

FACT SHEET

Institution Building in Post-Referendum Bougainville



THE NATIONAL
RESEARCH INSTITUTE
PAPUA NEW GUINEA

THE MAIN ISSUE

Consultations between the Bougainville and PNG governments began in 2021 on the future relationship of Bougainville and PNG. Recommendations from these discussions will be proposed to the PNG parliament for ratification as mandated by the Bougainville Peace Agreement (BPA). The result will be some form of self-determination for Bougainville.

The various possible forms of self-determination can be grouped into three main categories: namely, (i) **self-determination outside PNG as a formally sovereign state**, (ii) **in a form of free association with PNG**, or (iii) **self-determination within PNG**. If self-determination outside PNG is chosen, then this will also require the support of the international community through the United Nations. It is possible that the form of self-determination can evolve over time, culminating in a final phase that Bougainville itself could initiate when the time is right.

Whatever form of self-determination is chosen, it will **require building institutional capabilities to ensure that Bougainville functions as an effective polity for its people**.

New or altered institutions that may need to be considered for Bougainville include institutions to **strengthen Bougainville as a polity, constitutional changes, institutions for internal governance and institutions for external relationships**.

CRITICAL ISSUES TO GUIDE THE CONSULTATIONS

History, geography, shared interests and the intermingling of peoples suggests that there will be a close relationship between PNG and Bougainville in the future, whether self-determination occurs outside, inside or in special association with PNG. The details of the institutional framework for that relationship will differ, however, between different forms of self-determination.

Four key questions can guide the post-referendum consultations:

- i. What should be the **future relationship** between Bougainville and PNG, following the referendum?
- ii. What **changes** are necessary to achieve the desired relationship, in both PNG and Bougainville, in terms of governing authority and the way in which authority is exercised?
- iii. **How** should these changes be made, to ensure they work as effectively as possible from the standpoint of both Bougainville and PNG?
- iv. Over what **time frame** should change occur and in what order of priority?

In addition to the outcome of the referendum, three other factors will influence the shape and the outcome of the consultations. They are the **nature of the existing relationship between PNG and Bougainville, Bougainville's capabilities, and international support for the chosen option regarding the form of self-determination**.

It may be helpful for the two governments to agree on **guiding principles** for the consultations. These principles would provide a shared reference point for the negotiating parties and reflect the needs and aspirations of Bougainville given the referendum results.

The **experiences of other countries** can also be examined to see how the broad options of self-determination and subsequent institutions might work in Bougainville, taking into account its distinct features. (See Chapter 2).

KEY POINTS

- The relationship between PNG and Bougainville is set to change following a referendum held in 2019 where the people chose independence over greater autonomy.
- The governments of PNG and Bougainville will now consult over these results and discuss the future relationship of PNG and Bougainville.
- Three broad options for self-determination have been identified in the report.
- It may be useful for the governments to agree before the consultations on guiding principles and a process to structure consultations
- For self-determination, Bougainville's polity will need to be strengthened by building its political community and considering issues of citizenship and symbols.
- Whatever the form of self-determination chosen changes will need to be made to Bougainville's constitution
- Issues pertaining to Bougainville's various institutions for internal governance and external governance will need to be considered given the form of self-determination that is chosen.
- The form of self-determination decided upon does not need to be fixed and can evolve over time.

DEVELOPING BOUGAINVILLE AS A POLITY

Self-determination will require Bougainville to continue to work to build its political community and effective polity. This will require cohesion between its people, trust in public institutions and a shared commitment to the polity. Self-determination will require consideration of whether or not there should be a distinct citizenship of Bougainville, who would be entitled to it and how Bougainville's citizenship status relates to that of PNG. Consideration might be given to whether Bougainville's existing symbols adequately reflect the identity that Bougainville wishes to project internally and externally. (See Chapter 3).

CONSTITUTION AND CONSTITUTION MAKING

Whatever the outcome of the consultations, changes will need to be made to the Bougainville Constitution. The existing Constitution was made within the parameters agreed in the BPA and reflected in the Constitution of PNG. It is expressly transitional, bridging the period of autonomy following the BPA and the decision on Bougainville's future political status. The appendix to the report identifies over 30 areas of Bougainville's current constitution for reconsideration in the context of the move to self-determination. The changes that may be made and how they are made will depend on the form of self-determination chosen and the needs and preferences of Bougainville. (See Chapter 4).

INSTITUTIONS

In light of self-determination, important questions pertaining to what institutions Bougainville might need, the design and operations of these institutions and the priorities for institutional development during and after the transition phase need to be considered.

In terms of governance institutions, self-determination may require changes to Bougainville's head of state and for Bougainville to assume responsibility for its own court system and ancillary institutions amongst others. An apex court may need to be considered.

Public service institutions provided for in the BPA and those not in the BPA may be established depending on the form of self-determination and according to Bougainville's institutional needs and the level of support it can give them.

Institutions that play a significant role in public life can include those of the media and higher education. Currently PNG provides both for Bougainville therefore in light of self-determination, Bougainville may consider working to establish its own in due course. (See Chapter 5)

EXTERNAL ASPECTS OF SELF-DETERMINATION

Whatever the final form of self-determination, Bougainville will need to engage with other parts of the world in matters that include international investment and international assistance. It might be represented in other states and in regional and international organizations. Bougainville's constitutional and legal framework, policy stance and institutional capabilities can be developed to ensure Bougainville can engage with external entities in the interests Bougainville. (See Chapter 6)

RELATIONS BETWEEN PNG AND BOUGAINVILLE

The future relationship between Bougainville and PNG may take a variety of different forms and will depend on the outcome of the consultations.

Bougainville and PNG will continue to have a close relationship. The two governments could establish institutions to support an ongoing relationship. The nature of these institutional arrangements will depend on whether Bougainville becomes an independent sovereign state outside PNG or enters into some form of a free association with PNG. All options of self-determination will require amendments to the PNG National Constitution also. (See Chapter 7)

ABOUT THE RESEARCH

This fact sheet summarises the research paper produced by the PNG National Research Institute to help promote discussion and understanding about issues relating to the post-referendum negotiations.

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

Cheryl Saunders is a Laureate Professor Emeritus at Melbourne Law School and co-convenor of the Constitutional Transformation Network.

Anna Dzedzic is a Global Academic Fellow at the Faculty of Law, Hong Kong University, and co-convenor of the Constitution Transformation Network.

inquire
inform
influence