

## Key Points of the *Bougainville Peace Agreement*

### The 'Three Pillars' of the Agreement:

The Agreement describes its structure as 'three pillars' all of them carefully inter-linked and sequenced: autonomy, referendum and disarmament.

### 'High' Autonomy (Bougainville's political status)

*(The first 'pillar')*

#### A constitution for Bougainville

The Interim Provincial Government will establish, in consultation with the Bougainville People's Congress, a **Constitutional Commission** and a **Constituent Assembly**. These bodies will draft and adopt, respectively, a new *Bougainville Constitution*. The Commission will be 'broadly representative' of the people of Bougainville and will conduct a popular consultation. The final draft constitution must be reviewed by the National Executive Council and ratified by the National Parliament. It will be the supreme law for all matters that fall within Bougainville's jurisdiction and will be enforceable in the Bougainville courts and the national Supreme Court.

#### Autonomous Bougainville government

The autonomous government will have executive and legislative branches, and an impartial judiciary and public administration institutions. The majority of legislature will be elected, but members may be appointed to represent the special interests of groups like women, youth and the churches. The specific roles and powers of these bodies are left to be determined by the *Bougainville Constitution*. The Bougainville Interim Provincial Government and the Bougainville People's Congress will continue to operate until the new autonomous Bougainville Government is elected.

*'Two list system' detailing respective national and autonomous governments powers and roles*

The separate powers and functions of the two governments will be detailed in two comprehensive lists. The national government's list of powers and functions include: defence, foreign relations, immigration, central banking, currency, international civil aviation, shipping and trade, posts, telecommunications and the cross-boundary fish stocks. The autonomous Bougainville government's list is not spelled out in the Agreement; this will be determined during the next stage of the process (i.e. the drafting of the laws to amend PNG's *National Constitution*) and is to include 'all known and identifiable powers not on the national government list'. These powers and responsibilities will be transferred from the national government to the interim and later autonomous government when the latter feels it has both the need and the capacities.

#### *Human rights*

The autonomous Bougainville government has the power to both provide additional guarantees of human rights as well as to qualify existing rights 'incidental to the exercise of its powers and functions' – as long as it does not abrogate the *National Constitution*.

#### *A Joint Commission on Customary Obligations*

The national and Bougainville governments will establish a **Joint Commission** to look into giving the autonomous government the legal authority to permit the Bougainville courts and/or Councils of Elders to require clan-groups (to which persons convicted of criminal offences belong) to meet their customary obligations.

#### *'Fiscal self-reliance' for Bougainville*

The national government will support Bougainville in the goal of becoming financially self-reliant (i.e. when the revenue from taxes it collects is equal to the value of the grant from national government). Until it has the sufficient revenue-raising powers for that to be possible, Bougainville will continue to make a 'fair contribution' to the costs of national government. This will be achieved through the national government retaining control over company tax, VAT, personal income tax, and customs duties. Tax revenue collected in Bougainville will go into a trust account and be credited against the recurrent grant from national government. Once Bougainville is financially self-reliant, the two governments shall reach a revenue-sharing formula. The autonomous government will then assume the powers and functions to impose, set rates of, and collect personal income tax and company tax (within certain limits).

#### *Grants (including an 'establishment grant')*

The national government will continue to provide grants of various types (recurrent, unconditional, and development) to support the autonomous government of

Bougainville. The national government will mobilise funds for a one-off 'establishment grant', and the autonomous government will use revenue from personal income tax and excise in Bougainville in the first year of autonomy as 'counterpart funding' for the establishment grant.

#### *Foreign Aid*

In cooperation with the national government, the autonomous government will be able to obtain foreign aid – provided this does not reduce the value of aid already available to Papua New Guinea and subject to overriding national foreign policy considerations

#### *Loans*

The autonomous government will have the power to raise loans, both domestically and internationally, but must secure the approval of the national government and central bank.

#### *Public service, police and prisons*

Bougainville will establish its own public service including police and correctional institutions, and the Agreement puts in place transitional arrangements until that time. The Bougainville public service will be subject to the control of the autonomous government through a Minister though members of the Bougainville public service (including teachers, police and correctional services) will swear allegiance to the Head of State of Papua New Guinea.

#### *Policing*

Bougainville will establish its own police force, initially made up of Royal Papua New Guinea Constabulary (RPNGC) personnel. Until that time the national government will facilitate progress towards greater autonomy. The Bougainville Police will not develop the equivalent of an armed Police Mobile Unit. Any future deployment of the RPNGC or its Police Mobile Units will be on the basis of agreement between the national and autonomous governments.

#### *Prison services*

Bougainville will establish its own prison services, the 'Bougainville Correctional Institutional Services (CIS)', initially made up of National CIS personnel, and will be responsible for 'containing and rehabilitating' offenders on behalf of the national and autonomous governments in accordance with the law. The national government will inspect and audit the Bougainville CIS' enforcing national standards and laws. Bougainville will also be able to develop its own approaches to containment and rehabilitation of offenders.

#### *Judiciary & Criminal law*

Bougainville will have its own judicial system of courts and tribunals - including courts at the village level - operating under the Bougainville and national constitutions. Until Bougainville establishes its equivalent, the National Court will hear cases under the *Criminal Code*, and will later remain an alternative Court of Appeal. The Supreme Court of Papua New Guinea will remain the final court of appeal for Bougainville.

The autonomous government will have the power to create and set penalties for offences, and to amend criminal law as it applies in Bougainville, or to make equivalent laws of its own (in consultation with the national government). Changes to the *Criminal Code* are limited and a Bougainvillian Criminal Code can only come into effect on agreement with the national government.

## **(Deferred) referendum on Bougainville's future political status**

*(The second 'pillar')*

The national government will amend the *Constitution* to guarantee a referendum – for resident and non-resident Bougainvilleans - on Bougainville's future status. This will include the option of independence and will be held no sooner than ten, and no later than fifteen years after the election of the autonomous Bougainville government – (unless they decide, after consultations, against holding it). The date will be subject to the implementation of the weapons disposal plan and the autonomous Bougainville government's achieving an appropriate standard of 'good governance' (taking account of internationally accepted standards of democracy, transparency, accountability, and respect for human rights) as agreed with the national government. The outcome of the referendum will be subject to ratification by the final decision-making authority: the National Parliament.

## **Weapons Disposal / Decommissioning**

*(The third 'pillar')*

The disposal of weapons will be implemented in three stages, area by area, and overseen by a sub-committee to the Peace Process Consultative Committee (PPCC) chaired by the UN Observer Mission on Bougainville (UNOMB). The national government will seek the agreement of the UN Security Council to endorse the UNOMB's role in this process, as well as requesting the continued assistance of the Peace Monitoring Group (PMG) for support in this process. They will also seek development assistance for the reintegration and rehabilitation of ex-combatants.

*Stage One:* Councils of Chiefs/Elders will inform UNOMB 'when the people in a particular area are ready for ex-combatants to disarm and re-integrate into the community. Remaining Defense Force and Police Mobile Units will withdraw'. Weapons will be handed in to BRA and BRF unit commanders, who will store and seal them in containers.

*Stage Two:* BRA and BRF company commanders will then collect the weapons and store them in secure containers with double locks in a smaller number of central locations – with one key held by the relevant commander and the other by UNOMB. It is only when UNOMB verifies that Stage Two has been achieved that legislation establishing the autonomous Bougainville Government and guaranteeing the referendum will take effect.

*Stage Three:* Within four months of these constitutional amendments coming into effect – the Parties will decide whether the BRA and BRF have handed in enough of their weapons and whether the level of security is conducive to holding elections of the Bougainville Constituent Assembly.

## **Implementation and dispute resolution arrangements**

A **Joint Supervisory Body** will be created, consisting of equal numbers of national and Bougainville government representatives. This body will oversee the establishment of the autonomous government, prepare the draft legislation to further the objective of this Agreement, and resolve any differences or disputes. Disagreements will be settled first through joint consultation, second through arbitration and lastly through legal action in the national courts. Both UNOMB and the PMG are acknowledged to have a key role in assisting in the smooth implementation of the Agreement.

## **Amnesty, pardon and reconciliation**

All persons involved in or previously convicted of 'crisis related activities' are granted

Amnesty and pardon. The Parties acknowledge in the Agreement the 'suffering, pain and loss, which has been caused to so many by the Bougainville conflict'. They undertake to cooperate 'to promote and pursue meaningful reconciliation' among ex-combatants and in the wider community both within Bougainville and between Bougainville and the rest of Papua New Guinea.

### Review

Once the necessary amendments to the National Constitution are brought into effect, alterations to the agreed arrangements are subject to the approval of both the National and Bougainville legislatures in accordance with their respective constitutional requirements. In addition to the ongoing consultations the Agreement also provides opportunities for a comprehensive review every five years. Bougainville autonomy will be essentially a work-in-progress long after the autonomous Bougainville Government is established – developing mainly through consultation and co-operation.



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