



BOUGAINVILLE REFERENDUM FORTNIGHTLY COMMENTARY

By Dr Thomas Webster – Team Leader of the PNG NRI Bougainville Referendum Research Project

What is the Bougainville Peace Agreement and what are the key elements of the Document?

The Bougainville Peace Agreement (BPA) was signed in August of 2001 after nearly three years of negotiations between leaders from Bougainville and the PNG National Government. The BPA followed a successful cease fire agreement, i.e. “Lincoln Agreement” that was brokered by the New Zealand Government and signed in Lincoln in January of 1998, which brought to an end the ten-year civil war that began in 1988.

The following boxed text is an extract from the first two pages of the Bougainville Peace Agreement. The contents are clear and explicit. It would be useful for readers to view the original text as it outlines the three key pillars of the BPA: these have surfaced in various discussions recently.

INTRODUCTION AND OUTLINE.

This agreement is a joint creation by the Government of the Independent State of Papua New Guinea and Leaders representing the people of Bougainville (“the Parties”) to resolve the Bougainville conflict and to secure lasting peace by peaceful means.

It is intended to further the objectives of *The Burnham Truce, the Lincoln and Ceasefire Agreements* and other agreements and undertaking between the parties.

This Agreement will be implemented through consultation and co-operation, and will form the basis for drafting constitutional amendments and other laws in order to give legal effect to this agreement.

The Bougainville Parties will work through the autonomous Bougainville Government when it is formed.

The Agreement has three pillars. They are as follows.

1. Autonomy

The Agreement provides for arrangements for an autonomous Bougainville Government operating under a home-grown Bougainville Constitution with a right to assume increasing control over a wide range of powers, functions, personnel and resources on the basis of guarantees contained in the National Constitution.

2. Referendum

The agreement provides for the right, guaranteed in the National *Constitution*, for a referendum among Bougainvilleans on Bougainville’s future political status.

The choices available in the referendum will include a separate independence for Bougainville.

The referendum will be held no sooner than ten years, and in any case no later than fifteen years, after the election of the autonomous Bougainville Government.

The actual date of the referendum will be set taking account of standards of good governance and the implementation of the weapons disposal plan.

The outcome of the referendum will be subject to ratification (final decision making authority) of the National Parliament.

3. Weapons Disposal Plan

The agreed weapon disposal plan will proceed in stages, area by area around Bougainville, beginning as soon as is practicable.



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After the constitutional amendments implementing this agreement have been passed by the National Parliament and by the time they take legal effect, remaining Defence Force and Police Mobile Unit personnel will have been withdrawn from Bougainville and weapons will be held in secure containers.

The containers will have two separate locks with the key to one held by the United Nations Observer Mission on Bougainville (UNOMB) and the other by the relevant ex-combatant Commander.

The UNOMB will verify that all parties are acting in accordance with the agreed disposal plan.

A decision on the final fate of the weapons should be taken with four and a half months of the constitutional amendments coming into effect.

The rest of the document provides finer details of the agreement reached at the negotiations. The BPA is a complex but well-crafted document covering six broad areas around the three pillars of the agreement. It documents three hundred and forty-four clauses of legal text reached through lengthy and painstaking negotiations.

The document also clearly states upfront how the “Agreement” was to be implemented. In part (A) “ROLE AND STATUS OF THIS AGREEMENT” the BPA states the following.

“THE PARTIES AGREE AS FOLLOWS;

1. This Agreement is the basis for drafting the constitutional amendments and other laws, which the National Government will move to provide for implementation.
2. The implementing Constitutional and other laws will state that they are intended to give legal effect to this Agreement.
3. This Agreement:
 - (a) will be used as a guide for implementation and to assist the Courts in interpreting the Constitutional and other laws, which give legal effect to this agreement;
 - (b) is intended to be interpreted liberally, by reference to its intentions, and without undue reference to technical rules of construction.”

The Peace Agreement as stated up front is a joint creation of the PNG National Government and the parties representing the people of Bougainville which the ABG now represents. Hence both governments are equally responsible for the implementation of the BPA.

The implementation of the Peace Agreement is overseen by a Joint Supervisory Body (JSB) comprising representatives from the Autonomous Bougainville Government and the PNG Government.

The next article will review progress of the implementation of the BPA and some of the key issues from that process.

Electronic copy of this document can be provided upon request at Referendum.Research@pngnri.org

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