

# FACT SHEET

## Administration of Referendums: A Comparative Study of Independence Referendums



THE NATIONAL  
RESEARCH INSTITUTE  
PAPUA NEW GUINEA

### MAIN CHALLENGES

This report commissioned in 2017 by the PNG NRI Bougainville Referendum Research Project, was intended to assist stakeholders in the process of preparing for a referendum as mandated by the Bougainville Peace Agreement (BPA) on the future political status of Bougainville. Through a comparative analysis and based on best practice in electoral processes globally, the report presents **practical insights on how to plan and administer a referendum with outcomes that are accepted as being both legitimate and credible.**

The report focuses on referendum design issues but makes some critical points up front;

- **Effective and timely implementation of key phases is just as essential as a good design.**
- **Timely and up-front financial resource allocation is essential.**
- **Legitimacy and credibility of referendums depend largely on ability to communicate and consult all stakeholders.**

### THE LEGAL FRAMEWORK FOR REFERENDUMS

For a referendum to be deemed legitimate and credible, it has to abide by standards that are grounded in public international law. PNG is signatory to various international agreements that call for it to uphold these standards.

- **The Referendum Question:** The most common practice for formalising the text of a referendum question is to include it in the legal instrument establishing the referendum. However, for Bougainville, the formulation of the question itself was left to be agreed upon by the two governments.
- **Thresholds of turnout and support:** A threshold may be considered where a minimum requirement for participation is necessary to give clear legitimacy to the result of the referendum.
- **Referendum Timetable:** General guidelines given by the UN for elections that can be applied to referendums include: adequate time for effective campaigning and public information dissemination; the opportunity and space for voters to inform themselves; and sufficient time and resources for the necessary administrative, legal, training and logistic arrangements.
- **The Franchise:** The right to vote in a referendum can be specifically designed, or adopt those from regular elections. In Bougainville's case, the BPA provided a basis for defining the franchise for the referendum.
- **Electoral Registration:** The electoral registration exercise is a challenge of administration, logistics and practicality. Inaccuracies in an electoral roll should also be considered when deciding whether or not to use it as the basis for a referendum register.
- **Absent voting:** There are four mechanisms for out of country or out of territory voting. The design and implementation of any one of these mechanisms must consider issues of electoral integrity, inclusion, cost and timetabling.
- **Polling:** Polling procedures for referendums may be designed specifically for the referendum context or may use the existing framework used for elections.
- **Counting, tabulation and declaration:** The procedures for the counting, tabulation and declaration may be designed specifically for the referendum context or adopted from the framework for elections (See Chapter 1)

### KEY POINTS

- This report presents practical insights on how to plan and administer a referendum that delivers a legitimate and credible outcome.
- Effective and timely implementation of key phases is just as essential as a good design.
- Timely and up-front financial resource allocation is important for effective and timely implementation.
- Legitimacy and credibility of referendums depend largely on ability to communicate with and consult all stakeholders.
- When considering the legal framework of a referendum, thought must be given to the referendum question, thresholds of turnout and support, the referendum timetable, the franchise, electoral registration, absent voting, the polling and the counting, tabulation and declaration of the result.
- Other areas of the referendum design that need to be considered include the electoral management body, campaign participants, civic and voter education, regulation of the campaign environment, security, observation, gender issues and dispute resolution.
- In planning a referendum, a focus on management and funding issues, not only electoral issues, is crucial.

## THE ELECTORAL MANAGEMENT BODY

The electoral management body (EMB) is legally responsible and whose sole purpose is managing the essential elements for the conduct of referendums. Whichever model is chosen, legitimate and credible electoral processes depend on an EMB that demonstrates fearless independence in practice, seeks to guarantee a level playing field for all electoral contestants and is not affected by government, politics or other partisan influences.

- **CAMPAIGN PARTICIPANTS**

Whether or not participants will be formally recognized by the EMB and allowed to campaign in a referendum is a question to be decided upon. In the event that campaign participants are allowed, the EMB will need to regulate campaigning and certain groups may also be restricted from campaigning. (See Chapter 3)

- **CIVIC AND VOTER EDUCATION**

The design and implementation of the civic and voter education component of a referendum is integral to the electoral process. In most recent independence referendums, EMB have issued voter education material explaining the technicalities of registration. (See Chapter 4)

## THE CAMPAIGN ENVIRONMENT: REGULATORY AND OVERSIGHT ISSUES

It may be necessary to regulate and provide oversight for the media and for political finance and campaign funding. This is to ensure that freedom of opinion and expression, transparency, and access to information, which are all characteristics of legitimate and credible electoral processes are not compromised. (See Chapter 5)

- **SECURITY**

The basic principle underlying the relationship between electoral authorities and security agencies on the ground is often defined in the electoral legislation. A point which emerges from the case studies is that security issues may be most acute in the period following polling and in particular following declaration. (See Chapter 6)

- **OBSERVATION**

The openness of electoral processes to observers including the media is derived directly from international obligations. Scrutiny of the voting and counting process can give electors the confidence in the security of the ballot and the counting of the votes. (See Chapter 7)

- **GENDER ISSUES**

Under international treaties there are at least two areas related to gender which must be considered. The first is the active engagement of women in the campaigns and arguments put forward on both sides of the referendum. The second is the active effort of the EMB to recruit and encourage women at all levels of the electoral administration and to ensure that voter education actively involves women and is targeted at the involvement of both women and men. (See Chapter 8)

- **DISPUTE RESOLUTION**

Dispute resolution mechanisms are intrinsic to international electoral obligations. The resolution of disputes during electoral processes may be considered in two categories: the handling of complaints during the electoral period, and the hearing and resolution of formal challenges to results. (See Chapter 9)

## FINAL THOUGHTS

In planning a referendum, a focus on management and funding issues, not only electoral issues, is crucial. Planning for a successful referendum involves building capacity and functionality: these cannot be created at the last minute or without significant commitment of resources. A timely start and a timetable that includes contingency for delays are both critical.

## ABOUT THE RESEARCH

This fact sheet summarises the research paper produced by the PNG National Research Institute in 2017 to help understand and promote discussion in preparation for the Referendum that was to be held in 2019.

The full research paper is available here.

References to the related sections of the research paper are included in this fact sheet.

## ABOUT THE AUTHORS

**Andrew Ellis** is a senior consultant on the design and implementation of electoral systems and processes and of constitutional frameworks, the facilitation of political dialogue and other aspects of support for democratic transition and democracy building.

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