougainvilleans and Papua New Guineans.

The BRC was chaired by a very high-profile leader of the world the former prime minister of country Ireland. The Bougainville Referendum Commission performed its role with high moral standards and integrity. The options of Greater Autonomy (options 1) and Independence (option 2) to be put in the referendum were jointly agreed to by both governments in compliance with the BPA and Part XIV of the PNG Constitution.

The definition of independence was defined by PNG as “An *independent nation state with sovereign powers and laws, recognized under international law and by other sovereign states, separate from the state of Papua New Guinea*”. This is the definition of independence that received an overwhelming vote of 97.7% in the referendum.

PNG has already foreshadowed agreeing to give independence through the definition of independence even before the referendum was conducted. PNG should stop going around in circles and simply get its Parliament to ratify or endorse independence for Bougainville. According to the independent domestic and international monitors and observers reports, the Bougainville referendum was free, fair and credible. There were no disputes lodged by PNG or organizations and individuals within the 40 days’ time-line. The Bougainville referendum writs were successful returned to the Governor General of PNG.

Consultation on independence has been concluded by both governments at the signing of the Era Kone Covenant. PNG should now honor and meet its obligations and responsibility in good faith to ratify independence for Bougainville. The Government of PNG is a co-owner of the Independence outcome of the Referendum and had a legal, moral and political obligation to ratify Bougainville Independence. Good faith negotiation simply meant it was not intended to catch either party off-guard or trip up the other (various provisions).

8.7 The Bougainville Referendum 2019

The Bougainville Referendum Commission conducted the Referendum on the 23rd November 2019 and was observed and monitored by international observers. After the

polling ended the Bougainville Referendum Commission counted the ballot papers and declared the result of 181,000 Bougainvilleans voting for independence and 3,423 Bougainvilleans voted for Greater Autonomy. In percentage terms, the result turned out to be 97.7% for independence and 2.3% for greater Autonomy.

The international monitors and observers reported that the conduct of the referendum was free, fair and credible. There were no disputes lodged against the conduct of the referendum in the 40 days allocated for disputed returns by PNG or any other individuals and organizations.

On the 13th of December 2019 the Bougainville Referendum Commission, led by the chairman Hon Bertie Ahern, the Commissioners and accompanied by Hon Sir Puka Temu, the then National Government Minister for Bougainville Affairs and Hon Albert Punghau, the then ABG Minister for Bougainville Peace Agreement Implementation returned the writs of the referendum result to the Acting Governor General of PNG Hon Job Pomat, the then speaker of PNG National Parliament.

8.8 Post-Referendum Consultations

In 2020, the 4th ABG was inaugurated under the leadership of the President Hon Ishmael Toroama and Vice President Hon Patrick Nisira. As required by the BPA and Part 1VX of the National Constitution, the National Government and ABG consulted over the result of the referendum. There has been three Post-Referendum Consultations between the two Governments. These consultations resulted in very specific agreements.

8.8.1 The Joint Communiqué⁶⁰ 11th January, 2021

The Joint Communiqué was actually the first of the series of agreements that were signed as part of the consultation process between GoPNG and ABG. This commitment signed on the 11th of January, 2021, was an agreement of good faith that committed both governments to work together to achieve the Consultation process on the outcome of the Referendum, with the use of a moderator to deliver on the outcome of the Bougainville Referendum by addressing the following key areas;

- 1) Future political status of Bougainville
- 2) Method of endorsement by the National Government
- 3) Documentation of Record of Consultations

8.8.2 The Sharp Agreement⁶¹, 13th May, 2021

Following on from the Joint Communiqué, ABG pushed for quicker method of the transfer of s290 Powers and Functions. The Sharp Agreement, which was signed in Port Moresby on the 13th May, 2021 became the mechanism that aimed at fast-tracking the s290 powers that were available to the ABG through the Peace Agreement.

The Sharp Agreement agreed on the following;

- 1) This Agreement abrogates the application of the Memorandum of Understanding between the Government of Papua New Guinea and the

⁶⁰ The Joint-Communique 2021

⁶¹ The Sharp Agreement 2021

Autonomous Bougainville Government on the Overarching Framework for the Transfer of Functions and Powers from the National Government to the Autonomous Bougainville Government Pursuant to the Bougainville Peace Agreement of 2017;

- 2) The requirements under Section 295(a) and (b) of the National Constitution relating to the process of transfer of functions and powers available to Bougainville under Section 290 of the National Constitution, irrespective of whether a specific request was made or not by the Bougainville Government since the establishment of the Autonomous Bougainville Government, are dispensed with, effective as of the date of this agreement;
- 3) The Autonomous Bougainville Government shall, in consultation with the National Government, proceed to develop and continue to implement agreed plans for the transfer of functions and powers for which the Bougainville Government shall become responsible in accordance with the Bougainville Peace Agreement and Section 3 of the Organic Law on Peace-Building in Bougainville - Autonomous Bougainville Government and Bougainville Referendum, 2002;
- 4) The Autonomous Bougainville Government shall as from this day be at liberty to legislate on any, or all, of those areas or matters under Section 290 in accordance with agreed plans;
- 5) The outstanding issues of the transfer of a function and power for which notice under Section 295(b) has been given, which includes the signing of inter-agency memorandum of understanding, will continue to be pursued to their completion.
- 6) All economic and financial controls by the National Government that continue to impede on the ability of the Autonomous Bougainville Government to effectively manage its own revenue collection – whether or not these controls have arisen under agreed plans by the implementing agencies as envisaged by Sections 4, 5, and 39 of the Organic Law on Peace-Building on Bougainville – Autonomous Bougainville Government and Bougainville Referendum 2002 – shall be reassessed or reviewed by the relevant agencies and have them removed as soon as practicable.

Once the Sharp Agreement was signed, there was now the need for every ABG Department to start working on legislating their priority s290 powers and functions. This meant, the s290 (autonomy) powers were now in Bougainville's court and no longer GoPNG's worry. Therefore, the ABG can legislate on them as and when required.

The ABG will have to determine which laws need to be crafted and for what purposes in accordance with the requirements and processes involved.

8.8.3 Kokopo Consultations, East New Britain Province

The first Consultation was held in Kokopo, East New Britain Province (ENBP) on the 18th – 19th of May, 2021. In his Kokopo Presidential Statement, President Toroama delivered a speech that eventually placed on record for the first time Bougainville's position on independence.

President Toroama presented ABG's official position, on the next steps in these consultations, over the outcome of the referendum, as required by the BPA, and Part XIV of the National Constitution. President Toroama asserted that if GoPNG accepted in principle the outcome of the referendum vote, it was ABG's proposal to record a joint acceptance as a first step. Hon. Toroama further stated that all ABG and GoPNG have done in the last 20 years, whether in the weapons disposal or autonomy space, were intended to bring us closer to this day, when we should consult over the outcome of the referendum, and reach an agreement on the future of Bougainville.

The Bougainville position on the future political status of Bougainville was very clear that Bougainville must have its independence within the next four years, through the election of members to the parliament of the independent state of Bougainville by June 2025.

President Toroama's statement on Bougainville Position was loud and clear to the Prime Minister, Ministers of the PNG Cabinet and members of the PNG delegation, declaring that ABG looked forward to meaningful and fruitful engagements from here on.

8.8.4 Wabag Consultations, Enga Province

The Wabag Consultations, was held on 6th – 7th July 2021, in Wabag, Enga Province.

8.8.4.1 The Wabag Roadmap

The Wabag Consultations successfully reflected the Kokopo Statement in the sense that the Joint Roadmap was finally agreed to. The Wabag Consultations Presidential Statement consolidated the dates for the declaration of Bougainville's independence but also accepted a compromise from a previous statement by GoPNG in the Kokopo Consultations proposing a date of 2030 as the year of declaration for independence.

Though, the National Team denied the date, President Toroama continued with the date for declaring the independence for Bougainville, which was between 2025 and 2027. President Toroama stated that he was aware that the National Technical Team had subsequently suggested a timeline to the ABG of "no earlier than 2025 and no later than 2030". It was therefore proposed that a compromise date of "no later than 2027" was in line with your statement in Kokopo, except that the date was move forward to 2027.

This was a significant achievement as far the Bougainville's vote for 97.7% for independence is concerned. The message was very clear that this long journey must end sooner rather than later. The Wabag Consultations was probably the most significant achievement, by far, not only by consolidating the key milestones but importantly by indicating the declaration of the independence timeline to "no earlier than 2025 and no later than 2027".

Another important achievement in the Wabag Consultations was the Joint Referendum Result Implementation Roadmap. The roadmap had very specific milestone activities from 2021 – 2027, indicating activities from both the ABG and GoPNG to implement within the seven-year window period.



Figure 17: Minister Masatt and Pata'aku at the Wabag Consultations

8.8.4.2 The Bougainville Blueprint for Independence 2021-2027

The Bougainville Blueprint for Independence was an independence-ready blueprint for ABG Sectors and Departments. It aimed at capacitating the ABG Sectors and Departments practically as ABG was heading towards independence.

The Bougainville Blueprint was divided into two parts. Part A aimed to address ABG specific tasks in relation to the Wabag Roadmap and its activities in the window period of 2021 – 2027, the proposed period for Bougainville independence. The ABG needed to complete milestones such as the autonomy s290 powers legislated through the Sharp Agreement, JSB and Joint-Consultations matters and economic activities that prepared Bougainville for its independence.

Part B of the Bougainville Blueprint targeted ABG Sectors and Departments. This section specifically guided each ABG Sectors and Departments to identify bare minimum activities that would transform the ABG Sectors and Departments into independence-ready departments. The Bougainville Blueprint for Independence is a working document.

8.8.5 APEC Consultations, Port Moresby, NCD

The APEC Haus consultations concluded the Post-Referendum Consultations process between the GoPNG and ABG. The parties went into the APEC Consultations with opposing positions on the Final Ratification process on the Tabling of the Results and the footpath to implementing the Section 342 (1) and (2) of the National Constitution.

While the National Government's position was on Constitutional Regulations (s349), having proposed it at Port Moresby in 2021. ABG continued to propose its position was on a Treaty between the two governments as the mechanism to

complete the Ratification process. Bougainville plea was voiced once more as President Toroama asked GoPNG to let Bougainville go.

A compromise was reached and the Era Kone Covenant was signed on the 09th December, 2021.



Figure 18: Let My People Go Post Courier, December 10, 2021⁶²

8.8.5.1 The Era Kone Covenant 2021

The Era Kone Covenant was signed at the APEC Haus through the joint agreement on the 09th December, 2021 by ABG and GoPNG. Both governments had their positions; the ABG position on the ratification process as prescribed in s342 of the National Constitution, about the proposed manner in which the ratification would be taken into the Parliament was through a “Treaty”, while GoPNG proposed a “Constitutional Regulation” under s349 of the National Constitution.

Both parties however concluded that the Era Kone Covenant was the agreed premise that basically expounded on the mechanism to table the Referendum Result in the National Parliament, including the manner in which the National Parliament may ratify the results.

Basically, the role of the Constitutional Regulation was to create and direct the pathway in implementing s342 of the Era Kone Covenant with clearly guided and precise steps taken by the Minister responsible for Bougainville to bring the report of the Post-Referendum Consultations to the National Parliament.

8.9 The Impasse

The JSB on the 31st July, 2023 the GoPNG and ABG agreed that “Sessional Order” was the pathway to take the matter of Referendum Result and the Report of the Outcomes of the Post-Referendum Consultations to the floor of the National Parliament. Diverging views on the manner in which the Referendum Results and the Post-Referendum Consultations report was to be taken in the Parliament raised the impasse. Even though

⁶² Post Courier 10 Dec 2021; Let My People Go, Toroama Tells Govt

the two governments met through the consultations, there was the key element of not agreeing to the procedures in s342.

Already, signs of impasse between the two governments were evident. This resulted in the JSB of 31st July 2023 keeping an open view of engaging a Moderator if the need aroused fulfilling s333, 334 and 336 on dispute resolution procedures, mediation and arbitration, and panel of persons with appropriate expertise.

8.10 Moderation Process

Progressive update by Minister Masatt to ABG House of Representatives⁶³ confirmed that both the JSB Meeting and the Moderator Terms of Reference were signed on the 08th May 2024 resolving to the engagement of the Moderator to resolve the outstanding issues between the two governments. The objectives of the Moderator was to oversee and facilitate the process whereby the National Government and the ABG could reach agreement on;

- 1) Sessional Orders by resolving outstanding issues,
- 2) Joint Consultation Report by facilitating and providing oversight in preparing the joint consultation report, and
- 3) Assist the Bi-Partisan Committee on Bougainville with key Messaging in joint awareness to the Members of the 11th Parliament.

The Moderator, Sir Jerry Mataparae was engaged in September, 2024. ABG was not satisfied with the Moderator TOR⁶⁴ initially because they were limited to the Sessional Orders and related issues only. The Moderator TOR was then amended on the 22nd of November, 2024 to make “the scope of work of the Moderator to be broad and flexible as is required to assist the two Governments in jointly addressing the outstanding substantive issues about the future political status of Bougainville”. This gave room to deal with the critical aspects of our independence aspirations.

Accordingly, there is going to be four consultations;

- 1) Moderation Consultation 1: March 17th – 19th, Port Moresby
- 2) Moderation Consultation 2: April 7th – 11th, Port Moresby
- 3) Moderation Consultation 3: May 19th – 30th, Burnham, New Zealand
- 4) Moderation Consultation 4: June 19th – 20th, Port Moresby.

The first Moderation Consultation took place as planned in Port Moresby on the 17th – 19th March 2025.

- 1) In relation to Resolving Issues related to jointly addressing outstanding substantive issues about future political status of Bougainville, at the moment the two sides are still addressing substantive issues that relate to finding solution to the Bougainville political independence.
- 2) In relation to issues related to Sessional Order, the two governments have not discussed the Sessional Order agenda. The ABG position was that the Sessional Order was a procedural matter and not a priority agenda. Once the substantive

⁶³ Hon. Masatt, Ministerial Statement, March

⁶⁴ ⁶⁴ Hon. Masatt, Ministerial Statement, March

issue of independence was determined, then the two governments can discuss procedural matters.

- 3) The Moderator noted that every moderation consultation will have its reports. improvements as we argue our case.
- 4) The Moderator Sir Jerry emphasized the importance and need for a Bi-Partisan Committee in the National Parliament for awareness purposes.



Figure 19: ABG and GoPNG leaders and Sir Jerry during first Moderation Consultation on the 17th March 2025

8.11 The Greatest Unknown

During the Moderation Consultation, the ABG wants to remind all the parties again that the BPA was a joint creation by the two parties; ABG and GoPNG. The BPA achieved Weapons Disposal, implemented Autonomy and Good Governance by establishing the Autonomous Bougainville Government with its administrative and political arms. The BPA also achieved a constitutionally sanctioned Referendum that included the compulsory choice of independence as one option. Bougainvilleans voted overwhelmingly for independence.

The BPA further agreed importantly that after the Referendum, the two parties will consult, making reference to what is now known as the “Post-Referendum Consultations” and based on the “Outcome of the Post-Referendum consultations” and the “Referendum Result” the GoPNG will ratify on the floor of the Parliament Bougainville’s independence.

All these provisions were crafted before the actual referendum and before anyone knew the results emphasizing that the “Greatest Unknown”⁶⁵ in the process were the Referendum Result and even the Question to be put in the Ballot Paper. Because of this, the law was therefore flexible for whatever the outcome was going to be for the Referendum.

This is evidenced in provisions in Part XIV of the National Constitution s342 openly giving flexibility in the two Governments agreeing on the ratification process and if the two parties disagreed over certain issues making the law inconsistent with Part XIV of the Constitution that s276 noted that Part XIV would prevail.

⁶⁵ Hon. Ezekiel Masatt’s point on the Greatest Unknown on the Referendum Process

The Referendum Result was the Greatest Unknown! The result is crystal clear with 97.7% voting for independence. Three Post-Referendum Consultations have been held by the two Governments and have agreed on the pathway for Ratification Process in Kokopo, Wabag and APEC in Port Moresby. There is nothing to hide anymore.

8.12 The Real Question

PNG Prime Minister Hon. James Marape has asked this question on many occasions: “Are Bougainville people ready to accept the decision of the National Government on the Ratification of the Referendum?” However, the Bougainville leaders maintain that the real question is ‘whether National Government accepts Bougainville’s Referendum Results for Independence?’

Given this overview, the Bougainville position on the Moderation process is to come up with a solution that brings forward Bougainville’s aspirations for independence to finality and, then PNG and ABG can start venturing into designing relationships as two sovereign states.

9. INTERNATIONAL PRECEDENTS AND PERSPECTIVES FOR BOUGAINVILLE

This section highlights international precedents and perspectives that are relevant and applicable or similar to Bougainville’s case. The main aim of these noted international precedents and lessons emphasize the need for Bougainville as a government and people to learn from. Bougainville is desperately fighting for independence and must know that they are not alone. They can learn from those that have gone ahead and achieved independence through the right to internal self-determination and UDIs such as Kosovo, South Sudan and Timor Leste, to name a few.

9.1 The Right to Internal Self-Determination

There are a number of international treaties that make reference to and provide some clarity on the existence and exact meaning to the right to self-determination of peoples and what it entails. Two such treaties are:

- 1) The International Covenant on Civil and Political Rights UNGA Resolution 2200A (XXI) signed on the 16th of December 1966 and entered into force on the 23rd of March 1976; and,
- 2) The International Covenant on Economic, Social and Cultural Rights UNGA Resolution 2200A (XXI) coming into force on the 13th of January, 1976.

Both these Treaties have the same provision on the right to self-determination stipulating that:

“all peoples have the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may also freely dispose of their natural wealth and resources”.

Another crucial reference to self-determination is found in the famous Resolution 2625 (XXV) adopted by the UNGA on the 24th of October 1970, the:

- 3) Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States

in accordance with the Charter of the United Nations (A/8082).

Under domestic legislation, Section 117 of the PNG Constitution deals with the intricacies of Treaty Law making in PNG. The craft of treaty law making though is well established in international law. There are embedded international rules and practices that preside over the formulation and adoption of treaties so accordingly, any discussion on treaty law must begin with international law because it is on this stage that it derives its character.

In correlating the relevance of international law to its observance domestically, it is crucial to note that in line with established international law rules and practices, a State may give its consent to become a party to an international treaty either by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any means agreed to by the parties.

Accordingly, any international obligation between two or more States must exist where there is interaction between the parties and by consent to be bound by provisions of an international treaty. According to the United Nations Treaty Body Database, PNG gave its consent to be a Party to the above two International Covenants (1) and (2) by Accession on the 21st of July, 2008.

"Accession" according to the Vienna Convention on the Law of Treaties 1969 (Articles 2 (1) (b) and 15 is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force. The Secretary-General of the United Nations, in his function as depositary, has also accepted accessions to some conventions before their entry into force.

The conditions under which accession may occur and the procedure involved depend on the provisions of the treaty. A treaty might provide for the accession of all other states or for a limited and defined number of states. In the absence of such a provision, accession can only occur where the negotiating states were agreed or subsequently agree on it in the case of the state in question.

PNG's Accession to the two Covenants therefore binds it to the provisions of the treaties under international law by virtue of it being a Party and this includes respecting the results of Bougainville exercising its Right to Self-Determination through the constitutionally-guaranteed independence Referendum in 2019. PNG has an obligation under the principles of international law to accept the independence vote. Anything less will amount to a breach of international law.

Further evidence of the relevance, enforcement and application of these Treaties in the context of international law was tested in the Kosovo UDI case at the ICJ in July of 2010. This is highlighted in the Kosovo ICJ Advisory Opinion Summary below.

For Bougainville's case, the BPA already provides for Bougainville to pursue its right to self-determination by virtue of the Referendum. Reference to other international precedents in later parts of this presentation of countries that have gone through

constitutionally-allowed Referenda, attaining independence outside the UN decolonization process, is merely to point out that Bougainville has solid precedence to call to on.

It is crucial to note that the government of PNG (GoPNG) being a co-creator and a signatory to the BPA had explicitly agreed by default to the invocation of the principles of international law when it signed off on the BPA, articulating in essence, that a Referendum on Bougainville's political future must constitute one of the 3 pillars of the BPA.

PNG had in fact consciously accepted and constitutionalized this process through the amendment to the constitution and the insertion of Part XIV so the GoPNG cannot now be saying that it wasn't or cannot be a party to such an international transaction by Bougainville when it was the national government itself that had seen fit to legalize this mechanism in the first place under domestic law.

As cases in point, according to the United Nations Human Rights Treaty Body database, Serbia denounced the International Covenant on Political and Civil Rights (ICPCR) on the 12th of March, 2001 so it was not a Party to this Treaty and therefore had no international obligation to it but it nonetheless still accepted the results of the independence Referendum in Montenegro and recognized that country's sovereignty in 2006.

Indonesia was not a Party to the ICPCR in 2002 when it accepted Timor Leste's independence. It only acceded to the covenant in 2006. Sudan became a Party to the ICPCR in 1986 by Accession and accordingly recognized South Sudan's Referendum results in 2011. PNG therefore, is also a Party by Accession. It must accept Bougainville's Independence vote. Under the principles of International Law, that vote is an act of a Right to internal Self-Determination.

9.2 Peace by Peaceful Means

As consultations continue between the governments of PNG and the Autonomous Bougainville Government (ABG) on finding a resolution to the impasse, the engagement of an esteemed Moderator of international standing, of high moral character, a person with conflict resolution experience and of reputable intellectual credibility, is seen as a pivotal development and a crucial way forward in guiding and giving impetus to the consultation process which can then form the basis for progressing discussions on the issue of Independence. The Bougainville people earnestly await the outcome of this mediation process as they anticipate realizing their aspirations expressed through the 97.7% vote for Independence.

The BPA has been recognized and hailed by the United Nations (UN) as one of the most unique peace treaties in the world, a one of a kind agreement whose intent advocates, personifies and amplifies the spirit of achieving PEACE BY PEACEFUL MEANS, a testament that has underpinned the sustenance and the prevalence of the peace process, something which has put Bougainville in good stead moving forward, creating an environment that espouses common dignity where Independence can be negotiated from the PNG government. Bougainville has one objective and that is Independence attained constitutionally through the intent and spirit of the BPA that must be clear from the outset. It is the very nature of the BPA that has made Bougainville the envy of the region and the world for that matter amongst both independent states and other non-self-governing

indigenous groups of people still struggling and fighting for recognizance and for their rights to self-determination.

Bougainville is indeed a special case but is by no means dissimilar to those of other indigenous peoples' struggles for self-determination and independence throughout recorded history. The historical chronology of the Bougainville self-determination and independence intentions dates back to the 1800s as has been related to you. It is a chronology, nonetheless, which has been peppered along the way with colonialism by the Germans, the British, Australia and occupation by the Japanese at different times over the 19th and 20th centuries culminating in the forced union with PNG in 1975 despite the aggrieved Unilateral Declaration of Independence by Bougainville on the 1st of September, 1975, as records have documented.

Suffice to say, it was during this 1970-1975 bracket that the expressions of dissatisfaction and resentment relating to political power-sharing arrangements at the time, became louder. The refusal by Rio Tinto and its subsidiary CRA to review the Bougainville Copper Agreement (BCA) in 1974 compounded the discontentment of Bougainville landowners of the Panguna Mine and their political leaders and frustration and anger started brewing and gaining political traction which would ultimately manifest itself in the Bougainville Crisis and its resultant human rights violations and atrocities. History continues to remind us that, as with the accounts of other indigenous groupings around the world, Bougainville shares similar experiences of human rights violations perpetrated by the mother governments through their agents and through decisions of those in authority.

Most of these indigenous peoples groupings have had limited success in the exercise of their rights to self-determination due to varying factors, primary of which being the UNs position on Decolonization. Significantly though, a few others have actually gone outside, bypassing the UNs Decolonization process and used international legal avenues available to them such as the International Court of Justice (ICJ) and through the Remedial Secession process and have been able to attain independence and gain international recognition.

Reference to these cases is discussed hereunder but it is vital to note from the outset that the common denominator for most of these indigenous groupings is obviously that they had gone through decades of civil wars and suffered proven cases of human rights abuses and genocide as documented by the peoples themselves, from eye witness accounts, through INGOs and by the agencies of the UN. So uniquely, as Bougainville considers its intermediary options and avenues, the spirit of the BPA again comes to the fore providing a legal pathway under domestic law for Bougainville which validates and justifies its foray onto the international stage.

9.3 MOU on Foreign Affairs – Part 6(b) Articles 69-79

In accordance with autonomy arrangements, the ABG is currently in the process of negotiating an MOU with the GoPNG relating to the transfer of specific foreign affairs functions and powers as articulated under the BPA.

The MOU constitutes an expression of shared intentions of both governments to endeavour to expeditiously allow Bougainville to develop its own strategy and timeline as it engages with the international community.

The MOU will allow Bougainville to initiate negotiations and discussions on trade, investment, foreign aid, people to people collaborations, sports, culture and on capacity building with countries in the region and the greater Indo-Pacific sphere. Further, the MOU will ensure Bougainville attends significant regional and international meetings and conferences that have relevance to Bougainville. As part of Bougainville's integral objectives of developing effective strategies in its pursuit of broader international recognition, the ABG is focused on exploring the potential of opening up trade missions abroad as an avenue to promoting and marketing Bougainville's trade and export initiatives and for purposes of attracting foreign investment.

In order for Bougainville to achieve some of these short to medium term goals, there are also provisions in the MOU that allow for the ABG to have trade desks within the PNG Embassies abroad particularly in countries Bougainville can reap value from and other economic benefits. Bougainville is taking advantage of the said provisions and will make use of this opportunity to expose Bougainville to the outside world. This arrangement is being put in place in consultation with the PNG Department of Foreign Affairs as PNGs lead implementing agency.

To demonstrate Bougainville's intentions of goodwill to advance these issues in a coordinated and respectful manner, the ABG established the International Relations Directorate under the Office of the President and whose principal role is to take carriage over these specific foreign affairs functions and to be Bougainville's counterpart agency for PNGs Department of Foreign Affairs.

At a time of unprecedented global upheaval and uncertainty relating to the global financial system, international trade, anticipated trade wars, multilateral and bilateral suspicions amongst States, security, climate change and the prevailing wars in Europe and the Middle East, to name but a few examples, Bougainville remains the envy of the world, a beacon of hope and strength in the Pacific Ocean especially with global powers-that-be scrambling around shamelessly, trying to win favours, obviously, by attempting to exert their dominance with their geopolitical power play in our backyard.

Bougainville has much leverage here make no mistake, not only because of its vast array of natural resources and export potential in sectors including fisheries, cocoa and copra, agriculture and minerals but crucially because of the value it brings with its strategic geographical location. This is not lost on the ABG and the strategies being put in place are calculated and designed to harness the benefits it can reap from this power play. The setting is right, the strategy is in place, and Bougainville is prepared to play.

In a nutshell, this is just to give a heads up on Bougainville's foray into the sphere of diplomacy and international relations as the journey towards independence takes traction. The diplomatic feelers have been put out, Bougainville has moved forward in testing the international waters as it were, and when the time comes, Bougainville will play that proverbial trump card. The overall strategy here is part of Bougainville's long term international relations approach as captured in its Vision 2052 document.

9.4 Parallel Process

As the Moderation process takes its course, Bougainville's endeavour to engage with "friendly" countries will continue to run parallel to this mediation and accordingly the

ABGs engagements internationally shall also become clearer as to who it has relations with, how, when and why. This international prong strategy is basically to lay a pathway for Bougainville as it broadens its international scope in preparation for independence. As afore-stated, this strategy will run parallel with the Moderation process but with emphasis placed on diplomacy and maximizing Bougainville's global credentials.

9.5 International Precedent Cases

Therefore, in making Bougainville's international case, it is pivotal to understand the fundamental reasons which compelled countries like Kosovo, Montenegro, Bangladesh, Timor Leste or South Sudan amongst others, to activate the processes of Remedial Secession and UDI. We could go on and on here into the historical and documented intricacies and the psychology that propelled such decisions but that would be stating the obvious, rather on the surface of it, it must be explicitly clear that these countries endured varying degrees of human rights atrocities, political repression, marginalization and other inhuman actions in their political struggles as has been alluded to above.

These documented atrocities were extreme and amounted to, and bordered on genocide at the behest of central authorities. Bougainville shares a similar diabolical story. It is precisely because of this Bougainville story that we are having this conversation at this time.

As stated, the cases of human rights violations are well documented. It only takes one to go through the records to see the glaring similarities to Bougainville's story, a story which you actually had to be on the Island during the Crisis to fully appreciate the magnitude of the suffering the Bougainville people slept and woke up to everyday for 10 years of civil war and PNG military-enforced economic blockade.

Let it be on record that no one in their right mind can stand here today and claim that the human rights of Bougainvilleans were not violated because of the decisions and actions of the PNG government and her security forces, consciously encouraged along, aided and abetted by the Australian government making Australia an accessory to the atrocities. No apologies are made here, it is what it was, it is what it is. Those are the undeniable facts that Bougainvilleans live with every day.

And, need we be reminded of what Australia did. Australia knows how it contributed to the killing of Bougainvillean civilians and fighters alike. Fifteen to twenty thousand people perished during the Crisis. If that is not sufficient enough grounds to have Bougainville's case heard internationally, then we are obviously not on the same page. No amount of literature will ever accurately depict what actually transpired on Bougainville. No amount of literature will ever justify the GoPNG's decision to send Mobile and Riot squad police to Bougainville on the spur of the moment, committing inhuman atrocities against innocent Bougainvilleans under the pretext of dealing with what was initially a law-and-order issue. Make no mistake, this was the fire that lit the fuse, if you may.

One thing that we must never lose focus of is the fact that the countries that have gone through such experiences did not just wake up one morning and decide to take their cases internationally. They had exhausted all conceivable or legally-allowed domestic avenues and options available to them to reach political settlements through peaceful means.

It goes without saying then that their decisions were literally, quite easy, given the sufferings and trauma they had endured. These are mental scars that can never be erased, scars that can never be reconciled. No one country or peoples have the right under international law to subject other peoples to marginalization and suppression of their basic human and political rights to self-determination as a people. You can't be doing the same thing and expecting different results as what now appears to be the case between Bougainville and PNG.

Of course, the cases of the countries referred to were adjudged on their own merits but without a doubt, are not unique or dissimilar to the Bougainville case. Their cases simply amplify the fact that in time Bougainville will have to make that inevitable decision on the direction it will take with its own case.

9.6 Kosovo – Perspectives for Bougainville

When looking at other international cases, Kosovo comes across as a solid precedent. The fight of the Kosovars is well documented but is worth bringing up here for context and to give perspective to the Bougainville case.

A very interesting piece of politics that European colonial history tells us is that after World War II, Kosovo became an Autonomous province in the Socialist Republic of Serbia under the Yugoslav Confederation. An Autonomous region. Prior to this, Kosovo was under German administration and before that it was a part of the Ottoman Empire. In 1974 the Yugoslav constitution formalized Kosovo's Autonomy giving it veto power in the Serbian parliament but despite this political status, Kosovars continued to be systematically subjected to marginalization and deprivation of political and universal basic human rights including denial of nearly most forms of employment. Kosovars are ethnic Albanians; they are not Serbs.

Similarly, Bougainville went through such a chequered colonial history as has been highlighted, being separated from the Solomon Islands by an imaginary line drawn by the Germans and the British in the 1800s for their own selfish ends. It is that imaginary line that condemned Bougainville to this unenviable journey of fighting for its indigenous rights as a people and for recognition of its ethnicity which is uniquely distinct from the rest of PNG.

The taking up of arms by Bougainvilleans and similarly, the formation of the Kosovo Liberation Army (KLA) were direct reactions to human rights violations by government forces and suppression of political rights respectively, let there be no mistake about that. Of course, Bougainville attained its Autonomous status after the signing of the BPA but the undercurrents of resentment and discontentment with the national government remain and which can be attributed to what most Bougainvilleans consider as an unnecessary delay tactic in addressing their independence aspirations even when Bougainville has lawfully met conditions of the three pillars of the BPA – Weapons Disposal, Autonomy and Referendum.

The KLA fought against the discrimination of ethnic Albanians and the repression of political dissent by the Serbian authorities, which started after the suppression of Kosovo's Autonomy by Serbian leader Slobodan Milosevic in 1989. As a direct result of what Kosovars deemed as a suffocation of their human and political rights, records speak of the

war between the KLA and Yugoslav forces from 1996 to 1999, gross human rights abuses and the displacement of millions of people and it speaks of NATO ending the war with the bombing of Yugoslavia including Serbia. The war and its trail of blood resulted in the attraction of a UNSC Resolution (1244) and thereafter, the authorized UN presence in Kosovo to oversee and secure peace through a UN-established provisional interim administration.

In what can be seen as parallel circumstances, atrocities during the Bougainville Crisis were recorded too and a report was furnished by Amnesty International to the UN Human Rights Commission in Geneva, Switzerland from where a Report on Bougainville was forwarded to the UN Security Council (UNSC).

This set-in place the United Nations Observer Mission on Bougainville (UNOMB). Similar UN Missions have been set up in other parts of the world where there was or there is compelling evidence of human rights abuse, genocide and the displacement of people, so the precedents are on record.

9.7 Kosovo UDI: Involvement of the UNGA, the UNSC and the ICJ

History has recorded what transpired in Kosovo.

After forming the position that it was getting a raw deal through autonomy arrangements under Serbia, Kosovo Unilaterally Declared Independence on the 17th of February, 2008. Serbia took this matter to UNGA asking whether Kosovo's UDI was in breach of International Law. UNGA referred the question to the ICJ seeking an Advisory Opinion. In brief, the ICJ ruled, in its now historic Advisory Opinion, that there was nothing in International Law that prohibited Unilateral Declarations of Independence and that Kosovo had not breached international laws in making its UDI. It was a 10 – 4 majority decision by ICJ judges.

The ICJ also established in its Advisory Opinion, inter-alia, that there have been cases like the Bangladeshi, Kosovo and South Sudan ones that have actually gone outside of the UN Decolonization process so precedents and experiences are there to draw from. Kosovo's unilateral declaration of independence was historically, the first ever UDI case to go before the ICJ.

To date, 104 out of 193 countries of the UN recognize Kosovo, 21 out of 27 European Union countries have formal diplomatic relations with Kosovo, 28 out of the 32 NATO member States recognize Kosovo, 4 out of 10 ASEAN countries have formal relations with Kosovo and 34 out of 57 Organization of Islamic Cooperation member nations recognize Kosovo.

9.8 Attaining Independence Outside of the UN Decolonization Process

There are international precedents of countries attaining independence outside of the decolonization process. A few case studies will be discussed here.

9.8.1 Kosovo

This is a Summary of the International Court of Justice's Advisory Opinion delivered on the 22nd of July, 2010. On 8 October 2008 (resolution 63/3), the General Assembly decided to ask the Court to render an advisory opinion on the

following question: “Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?”

Thirty-six Member States of the United Nations filed written statements and the authors of the unilateral declaration of independence filed a written contribution. Fourteen States submitted written comments on the written statements of States and on the written contribution of the authors of the declaration of independence. Twenty-eight States and the authors of the unilateral declaration of independence participated in the oral proceedings, which took place from 1 to 11 December 2009.

In its Advisory Opinion delivered on 22 July 2010, the Court concluded that “the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law”. Before reaching this conclusion, the Court first addressed the question of whether it possessed jurisdiction to give the advisory opinion requested by the General Assembly.

Having established that it did have jurisdiction to render the advisory opinion requested, the Court examined the question, raised by a number of participants, as to whether it should nevertheless decline to exercise that jurisdiction as a matter of discretion. It concluded that, in light of its jurisprudence, there were “no compelling reasons for it to decline to exercise its jurisdiction” in respect of the request.

With regard to the scope and meaning of the question, the Court ruled that the reference to the “Provisional Institutions of Self-Government of Kosovo” in the question put by the General Assembly did not prevent it from deciding for itself whether the declaration of independence had been promulgated by that body or another entity. It also concluded that it was not required by the question posed to decide whether international law conferred a positive entitlement upon Kosovo to declare independence; rather, it had to determine whether a rule of international law prohibited such a declaration.

The Court first sought to determine whether the declaration of independence was in accordance with general international law. It noted that State practice during the eighteenth, nineteenth and early twentieth centuries “points clearly to the conclusion that international law contained no prohibition of declarations of independence”. In particular, the Court concluded that “the scope of the principle of territorial integrity is confined to the sphere of relations between States”.

It also determined that no general prohibition of declarations of independence could be deduced from Security Council resolutions condemning other declarations of independence, because those declarations of independence had been made in the context of an unlawful use of force or a violation of a *jus cogens* or a mandatory norm. The Court thus concluded that the declaration of independence in respect of Kosovo had not violated general international law.

The Court then considered whether the declaration of independence was in accordance with Security Council resolution 1244 of 10 June 1999. It concluded that the object and purpose of that resolution was to establish “a temporary,

exceptional legal regime which superseded the Serbian legal order on an interim basis”. It then examined the identity of the authors of the declaration of independence. An analysis of the content and form of the declaration, and of the context in which it was made, led the Court to conclude that its authors were not the Provisional Institutions of Self-Government, but rather “persons who acted together in their capacity as representatives of the people of Kosovo outside the framework of the interim administration.”

The Court concluded that the declaration of independence did not violate resolution 1244 for two reasons. First, it emphasized the fact that the two instruments “operate on a different level”: resolution 1244 was silent on the final status of Kosovo, whereas the declaration of independence was an attempt to finally determine that status. Second, it noted that resolution 1244 imposed only very limited obligations on non-State actors, none of which entailed any prohibition of a declaration of independence.

Finally, in view of its conclusion that the declaration of independence did not emanate from the Provisional Institutions of Self-Government of Kosovo, the Court held that its authors were not bound by the Constitutional Framework established under resolution 1244, and thus that the declaration of independence did not violate that framework.

Consequently, the Court concluded that the adoption of the declaration of independence had not violated any applicable rule of international law. On 9 September 2010, the UN General Assembly adopted a resolution in which it acknowledged the content of the advisory opinion of the Court rendered in response to its request (resolution 64/298).

Kosovo though, is yet to become a full member of the UN because of Russia and China’s veto.

9.8.2 Montenegro

Esteemed International Law scholars and political science academics like Prof. James Ker-Lindsay have documented this as well as Professors Dieter Nohlen and Philip Stover, amongst others, in the “Elections in Europe” Handbook and other journals.

On the 21st of May, 2006, the Montenegrin people voted in a constitutionally-guaranteed Referendum relating to its secession from Serbia. The question put to voters on the Referendum ballot paper read (English translation):

“Do you want the Republic of Montenegro to be an independent state with full International and legal personality?”

It was approved by 55.5% of voters, narrowly passing the 55% threshold. By 23 May, 2006, preliminary referendum results were recognized by all five permanent members of the United Nations Security Council, suggesting widespread international recognition if Montenegro were to become formally independent. On 31 May the referendum commission officially confirmed the results of the referendum, verifying that 55.5% of valid votes were in favor of independence.

Because voters met the controversial threshold requirement of 55% approval, the referendum was incorporated into a declaration of independence during a special parliamentary session on 31 May, 2006. The Parliament of the Republic of Montenegro made a formal Declaration of Independence on Saturday 3 June, 2006.

In response to the announcement, the government of Serbia declared itself the legal and political state successor of Serbia and Montenegro and that Serbia inherits state and legal continuity of Serbia and that the government and parliament of Serbia itself would soon adopt a new constitution with consensus of all parliamentary parties. The United States, China, Russia, and the institutions of the European Union all expressed their intentions to respect the referendum's results. Serbia accepted the Referendum result and the Declaration of Independence on the 6th of June, 2006.

The Republic of Montenegro became the 192nd member of the UN on the 28th of June, 2006.

9.8.3 South Sudan

The referendum to determine the status of Southern Sudan was held on schedule from the 9th-15th January, 2011, with the overwhelming majority, 98.83% of participants, voting for independence. The UN through Secretary-General Ban Ki-moon welcomed the announcement of the final results stating that they were “reflective of the will of the people of southern Sudan”. This is captured in his Statement to “UN News” on the 15th of January, 2011.

The Secretary-General said that the peaceful and credible conduct of the referendum was a great achievement for all Sudanese and he commended the Comprehensive Peace Agreement (CPA) partners, the Government of Sudan led by President Omar Hassan Al Bashir, and the Government of Southern Sudan led by President Salva Kiir Mayardit, for keeping their commitment to maintain peace and stability throughout this crucial period.

The referendum was called for by the 2005 Comprehensive Peace Agreement (CPA) between the Government of Sudan and the Sudan People’s Liberation Movement (SPLM), which ended more than 20 years of war.

The Sudanese authorities were responsible for the referendum process. Under the leadership of the Secretary-General, the United Nations provided technical and logistical assistance to the CPA parties’ referendum preparations through support from its peacekeeping missions on the ground in Sudan, as well as the good offices function provided by the Secretary-General’s panel aimed at ensuring the impartiality, independence and effectiveness of the process, and by the UN Integrated Referenda and Electoral Division (UNIRED).



Figure 21: South Sudan Referendum, 2011⁶⁶

South Sudan was admitted to the United Nations General Assembly on 4th July, 2011 as its 193rd member.

9.8.4 Timor Leste

References from the Timor Leste Government News agency, Lowy Institute, the US Institute of Peace and esteemed professors and scholars already referred to above, all run the same narrative.

Between 1945 and June 1974, the Indonesian Government, in compliance with International Law, affirmed at the United Nations and to the outside world that it had no territorial ambitions towards East Timor. Based on Resolution 1514 (XV) from December 14, 1960, Timor-Leste was considered by the United Nations a non-autonomous territory under Portuguese administration. From 1962 until 1973, the UN General Assembly approved successive resolutions, recognizing Timor-Leste's right to self-determination. In Portugal, Salazar's regime (and, afterward, Marcelo Caetano's) refused to recognize that right, stating that Timor-Leste was a Portuguese province equal to any other.

The April Revolution (April 25, 1974), which restored democracy in Portugal, underscored the respect for the right to self-determination of the Portuguese colonies. In order to promote the exercise of that right, on May 13, 1974, a Committee for the Self-determination of East Timor was installed in Dili. The Portuguese Government authorized the creation of political parties, and as a result, partisan organizations emerged in Timor-Leste: the UDT (Timorese Democratic Union) called for "Timor's integration in a Portuguese-speaking community"; the ASDT (Timorese Social-Democratic Association), which would later change its name to FRETILIN (Revolutionary Front for an Independent East Timor), supported the right to independence; and the APODETI (Popular Democratic Association of Timor) suggested "integration with autonomy within the Indonesian community".

In 1975, with the dissolution of the Portuguese colonial empire, local liberation movements increased. In May 1975, the authorities in Lisbon presented a project

⁶⁶ https://en.wikipedia.org/wiki/2011_South_Sudanese_independence_referendum

to the main Timorese parties and, after hearing them, a law was published on July 11 that foresaw the nomination of a Portuguese High Commissioner. This same law expected the election of a People's Assembly in October of the same year, in order to establish a political status. The Charter foresaw a three-year transitional period.



Figure 22: Pro-independence students demonstrate in Dili in May 1999, one day before the United Nations agreed to supervise a vote on the territory's future.⁶⁷

A local program of progressive decolonization was already taking place since January 1975. As part of this program, elections were held in the Lautem district for regional administrative leadership. The result of the first popular consultation made clear APODETI's lack of support and the Timorese people's refusal to accept integration by democratic means. Long before those regional elections were held, it was quite obvious for any independent observer visiting the territory that the overwhelming majority of the Timorese rejected integration into Indonesia. Cultural differences were one of the main reasons.

On November 28, 1975, FRETILIN together with the Prime Minister Xavier do Amaral, unilaterally declared the Independence of Timor-Leste. Nicolau Lobato, who later became the first leader of the Armed Resistance, was appointed as the Prime Minister of the new independent country. The declaration of independence led to a civil war.

On the pretext of protecting its citizens in Timorese territory, Indonesia invaded the eastern part of the island and declared the island as its 27th province, renaming it Timor Timur. Indonesia was given the tacit support of the American Government, which saw FRETILIN as a Marxist organization.

After the occupation of the territory by Indonesia, the Timorese Resistance progressively consolidated itself, initially under the leadership of FRETILIN. To support FALINTIL (Armed Forces of National Liberation of Timor-Leste), established on August 20, 1975, a Clandestine Front was created at an internal level, and a Diplomatic Front externally.

⁶⁷ <https://www.bangkokpost.com/world/1739499/east-timor-marks-20-years-since-historic-independence-vote> View our policies at <http://goo.gl/9HgTd> and <http://goo.gl/ou6lp>

Afterward, under Xanana Gusmão's leadership, a policy of National Unity was launched, unifying the efforts of the Timorese political sectors and proceeding with the non-politization of the Resistance's structures, turning CRRN (Council of National Resistance) into CNRM (Maubere Resistance National Council), which later became known as CNRT (National Council of Timorese Resistance). The latter led the process until Timor-Leste's independence, already under the auspices of the United Nations. (For more information on the Timorese Resistance, visit the website of AMRT – East-Timorese Resistance Archive & Museum - amrtimor.org).

About one third of the country's population, more than 250 thousand people, died during the war. The Portuguese language was forbidden, and the use of Tetun was discouraged by the pro-Indonesia government by strongly criticizing the press. This same government also limited the access of international observers to the territory until forced resignation of Suharto in 1998.

In 1996, José Ramos Horta and the bishop of Dili, D. Ximenes Belo, were awarded the Nobel Peace Prize for their dedication to the defense of human rights and independence of Timor-Leste. In 1998, with Suharto's resignation and the end of the "Indonesian economic miracle", B.J.Habibie was immediately sworn in as President. He later announced that he was willing to hold a referendum on autonomy (with integration into Indonesia) or independence for East Timor. The referendum took place on August 30, 1999, with the participation of more than 90%. 78,5% of the East Timorese favoured independence and rejected the autonomy suggested by Indonesia.

Nevertheless, pro-Indonesia militias went on a rampage, assaulting UNAMET headquarters (the observers of the United Nations) and forcing Bishop Ximenes Belo to flee to Australia, while Kay Rala Xanana Gusmão took refuge in the British embassy in Jakarta. The wave of murders continued, promoted by the anti-independence militias and supported by members of the Indonesian army dissatisfied with the referendum results.

The images stirred protests all over the world at Indonesian, US and British embassies, and even at the United Nations, demanding a hasty intervention to put an end to the murders. There had never been so many popular demonstrations in Portugal, from the North to the South, since April 25, 1974. For the first time, the Internet was strongly used for broadcasting pro-Timor campaigns and encouraging a harsh UN intervention.

Finally, on September 18 and based on UNGA Resolution 1264 of 15th September, 1999, one contingency force of "blue berets" (an international military force) was deployed to East Timor, consisting initially of 2500 men, later extended to 8000, including Australians, New Zealanders, British, French, Italians, Malaysians, North Americans, Brazilians and Argentineans, among others. The peacekeeping mission, led by Brazilian Sérgio Vieira de Mello, aimed at disarming the militias and supporting the transition process and the country's reconstruction.

Portugal and many other countries organized campaigns in order to collect donations, provisions and books. The situation was slowly taken under control with

the progressive disarming of the militias and the beginning of the reconstruction of houses, schools and other infrastructures.

Xanana Gusmão returned to the country, as well as other Timorese who had gone into exile, including many with university education. Elections were held for a Constituent Assembly that became responsible for drafting Timor-Leste's Constitution. This document came into force on May 20, 2002, on the same day the country was given its sovereignty. This day is now known as Restoration of Independence Day.

On the 27th of September, 2002, Timor Leste was admitted to the United Nations General assembly as its 191st member.

9.8.5 Bangladesh

Documentation of the Bangladeshi issue can be accessed from numerous sources such as the National Archives of the UK and other material online including the writings of scholars and academics.

When British India was partitioned in 1947, the newly-independent state of Pakistan was divided into two separate regions. The Muslim majority West Pakistan (today known as Pakistan) and East Pakistan, now Bangladesh.

The Bangladesh Liberation War, also known as the Bangladesh War of Independence, or simply the Liberation War in Bangladesh, was a revolution and armed conflict sparked by the rise of the Bengali nationalist and self-determination movement in what was then East Pakistan during the 1971 Bangladesh genocide. It resulted in the independence of the People's Republic of Bangladesh.

The war began after the Pakistani military junta based in West Pakistan launched Operation Searchlight against the people of East Pakistan on the night of 25 March 1971. It pursued the systematic elimination of nationalist Bengali civilians, students, intelligentsia, religious minorities and armed personnel. The junta annulled the results of the 1970 elections and arrested Prime minister-designate Sheikh Mujibur Rahman. The war ended on 16 December 1971 after West Pakistan surrendered.

Rural and urban areas across East Pakistan saw extensive military operations and air strikes to suppress the tide of civil disobedience that formed following the 1970 election stalemate. The Pakistan Army, which had the backing of Islamists, created radical religious militias – the Razakars, Al-Badr and Al-Shams – to assist it during raids on the local populace. Urdu-speaking Biharis in Bangladesh (ethnic minority) were also in support of Pakistani military. Members of the Pakistani military and supporting militias engaged in mass murder, deportation and genocidal rape.

The capital Dhaka was the scene of numerous massacres, including the Operation Searchlight and Dhaka University massacre. An estimated 10 million Bengali refugees fled to neighbouring India, while 30 million were internally displaced.[18] Sectarian violence broke out between Bengalis and Urdu-speaking immigrants. An

academic consensus prevails that the atrocities committed by the Pakistani military were a genocide.



Figure 23: Bangladesh Liberation War, 1971⁶⁸

The Bangladeshi Declaration of Independence was proclaimed from Chittagong by members of the Mukti Bahini – the national liberation army formed by Bengali military, paramilitary and civilians. The East Bengal Regiment and the East Pakistan Rifles played a crucial role in the resistance. Led by General M. A. G. Osmani and eleven sector commanders, the Bangladesh Forces waged a mass guerrilla war against the Pakistani military. They liberated numerous towns and cities in the initial months of the conflict. The Pakistan Army regained momentum in the monsoon. Bengali guerrillas carried out widespread sabotage, including Operation Jackpot against the Pakistan Navy. The nascent Bangladesh Air Force flew sorties against Pakistani military bases.

By November, the Bangladesh forces restricted the Pakistani military to its barracks during the night. They secured control of most parts of the countryside.

The Provisional Government of Bangladesh was formed on 17 April 1971 in Mujibnagar and moved to Calcutta as a government in exile. Bengali members of the Pakistani civil, military and diplomatic corps defected to the Bangladeshi provisional government. Thousands of Bengali families were interned in West Pakistan, from where many escaped to Afghanistan. Bengali cultural activists operated the clandestine Free Bengal Radio Station. The plight of millions of war-ravaged Bengali civilians caused worldwide outrage and alarm.

The Indian state led by Indira Gandhi provided substantial diplomatic, economic and military support to Bangladeshi nationalists. British, Indian and American musicians organised the world's first benefit concert in New York City to support the Bangladeshi people. Senator Ted Kennedy in the United States led a congressional campaign for an end to Pakistani military persecution; while US

⁶⁸ <https://upthrust.co/2021/01/why-we-need-to-get-our-facts-straight-about-the-liberation-war-bangladesh>

diplomats in East Pakistan strongly dissented with the Nixon administration's close ties to the Pakistani military dictator Yahya Khan.

India joined the war on 3 December 1971, after Pakistan launched preemptive air strikes on North India. The subsequent Indo-Pakistani War witnessed engagements on two war fronts. With air supremacy achieved in the eastern theatre and the rapid advance of the Allied Forces of Bangladesh and India, Pakistan surrendered in Dacca on 16 December 1971.

The war changed the geopolitical landscape of South Asia, with the emergence of Bangladesh as the seventh-most populous country in the world. Due to complex regional alliances, the war was a major episode in Cold War tensions involving the United States, the Soviet Union and the People's Republic of China. The majority of member states in the United Nations recognised Bangladesh as a sovereign nation in 1972.

Bangladesh failed to become a member of the UNGA between 1972 and 1973 though due to China's veto because of its support for Pakistan. However, China removed the veto after Pakistan officially recognized Bangladesh on the 22nd of February, 1974 allowing Bangladesh to become a full member of the UN on the 17th of September, 1974, becoming the 136th member.

The Bangladesh case has been widely regarded by international law scholars as a classic case of Remedial Secession.

9.9 Recognition of Newly-Independent Nations: New Zealand

Let us briefly indulge in an interesting but important piece of New Zealand international practice, in this instance, the matter of recognizing newly-independent States or countries. New Zealand has a policy of implied recognition of states, that is, it allows recognition to be inferred from the nature and extent of its dealings with other States, unless there is good reason to depart from this.

New Zealand considers diplomatic relations (as opposed to “diplomatic representation”) with other States to be established by any contacts at Ministerial or senior officials’ level between two governments (for example through multilateral engagement in the UN). New Zealand, unlike some other countries, has not seen the conclusion of written Communiqués or similar formal documents as a necessary requirement in establishing diplomatic relations with other States.

9.9.1 New Zealand and Montenegro

For our purposes here, let us refer to the case of Montenegro, firstly. Montenegro also went through a constitutionally-allowed Referendum to determine its political future. Her people voted for independence.

After the national referendum on 21 May 2006 based on the Constitutional Charter of the State Union of Serbia and Montenegro, the Parliament of Montenegro on 3 June 2006 declared the independence of the country from the union with Serbia. At the same time, Montenegro requested international recognition. On 28 June 2006, Montenegro was admitted to membership of the United Nations.

Some three weeks later, on 17 July 2006, New Zealand's Foreign Minister Winston Peters sent a letter to his Montenegrin counterpart, Miodrag Vlahovic, stating:

The New Zealand Government congratulates the Republic of Montenegro on its entry into the United Nations, following the successful referendum on independence held by your country on 21 May.

This referendum was legitimate, free and fair, and allowed the Montenegrin people to express their will of independence. New Zealand welcomes the Republic of Montenegro's commitment to observing the principles of international law, advocacy of peace, and respect for universal human rights, and was pleased to see your country join the United Nations General Assembly as its 192nd member on 28 June. We look forward to constructive future dialogue with your country on international issues of mutual interest.

The New Zealand Government did not issue any statement on Montenegro and the relationship between the two countries did not feature at all in the New Zealand press. In October 2010, New Zealand still had not established formal diplomatic relations with Montenegro by accrediting a diplomatic representative but the Statement by Winston Peters said a lot and actually inferred recognition of the sovereignty of Montenegro in an implied manner.

9.9.2 New Zealand and Kosovo

New Zealand also did not immediately formally recognize Kosovo's UDI and even the ICJ Advisory Opinion of 2008 although it would later become the 63rd nation to have formal relations with Kosovo. But as expected at the time, New Zealand issued no formal statement on the matter because of its practice and policy of Implied Recognition. Despite this, two significant events did transpire a year after the UDI which inferred New Zealand's recognition of Kosovo's independence. Prime Minister Helen Clarke said at the time:

It's never been the New Zealand Government's position to recognize in such circumstances. We will neither recognize nor not recognize. Over time the way in which we deal with those who govern in the territory will, I suppose, imply whether there is recognition but we are not intending to make a formal statement.

These events transpired:

- 1) In May 2009, New Zealand supported Kosovo's membership of the International Monetary Fund (IMF).
- 2) On the 5th of June 2009, New Zealand recognized Kosovo passports as international travel documents.

9.9.3 New Zealand and Timor Leste

Similarly, no formal statement was made when Timor-Leste became a sovereign and independent State on 20 May 2002. The then Prime Minister Helen Clark and Foreign Minister Phil Goff attended the independence celebrations, and the New Zealand Representative Office in Dili, which had been established in November

2000 to liaise with the United Nations Transitional Administration in East Timor and the East

Timorese members of the transitional National Consultative Council, was transformed into a Consulate-General. On 31 May 2002, Foreign Minister Goff said that New Zealand had formalized its diplomatic relations with East Timor through the establishment of a Consulate-General and that it looked forward “to developing normal, friendly relations with East Timor”.

As an inference of its recognition of Timor-Leste’s independence and sovereignty, on 25th September, 2002, New Zealand, together with 134 other States sponsored a draft resolution providing for the admission of Timor-Leste to the United Nations. It was only in March 2004 that diplomatic relations between the two countries were upgraded to ambassadorial level.

9.9.4 New Zealand and Palau

Palau became an independent nation on 1st October, 1994. New Zealand did not issue any formal statement of recognition but in December it co-sponsored a draft Resolution on the admission of Palau to the UN.

Bougainville obviously has also gone through a free, fair, safe and lawful Referendum to also answer a political question. This was witnessed by the international community. This is merely highlighting New Zealand’s international practice of Implied Recognition and the precedence it has set over the last three decades. In this context therefore, to say having Sir. Jerry Mataparae as Moderator is a big honour and privilege would be a gross understatement. Sir. Jerry understands the inferred issues better than most people.

9.10 Bougainville’s Position

From this presentation, it may probably have become obvious that the ABG has been and continues to evaluate the overall ICJ Advisory Opinion on Kosovo and its context. The ABG has also been closely studying the cases of Montenegro, Timor-Leste, Bangladesh and South Sudan and will determine its own position should it consider that necessary in the future.

In concluding however, it is crucial to note this very fundamental yet pertinent observation relating to the approach countries like Serbia, Sudan and Indonesia took with regards to the outcomes and results of their respective independence Referendum votes. It is very obvious that at the end of the day for these mother governments, the decision to accept the majority votes for Independence became a moral one. It simply became a moral decision by default given the legal and political questions and decisions had already been addressed and determined through the Referenda, the people’s voices had been heard. This is the moral bottom-line; the people have overwhelmingly spoken. How can they then be denied what they have been politically and legally asked to choose?

The parliaments of Indonesia, Sudan and Serbia, as history now officially shows, chose to take the paths they took in accepting, respecting and endorsing the Independence votes for the obvious reason that refusing the vote of the people would in time, ultimately weigh on, and question the dignity, integrity and the leadership conscience of their parliaments. These

countries conscientiously put the decorum of parliament before personal and political mileage. In taking those decisions they were effectively saying, there is no point denying people what they had earned lawfully, legally and through constitutionally-allowed processes, processes the world had witness unfold. The respective parliaments endorsed the results as they were morally obligated to so.

In reviewing international precedent cases highlighted here therefore, one can easily form the opinion that Bougainville also reserves the right to explore all necessary international options at its disposal and may invoke these as and when it deems appropriate in accordance with international law and precedence. Here's the bottom-line, the ABG has a responsibility to the 97.7% of Bougainvilleans who voted for Independence and it has no intention of letting them down, NOT NOW, NOT AT ANY TIME.

Let this be on record though, the ABG and the people of Bougainville have full confidence and trust in the Moderator and have full faith that the Moderation process will yield the outcome that will conform with the aspirations of the people of Bougainville. This cannot be stressed strongly enough.

There is Legal Justice and There is Moral Justice. With due respect, Bougainville Demands Both.

10. THE BOUGAINVILLE INDEPENDENCE PROCESS: REFERENDUM 2019

The Bougainville's Parallels (Table 1: p20) counter every political milestone in PNG independence process beginning from 1905 when PNG was placed under Australia. History shows that Bougainvilleans have always fought for their freedom and self-determination through the corridors of PNG and even the United Nations on several occasions. Bougainville eventually took arms to fight for independence from 1987-1997 that claimed 20000 lives. Today, Bougainville's fight for independence is through Bougainville Peace Agreement 2001. The three pillars of the BPA 2001 are carefully designed and crafted by Bougainville leaders and the GoPNG. The pillars, if analyzed can be suggested that one pillar depends on the others' successful implementation. For instance;

- 1) The Weapons Disposal program was completed in 2004, and provided the grounds for Bougainville's Constitution and autonomous government
- 2) Autonomy, the ABG Constitution was adopted in 2004 and Bougainvilleans voted the first ABG House in 2005. Since then, there has already been 4 Autonomous Governments. The 3rd ABG House (2015 - 2020) implemented the Referendum in 2019. The 4th ABG House (2021-2025) has been conducting post-referendum consultations with GOPNG. The Bougainville Autonomy has all the autonomy powers under s.290, except for Monetary, Defense and Foreign Affairs powers and other s289 powers of Part XIV of the National Constitution.
- 3) Referendum held in 2019 had only two options: 1) Greater Autonomy and 2) Independence. Almost 98% of Bougainvilleans voted for independence.

So with the completion of the referendum in 2019, and with the referendum results, Bougainvilleans are more than certain that their independence has been achieved and will not be deterred, denied or rejected by the Government of PNG through the Ratification process. To the

Bougainvilleans, Ratification will only see as endorsing a result of a constitutionally guaranteed referendum result of 97.7%.

Although s342 of the Constitution requires the Minister responsible for Bougainville Affairs to take the results of the referendum and the report of the consultations in the Parliament for a decision of the Parliament, it does not prescribe a procedure on the process to be used by the Parliament in making its decision⁶⁹.

The Era Kone Covenant was signed to attempt to agree on and prescribe a procedure⁷⁰ for the Parliament to make a decision on the results of the Bougainville referendum. To date, Officials of both the ABG and the State have not been able to agree on the process that needs to be followed to enable the Parliament to make a decision due to differing view on the process of ratification or decision by Parliament. This has resulted in the engagement of the Moderator.

On the final analysis, the question of whether Bougainville has a right under international and domestic laws to declare independence without the explicit consent of PNG Parliament or GoPNG is raised by Professor Qvortrup⁷¹ supporting the contention. Professor Qvortrup argues that historical practices in international law provide a precedent for unilateral declaration of independence (UDI) in cases where referendum has been held following an agreement with the larger entity of which it is part of.

PNG's process of becoming independent, irrespective of the will of the Australian Parliament, provides a constitutional precedent for UDI⁷². Bougainville will therefore follow PNG's precedent if the Ratification process fails. There are also many other international precedents to learn from such as Kosovo, South Sudan, Timor Leste or others. Already, Bougainville has voted 97.7% for independence. The Post-Referendum Consultations have provided agreements that Bougainville can use to follow PNG's independence precedent. For example, in the Wabag Roadmap⁷³, several key activities are listed for Bougainville including the establishment of the Bougainville Constituent Assembly and the Bougainville Constitution Planning Commission, who have already started working on the new independent constitution for Bougainville. The new Bougainville Independence Constitution is expected to be completed in 2025⁷⁴. In his interview with Don Wiseman⁷⁵, Hon. Masatt stated that the ABG wishes to follow the path of the prescribed process through the Ratification process in the floor of the National Parliament.

However, if the GoPNG continues to reject the wish of the Bougainville people, then the ABG will have to follow the precedent set by PNG and that is to adopt the new constitution through the Wabag Roadmap agreed process and adopt the new constitution through a agreed Constituent Assembly and declare the independence of Bougainville by "no earlier than 2025 and no later than 2027" as agreed in the Wabag Roadmap⁷⁶. There are other noted precedents that Bougainville can also apply as seen in Professor Qvortrup's arguments⁷⁷ and other sources.

⁶⁹ Ministerial Statement AG/Minister, ABG

⁷⁰ Ibid

⁷¹ Professor Qvortrup (2022) I want to break free, A practical guide to making a new country, Manchester University Press, UK, p73

⁷² Ibid

⁷³ Refer to Figure 1: The Wabag Roadmap – Referendum Results Implementation Roadmap 2021

⁷⁴ Hon Masatt, NBC Bougainville News

⁷⁵ Hon. Masatt interview with Don Wiseman, hosted by Susan Suisuiki, Pacific Waves; <https://www.youtube.com/watch?v=DBG8XxiOIM>

⁷⁶ Refer to Figure 1: The Wabag Roadmap – Referendum Results Implementation Roadmap 2021

⁷⁷ Professor Qvortrup (2022) I want to break free, A practical guide to making a new country, Manchester University Press, UK, p73

In conclusion, the argument in using PNG's precedent centers on the Bougainville's peace process and the BPA. The BPA has set apart Bougainville from the rest of PNG and the preparations for Bougainville's independence is more certain than PNGs. Unlike PNG, Bougainville is more ready to achieve its independence than PNG ever was. The ABG is already an autonomous government with its own constitution and administration. Therefore, Bougainville's aspirations for independence is a historical argument that is older than the independence of PNG and there is no turning back. Bougainvilleans have reached the point of no return and will settle for nothing less than independence.

If all else fail, Bougainville will look for alternative ways to gain independence. Having studied the various International and PNG independence precedents definitely gives Bougainvilleans hope that independence is not only a dream, but achievable.

11. THE FUTURE OUTLOOK 2025 ONWARDS

The Bougainville Memoir finally takes a look at Bougainville's independent future. With the Bougainville Peace Agreement provisions, ABG and PNG Constitutions (Part XIV), all JSB Resolutions, all Post-Referendum Consultations and Agreements, Moderation Consultations and all other negotiated and consulted outcomes are about to be exhausted, the ABG and the People of Bougainville see no future without Independence. Bougainville is going to settle for nothing less than independence.

11.1 The Ultimate Goal: Finality on Independence

Bougainvilleans are serious about independence. The Moderation Consultation process, according to Bougainvilleans holds the final key to determining their independence. The ultimate goal and outcome for Bougainville is "independence". The writing is on the wall. And the ABG has constantly made it crystal clear, that if GoPNG continues to deny Bougainville its rights to independence; then the ABG will have to find other legal options to secure its independence. The most notable would be through the BCPC and international lobbying.

The BCPC alternative follows PNG's precedence in attaining independence through a Constituent Assembly that adopted its Constitution in 1975. While PNG worked closely with the Government of Australia to legally obtain its independence, ABG has also worked closely with GoPNG on the matter and most of the processes are agreed to in the Wabag Roadmap 2021. Critical to the Wabag Roadmap are⁷⁸ 1) implementing the BCPC and 2) Adopting the new Bougainville Constitution in 2025. Following this agreement, Bougainville Leaders Forum set the 01st of September 2027 as the date for the Declaration of Bougainville Independence.

It must also be noted in the Bougainville Memoir that the main cause of impasse is the manner in which the Bougainville Referendum Result and the Outcome of the Post-Referendum Consultations will be taken into the floor of the National Parliament. The ABG is of the opinion that the Bougainville Referendum Result and the Outcome of the Post-Referendum Consultations must simply be endorsed; a view that the State Solicitor defined once through an ordinary dictionary in one of his advice to the GoPNG team

⁷⁸ Agreed in the Wabag Roadmap 2021

during the Post-Referendum Consultations. The GoPNG's position however is that every parliamentary decision is done through voting.

At this point, the question that must be asked through the Bougainville Memoir is "Can the two parties agree to a process outside the Parliamentary process as two Melanesian brothers and family to bring finality to Bougainville's Independence?"

If this is not achieved, Bougainville's alternative to independence can be achieved through the agreements in the Wabag Roadmap and APEC House, Era Kone Covenant, which provided for BCPC and Constituent Assembly establishments and achieving independence in no earlier than 2025 and no later than 2027. Also, internationally lobbying to gain support is an alternative Bougainville will pursue. The ABG is confident the Wabag Roadmap and Era Kone Covenant are sound and can provide legal fighting grounds for the ABG on its independence.

11.1.1 The Bougainville Constituent Assembly

Having set the date for independence and as the two Governments engage in the first Moderation Consultation process in March, 2025, there has already been war of words.



Figure 25: ABG converts to Bougainville Constituent Assembly⁷⁹

On the one hand, PM Marape in his recent statement declared that Bougainville is not ready due to guns and economic issues; on the other hand, the ABG is busy preparing for alternate options in obtaining independence through the newly constructed Independence Constitution that was concluded recently through BCPC. The ABG historically converted into the Bougainville Constituent Assembly, and was unanimously passed, on the 27th March 2025.

The ABG President His Excellency Ishmael Toroama⁸⁰, in presenting the motion in parliament, described it as a profound moment, paying tribute to past, present and future leaders who have contributed to Bougainville's independence aspirations. This motion signaled the political journey for Bougainville moving to independence status.

⁷⁹ <https://www.rnz.co.nz/news/pacific/556456/bougainville-mps-convert-house-of-representatives-into-a-constituent-assembly>

⁸⁰ Radio Bougainville, NBC News, Bougainville

ABG Attorney General and Minister for Bougainville Independence Mission Implementation, Hon Ezekiel Masatt, explained that this conversion was necessary to ensure the Assembly could effectively deal with matters relating to the new Independence Constitution for Bougainville. The Membership of the Constituent Assembly included: 1) All members of the HOR; 2) All four national MPs; 3) Three regional head commissioners of the BCPC; And three female commissioners of the BCPC

11.2 The Declaration of Independence

The Declaration of Independence will be set and confirmed by the Bougainville Constituent Assembly. Alternatively, the 01st of September, 2027 has been set for the Independence Declaration.

11.3 Bougainville Independence Package Framework

The Bougainville Independence Package Framework is the way forward in forging a transition period taking into account, Bougainville's independence. This is a proposed position supported by H.E President Toroama, Hon. Masatt and the ABG. What this means is that when PNG grants Bougainville its independence, there must be a transition period, most likely through an independence package framework in partnership with GoPNG and other international friends.

The recent proposition by Pacific's peak diplomatic bodies, Pacific Islands Forum and the Melanesian Spear Group signaling that they are ready to engage with the ABG is a timely assurance that the international community is watching the Bougainville process carefully. The ABG is taking this offer from the diplomats seriously and will provide a feedback⁸¹ to see what can be done to assist Bougainville.

Bougainvilleans see no other political settlement options such as free associations, autonomy, federated states or any other. Independence is the only options Bougainvilleans voted for will fight for until it is achieved. Reflecting back on the Parliamentary Debate on Bougainville in September 2024, Hon. Don Polye,⁸² while suggesting that Bougainville's referendum results on independence must be endorsed by the National Parliament, argued that it must be done in Phases. While the argument may not be time bound, and can be lengthy, it possesses the possibility of jointly-establishing an independence package framework for Bougainville.

11.4 Building Relationships as two Independent Sovereign States

The two governments can agree as Melanesians that building relationships must be the new foundation to create two liberated states with mutual trust and respect based on sovereignty. Already, Bougainville is strongly attached to PNG through many relations, mainly marriage, business and politics. However, Bougainvilleans want their own independent state; therefore, forging future relationships must be based on the new political independence structure.

Consequently, the ABG has been talking about building relationship despite extreme positions. ABG believes there is hope to build solid relationships and that there will be

⁸¹ <https://www.fbcnews.com.fj/world/top-pacific-diplomats-to-talk-on-bougainville-independence/>

⁸² <https://www.youtube.com/watch?v=RQtI2HKb9d8>

progress made in this moderation consultations that the two governments must now look into as two Melanesian independent states. That is the emerging position.⁸³

12. CONCLUSION

In conclusion, the Bougainville Memoir is a testament of an aggrieved people, tested through time, pain, and struggle. Bougainville continue to face challenges. Some of the challenges are recently mentioned by PM Marape, including guns and economic issues. To the best interest of Bougainville in achieving the ultimate goal of independence, the Bougainville Memoir reflects of late President Kabui's analogy.

Late President Kabui once likened the Bougainville process to crossing rivers. He said it was wise to cross each river as we reached them. This analogy meant attempting to cross all rivers at once would be impossible to achieve. But as we cross each river one by one, referring to challenges such as guns, economy, and political independence, we can finality to Bougainville's aspirations and dreams for independence.

The Bougainville Memoir tells our story from the past, with our proud forefathers standing up against colonization and colonial leaderships that could simply divide and rule by the power of pen and rulers diving and conquering unwilling territories and regions. The recent present Bougainville history is marred with betrayal, blood and survival resulting the unequivocal quest for ultimate independence through the 97.7%, whereby Bougainvilleans voted for independence in the 2019 Referendum that can be achieved through the negotiated settlement of the BPA 2001. Disagreements have led to the two governments agreeing to the use of Moderator, Sir Jerry Mataparae, from New Zealand. Bougainville, through the moderation process aims to bring finality to Bougainville's independence.



Figure 26: ABG leadership led by former President, Grand Chief Dr. John Momis during the Referendum in 2019

Bougainville does not see GoPNG has having veto powers over the referendum results and the reports on the outcomes of the post-referendum consultations but foresees an agreement outside of the National Parliament to endorse Bougainville's independence. This is similar to the Bougainville Peace Agreement 2001, where it was initially agreed to by the two governments outside of the Parliament. The BPA still stands today as pillar of hope for Bougainville.

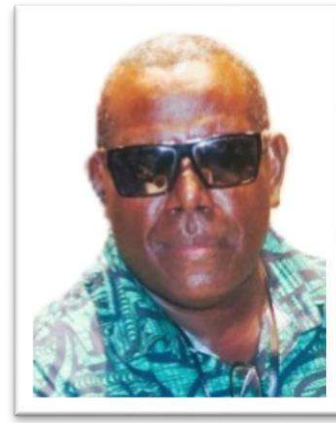
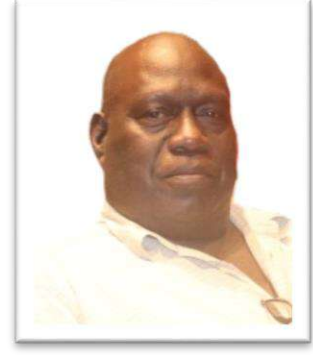
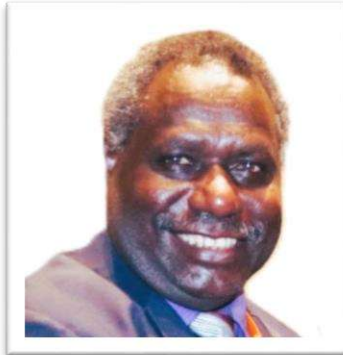
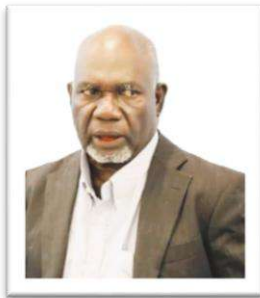
⁸³ Hon. Masatt, Ministerial Statement, March 2025

As we look into Bougainville's future, one thing is certain, the fight for independence will continue through, from generations to generations until it is achieved. Through this Memoir, however, Bougainville portrays a future of hope and relationships with PNG and international neighbours. In the purest of thoughts, Bougainville is confident of providing peace and prosperity for its peoples. This ideology is based on the fact that Bougainville has so many natural resources that can transform Bougainville into an economic powerhouse in the Pacific.

To name a few, Bougainville is blessed with copper, gold and silver. In addition, in the agriculture and livestock sector Bougainville is leading with cocoa and copra productions and holds 30-50% of fish in Bougainville and PNG waters. These strong economic industries can propel Bougainville forward economically.

Bougainville is not concerned with the geopolitics of China, Australia and the United States. This will not have any bearing on Bougainville's aspirations. Even Papua New Guinea's rhetoric on guns and economy will have any direction. Bougainville will stand strong and declare its independence one day eventually and that is the ultimate goal.

BOUGAINVILLE INDEPENDENCE MISSION ADVISORY TEAM



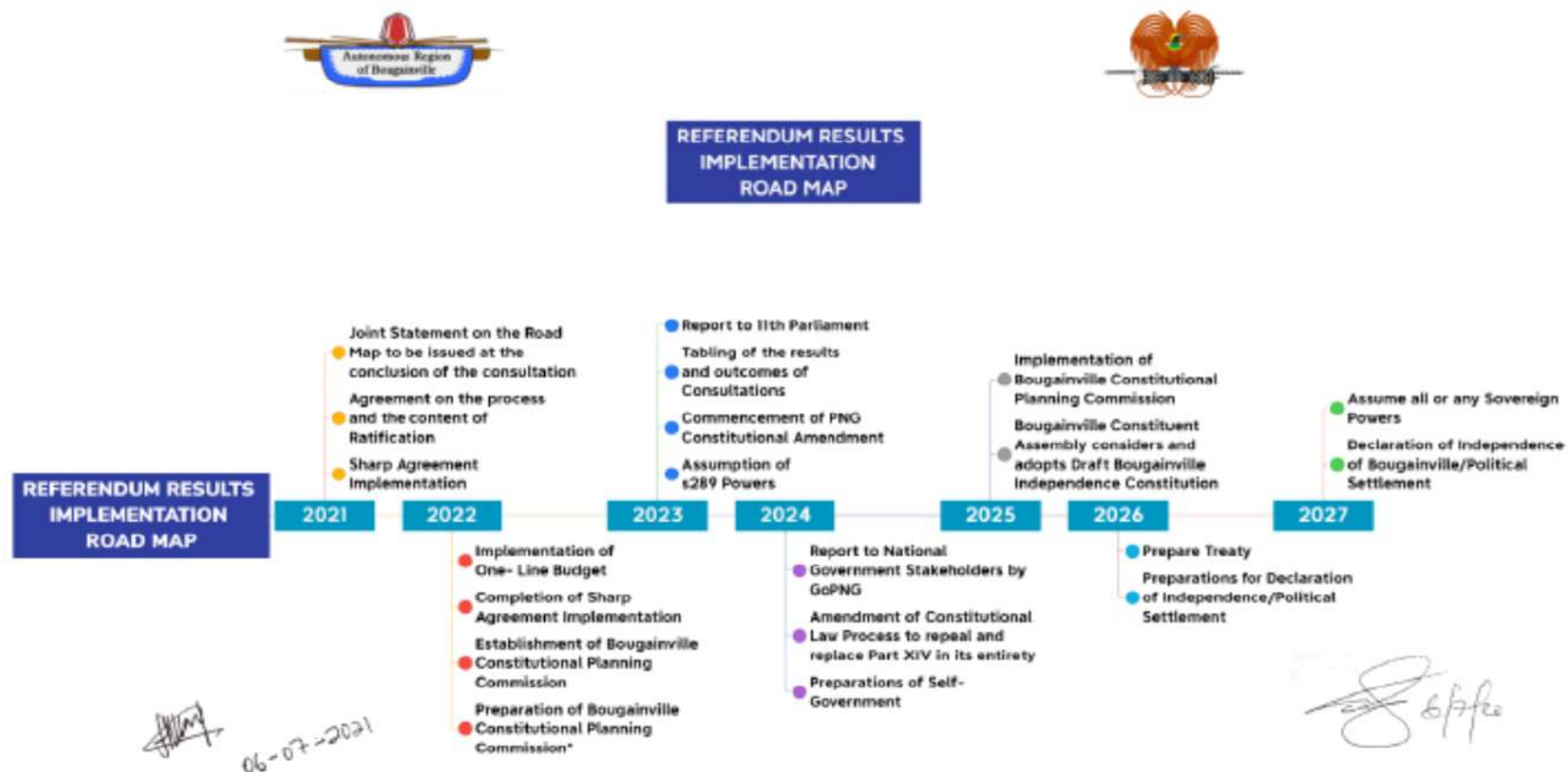
Leadership: Top (L-R) Hon. Ezekiel Masatt, Minister for DIMI and AG; Ms. Stephanie Elizah, Secretary DIMI and Kearneth Nanei, Chief Secretary, ABG

BIMAT Team: Middle (L-R) Kapeatu Puaria, Team Leader, James Tanis, Albert Punghau, Dr. Naihuwo Ahai

Bottom (L-R) Simon Kaumi Jnr, Ian Tadore, Wesley Kenneth, and Ezekiel Masatt Jnr

Adriana Schmidth, Douglas Pisi, Ephraim Sawa, Peter Topura

Figure 1: The Wabag Road Map – Referendum Results Implementation Road Map 2021⁸⁴



⁸⁴ The Wabag Roadmap 2021

RETURN OF WRIT

FOR A

REFERENDUM ON BOUGAINVILLE

Section Schedule 1.123:

TO THE GOVERNOR-GENERAL:

Number of votes for Greater Autonomy

3,043

Number of votes for Independence

176,928

Bougainville Referendum Commission:

Bertie Ahern

Chair, Bertie Ahern

Patilias Gamato

Commissioner Patilias Gamato

Robert Igara

Commissioner Robert Igara

George Manu

Commissioner George Manu

Ruby Mirinka

Commissioner Ruby Mirinka

Patrick Nisira

Commissioner Patrick Nisira

Dr Thomas Webster

Commissioner Dr Thomas Webster

Signed at Buka, Autonomous Region of Bougainville, Papua New Guinea,

This 11th day of December 2019



PRIME MINISTER
PORT MORESBY

16th May 2019

Hon. John. L. Momis, GCL MHR
President
Autonomous Bougainville Government
PO Box 322
BUKA
Autonomous Region of Bougainville

My dear President,

Thank you for your letter of 23rd April 2019 in which you reinforce concerns raised by Bougainville Referendum Commission Chairman, His Excellency Bertie Ahern, in relation to preparations and actions to progress the Bougainville Referendum.

I share your concerns and those that have been raised by Mr Ahern. The fact is that we must all be working hard to ensure that the referendum takes place, as agreed on 17 October 2019.

In relation to funding, I am pleased to confirm that the second tranche payment to the BRC has been approved for release and will be deposited to the Bougainville Referendum Commission Trust Account in the coming days. This will bring total national government funding this year to K20 million, with an additional K10 million to be provided in the near future. I am of the view that these funds will greatly assist the Commission in undertaking important work, which coupled with development partner assistance, should be sufficient to meet the costs of the referendum.

On the matter of the Constitutional Regulations, I am advised that the First Legislative Counsel has today finalised the approved Regulations which will be cleared before being submitted to the Governor-General for approval. I do not anticipate that this will take more than a couple of days.

With respect to definitions, I am strongly of the view that these need to be clearly articulated so that our people can fully understand the options being put to them. I do not think that there is a need to over-complicate matters by seeking to pre-empt what form any long-term political settlement may take. The definitions must be simple and easy for people to understand.

Sir Manasupe House, Waigani, P.O. Box 639, Waigani, Papua New Guinea
Parliament House Telephone: (675) 327 7317 / (675) 327 7316 Facsimile: (675) 327 7490

Recognising the urgency of this matter, and the need to finalise definitions so that the BRC can undertake its important work, I propose that we proceed with the following definitions:

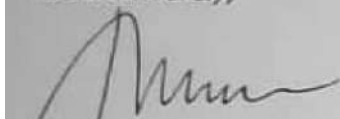
Independence: An independent nation state with sovereign powers and laws, recognised under international law and by other sovereign states to be an independent state, separate from the State of Papua New Guinea.

Greater Autonomy: A negotiated political settlement that provides for a form of autonomy with greater powers than those currently available under constitutional arrangements.

Subject to your agreement, I propose that we proceed with the above definitions and allow the BRC to commence the awareness raising process, noting of course that any final outcome will be the subject of consultation between the two governments and final ratification by Parliament.

Once again, thank you for taking the time to write to me on this matter. I have copied Mr Ahern in to this response, and I am confident that together, with the support of the Commission, that we can deliver a credible, fair and safe referendum for the people of Bougainville in October this year.

Yours sincerely,



HON. PETER O'NEILL, CMG, MP
Prime Minister

Copy : Hon. Charles Abel, MP
Deputy Prime Minister and Treasurer

: Hon. William Samb, MP
Minister Assisting the Prime Minister on Bougainville Affairs

: Hon. Albert Punghau, MHR
ABG Minister for Peace Agreement Implementation

: Amb. Isaac B. Lupari, CBE
Chief Secretary to Government