

The Bougainville political settlement and the prospects for sustainable peace

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A major step in the ongoing and, to date, remarkably successful Bougainville peace process occurred on 27 March 2002. In the second of the two sets of votes required by the PNG Constitution,¹ the National Parliament enacted two constitutional laws intended to implement the political settlement provided for in the Bougainville Peace Agreement of 30 August 2001 (the Agreement). The settlement includes three main elements

- a constitutionally guaranteed, but deferred, referendum for Bougainvilleans on independence for Bougainville from Papua New Guinea
- constitutional arrangements for development of a high degree of autonomy for Bougainville
- a complex three-stage plan for disposal of weapons by ex-combatants.

The settlement is remarkable in many ways. Internationally, in terms of experience of resolution of secessionist conflict in independent states, the combination of deferred referendum on independence and high autonomy is probably unprecedented. Regionally, while it is not suggested that the Bougainville peace process could be replicated elsewhere, it does offer the prospect not only that apparently intractable internal conflicts which impact on regional security can be resolved, but also that regional cooperation can play an important role in

that regard. Domestically, in Papua New Guinea, the constitutional laws implementing the Agreement involve the most radical and complex reforms to the constitutional framework in the 27 years since independence.

This article first comments on three aspects of the peace process, namely: its outcomes and impacts; the tri-partite partnership in the process established by Bougainville groups, the PNG Government and the international community (governments of countries of the region and the United Nations); and the centrality of the political settlement to the process. The second part summarises and comments on the implementation of the main features of the settlement. The final part comments on the prospects that the settlement will lay the foundations for sustainable peace for Bougainville. The suggestion is made that a continuation of the tri-partite partnership may be required if the autonomy arrangements, in particular, are to meet expectations in Bougainville.

Aspects of the peace process

Overview of outcomes and impacts

Among its many attributes, the Bougainville conflict² was

- long—taking almost nine years, from 1988 to 1997

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- complex—in terms of both contributing factors and dynamics of the conflict (inclusive of there being two main distinct dimensions to the conflict, one between Bougainville and the PNG Government, the other being multiple internal conflicts within Bougainville)
- costly, for both Bougainville and the rest of Papua New Guinea—in terms of lives lost, injuries and other trauma inflicted, infrastructure and economic activity destroyed, disruption of lives, and so on
- bitter and divisive.

Bearing in mind the nature of the conflict that the peace process had to respond to, the fact that the process has so far contributed to an absence of conflict between the former protagonists for almost five years is itself remarkable. In terms of international experience of peace processes, the Bougainville process has been unusually positive. The process has achieved a great deal not only in a comparatively short time, but also with remarkably few setbacks on the way. In terms of ending conflict, both the truce of October 1997 (the Burnham Truce) and the cease-fire agreed in January 1998 (in the Lincoln Agreement) ended the conflict with no major violations. The radical political settlement, negotiated over an extended period (June 1999–August 2001), while difficult to achieve was negotiated in good faith on both sides without major disruption to the peace process. Weapons disposal, which most involved in the process agree is essential to sustainable peace, proceeded remarkably well in the weeks before the parliamentary vote on 27 March, offering the prospect that it may end up being one of the more successful of such processes in international experience.

The process has contributed to major changes for the better in the lives of ordinary people in Bougainville. Basic government education and health services have been restored in most areas. More than 50,000 people who, in 1997, were living in refugee

camps (almost one-third of the population of around 175,000) have been able to return to (or rebuild) their villages. Key roads are gradually being restored. Freedom of movement—almost non-existent in many areas from 1990 to 1997—has been largely restored in most areas. Economic activity is increasing, notably smallholder cocoa production. Factions that previously opposed one another in part through parallel government and military institutions—Bougainville Interim Government,³ local councils of chiefs and Bougainville Revolutionary Army, versus Bougainville Transitional Government,⁴ councils of elders and Bougainville Resistance Forces—now work together towards establishing a single set of institutions under agreed autonomy arrangements. Customary reconciliation is helping to resolve bitter localised divisions.

The peace process has also contributed to significant changes for the better for the rest of Papua New Guinea (ending the financial strains of the conflict and the human costs of deaths and injuries for the security forces and so on) and in the region. In particular, the process contributed to reduction of insecurity in the western parts of Solomon Islands, and more generally has reduced the risk of ‘spillover’ impacts from Bougainville on the ongoing insecurity in Solomon Islands. In a region where there is fear of increasing instability, Bougainville offers evidence of other possibilities.

There are, of course, many continuing problems for Bougainville, as is usually the case in post-conflict situations. Violence—often alcohol related—is common. There continue to be significant divisions and tensions among Bougainvilleans. Even at the leadership level, former Bougainville Revolutionary Army Supreme Commander and Bougainville Interim Government President, Francis Ona, remains outside and critical of the peace process. His Me’ekamui Defence Force⁵ has not yet participated in weapons disposal, and any long-term refusal

to participate could undermine the entire weapons disposal plan. Economic activity opportunities are limited and infrastructure development is slow, contributing to frustration with the pace of change. These and related legacies of the conflict will be among the key challenges for the autonomy arrangements.

The process as a partnership

The present peace process, generally regarded as beginning at Burnham military barracks in New Zealand in mid 1997, neither began there, nor was it primarily the result of initiatives on the part of the New Zealand Government (despite common misconceptions to the contrary). This is not to say that New Zealand and other governments in the region did not play vital roles in the process from mid 1997, as well as at earlier stages.

The key dynamics of the peace process were generated in Bougainville and Port Moresby, beginning almost as soon as the conflict began. In Bougainville, not only were there always many people who opposed violence, but in addition opposition to or ambivalence about the actions of the Bougainville Revolutionary Army in 1989 and 1990 was, paradoxically, a major factor in the development of mainly localised internal conflict and the emergence of armed groups usually opposing local Bougainville Revolutionary Army groups. These opposition fighters became known as the Bougainville Resistance Forces. Some worked closely with the PNG security forces as they began to return to Bougainville from late 1990 (following their evacuation after the March 1990 ceasefire). As internal conflict intensified from the early 1990s, increasing numbers of local leaders (both male and female) sought to end the developing cycles of local conflict between the Bougainville Revolutionary Army and the Bougainville Resistance Forces. In part, at least, they were often responding to deep-rooted cultural

imperatives vital to the small-scale stateless societies of Bougainville, imperatives directed to maintaining balance within and between societies through reciprocal exchanges as well as peacemaking and reconciliation ceremonies when conflict disturbed balance. All of these factors contributed to a wide variety of both localised and pan-Bougainville peace initiatives. Elsewhere in Papua New Guinea, there were always strong sources of opposition to the use of the Defence Force in Bougainville and support for a negotiated settlement.⁶ Various political leaders lent strong support to peace initiatives at several points from late 1988 onwards. Popular opposition to the use of violence to end the conflict increased steadily through the 1990s.

The process beginning in mid 1997 was, in many respects, simply a continuation of the prior efforts to end the conflict—efforts which at various times involved Bougainvilleans from all factions, the PNG Government and governments of countries in the region. Although those efforts were often regarded as failures at the time they occurred, in fact they built vital experience and contributed to relationships between key actors on all sides that facilitated subsequent peace efforts.

In fact, the 1997 Burnham talks built on processes that began with the peace conference held at Arawa, Bougainville, in October 1994. That conference in turn built on previous initiatives both in Bougainville and Port Moresby. There had already been several years of efforts by Bougainville leaders to hold a pan-Bougainville peace conference aimed at resolving internal differences in Bougainville as a preliminary to peace talks with the National Government. Although the 1994 conference was primarily a pan-Bougainville meeting, it was intended to initiate a broader process, and underlines the importance of the roles of both the PNG Government and other governments in the region. The conference could not have

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occurred without not only major initiatives by and support from the PNG Government under Prime Minister Chan, but also regional facilitation (including the contributions of Tonga, Fiji, Vanuatu, Australia and New Zealand to the South Pacific Peace-Keeping Force that provided security for the conference,⁷ and various forms of support from Solomon Islands).

While the 1994 conference was seen by many as a failure, it is most unlikely that Theodore Miriung would have emerged as Premier of the Bougainville Transitional Government without it. It was Miriung's leadership that resulted in officials and leaders of opposing Bougainville factions meeting in Cairns, Australia, in September and December 1995 (with facilitation by Australia). It was the agreement of the Bougainville leaders in December 1995 to continue their talks in the first part of 1996 that was ultimately given effect by the talks at the Burnham military barracks in New Zealand in July 1997. Escalating conflict between the Bougainville Revolutionary Army and the security forces in 1996 and the Sandline crisis in early 1997 prevented the meetings resuming at an earlier date, as had been planned in Cairns, and concerns about security for meetings then proposed for Honiara, Solomon Islands, in May–June 1997 made it difficult to resume the talks.

It was at this point that New Zealand, and later (and to a lesser extent), Solomon Islands and Australia, played critical roles in facilitation and mediation—roles essential to the success of the early stages of the present process. Later in 1997 Fiji and Vanuatu joined Australia and New Zealand in providing the unarmed Truce Monitoring Group and the Peace Monitoring Group which have been so vital in creating the conditions necessary for the peace process to develop.⁸ Their formal duties have included monitoring the truce and cease-fire (respectively) and facilitating other aspects of the peace process. The Peace Monitoring Group is also playing a major

role in facilitating the weapons disposal process. From mid 1999 Australia has played a wider role, through direct facilitation of the process in a variety of ways (transport for negotiation meetings, provision of advisers, funding and facilitation of a major meeting in Townsville on weapons disposal, etc.) and also, on at least one critical occasion touched on below, mediation. Since 1998, the United Nations (primarily through the United Nations Observer Mission on Bougainville—UNOMB) has also played important roles, facilitating various aspects of the process, chairing the negotiations for the political settlement, and overseeing the weapons disposal process. However, perhaps the main role for both the Peace Monitoring Group and the UNOMB has been a less tangible one of creating the secure space in which other developments could take place that first reduced the tensions between former protagonists and then enabled negotiation of the political settlement.

This broad outline of the development of the process indicates that to a large extent the process has been enriched and strengthened by a complex and constantly changing partnership between Bougainvillean groups, the PNG Government, and the international community. It is difficult to see how the process could have either begun or been sustained without involvement of all three.

The centrality of the political settlement

Central to the success of the peace process has been the political settlement. Among the Bougainville factions, there was consensus from the start of the process that a change in political relations with Papua New Guinea would be the key to peace. Those previously fighting for secession were prepared to seek a negotiated settlement rather than a military victory. For them, the key was a referendum on independence. Those previously opposing the Bougainville Revolutionary Army were not necessarily opposed to independence, provided that it occurred in a

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democratic manner, not controlled solely by the Bougainville Revolutionary Army. Those who did oppose independence eventually accepted that a referendum was a democratic way of deciding the issue, provided it was deferred for long enough to enable reconciliation and to allow those supporting independence to evaluate whether or not high autonomy would meet their concerns. For even those opposing independence wanted new political arrangements, arguing that high autonomy would allow Bougainville the freedom to develop its own path of development and its own solutions to its special problems, obviating the need for secession. Once the Bougainville Revolutionary Army and the Bougainville Interim Government agreed to deferral of the referendum, they also attached considerable importance to autonomy, but as enabling the building of capacity needed for successful secession. As for the PNG Government, from the point it engaged directly with Bougainville—at the second Burnham talks, in October 1997—the need to negotiate a new political status for Bougainville was openly accepted as the basis for ending the conflict.

The truce and the cease-fire were able to be maintained in the first two years of the process to a large extent because of the promise of negotiation of a political settlement. The progress of negotiating the settlement in the 19 months from June 1999 to January 2001 was at times painfully slow, so much so that at two or three points there was real fear on the Bougainville side that the Bougainville Revolutionary Army, or elements of it, might abandon the process. There was generally enough progress being made, however, to assure the Bougainville factions that the National Government was in good faith. Deadlock on the key issue of referendum did occur in December 2000, but even then there was no sense of imminent collapse of the process. There was, however, certainly danger of collapse at that point, something which helped prompt the well-

timed intervention of the Australian Minister of Foreign Affairs and Trade, Alexander Downer, who proposed a compromise under which Papua New Guinea accepted that there would be a referendum, and Bougainville accepted that the referendum outcome would not be binding, but instead would be subject to final authority of the PNG Parliament.

Vital to acceptance of the compromise on the PNG side was the unexpected timing of appointment in December 2000 of Moi Avei as the new minister responsible for Bougainville Affairs. Over the subsequent eight months of negotiations for the political settlement, Avei almost single handedly built a relationship of trust with the Bougainville leadership that enabled development of compromises on the most difficult aspects of Bougainville's autonomy demands as well as in relation to the until then intractable weapons disposal issue.

The breakthrough on the referendum issue was critical to assuring the more radical Bougainville leaders of the good faith of the National Government. It also provided the basis for progress in negotiation on weapons disposal. Until then, the Bougainville Revolutionary Army had indicated opposition to negotiating on weapons until there was progress towards a broader political settlement—in essence they were underlining the possibility of a return to conflict unless there was an acceptable political settlement. The referendum issue resolved, they agreed to engage on the weapons issue, beginning with a major meeting of ex-combatants in Townsville, Australia, in February 2001. While it did not resolve the issues, that meeting did improve understanding between the Bougainville factions, enabling them to negotiate a weapons disposal agreement in April–May 2001. That agreement then provided the basis for a subsequent agreement between the Bougainville ex-combatant groups and the National Government in May 2001.

Weapons disposal is of course critical to long-term peace being achieved, and also to reduced local violence and improved internal security in Bougainville. Weapons disposal has been facilitated not only by the progress towards a political settlement in early 2001, but also by the integration of the weapons disposal plan into the wider political settlement in quite an original and inventive manner. In particular, the linkages made between weapons disposal and the passing and coming into operation of the constitutional laws implementing the settlement have contributed to the dramatic progress in the implementation of the agreed weapons disposal plan in the lead up to the parliamentary vote on the constitutional laws on 27 March 2002.

Overview of major elements of the political settlement

The political settlement involves three main elements: deferred referendum, high autonomy, and a complex weapons disposal plan. Among other but nevertheless important matters provided for by the Agreement, perhaps the most important are provision for an amnesty (immunity from prosecution) and pardon in relation to criminal offences committed in connection with the conflict (as discussed below in relation to weapons disposal) and the unusual arrangements agreed for protecting the key elements of the political settlement from unilateral change by the National Government, arrangements now given effect in the constitutional laws implementing the Agreement.

Implementation of the Agreement to end March 2002 mainly involved the passing of two long and complex constitutional laws and partial implementation of the weapons disposal plan.⁹ As for the laws, the first is an amendment to the PNG Constitution which occupied 45 pages in the PNG *National Gazette*.¹⁰ The second is the Organic Law on Peace Building in Bougainville—

Autonomous Bougainville Government and Bougainville Referendum¹¹ (the Organic Law) which itself occupied 99 pages in the same *National Gazette*. These laws ensure that the Agreement itself will continue to be a vital reference point when giving effect to and interpreting the laws, for at many points the laws make reference to the Agreement, requiring things provided for in the laws to be done in accordance with the Agreement.

The way in which the National Government has acted in developing and ensuring the enacting of the constitutional laws has added to the good faith between Papua New Guinea and Bougainville developed in earlier stages of the process. The drafting of the long and complex constitutional laws occurred in just ten weeks after the signing of the Agreement, and was done with the active involvement of advisers to the Bougainvillean parties to the Agreement. In the eyes of the Bougainville leadership, that work together with the efforts made by the National Government in mobilising support for the draft laws in the Parliament in January and March 2002 demonstrated a clear commitment by the PNG Government to the settlement, and should contribute to the development of changed relationships between Papua New Guinea and Bougainville.

It is not possible here to do justice to the complexity not only of the provisions of an Agreement comprising in excess of 70 pages but also the implementing constitutional laws comprising 143 pages. Rather, brief comments are made summarising the main elements of the settlement.

Referendum

A referendum on the future political status of Bougainville is to be held¹² among Bougainvilleans (people entitled to vote in national elections in Bougainville as well as non-resident Bougainvilleans) no earlier than 10 years, but in any event no later than 15 years, after the election of the autonomous

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Bougainville Government. The actual date for the referendum within that the 10–15 year period is to be agreed between the autonomous Bougainville Government and the PNG Government taking account of the achieving of standards of good governance in Bougainville and progress on weapons disposal. The choices offered at the referendum must include independence for Bougainville. Responsibility for conduct of the referendum will be shared between Papua New Guinea and Bougainville election authorities, and international observers are to be invited. The outcome of the referendum will be subject to the final decision-making power of the national parliament, but must also be the subject of consultation between the autonomous Bougainville Government and the National Government. To ensure that the holding of the referendum is fully guaranteed as soon as the constitutional laws come into operation, there should be no need for any further major legislation, for the entire machinery and procedural requirements for the holding of the referendum have been included in the Organic Law.

Autonomy

The autonomy arrangements are radically different from either the existing or previous PNG Provincial Government arrangements. Among other things, they give Bougainville

- a high degree of freedom to choose its own government structures, inclusive of bodies similar to the independent national constitutional office-holders
- the potential to exercise wide powers and functions, including ‘foreign affairs type’ powers
- the ability to establish its own public service, police, judiciary and correctional service
- financial arrangements that partially guarantee grant funding while Bougainville seeks to move to fiscal self-reliance using a wide range of taxation measures

- a system for inter-governmental relations intended to promote cooperation and under which Bougainville will enjoy a high degree of independence from control by the National Government.

Bougainville will have power to choose its own constitution and structures of government (Constitution ss279–287), within broad parameters provided by the constitutional laws (for example, requiring a mainly elected legislature and adherence to basic standards of good governance). Its institutions can include bodies equivalent to the independent office-holders which exercise sensitive functions at the national level (Constitution s321), including the Ombudsman Commission, the Electoral Commission, the Auditor General, the Public Prosecutor and the Public Solicitor. The ability to establish such institutions will depend mainly on financial capacity, as they will not necessarily be funded from the grants paid to Bougainville.

Extensive powers and functions will be available to Bougainville. There is a brief list of 17 National Government powers (Constitution s289(1)), mainly concerning subjects related to international relations or maintaining the integrity of the state (for example defence and foreign affairs, migration, international shipping, international civil aviation). Most other subjects conceivably capable of being covered by law are included in a list of 59 subjects potentially available to Bougainville, including land, mining, the environment, local government, and so on (Constitution s290). There will be a few subjects, such as criminal law, human rights and regulation of foreign investment, where specific limits on Bougainville powers will mean that in a sense the powers will be shared with the National Government. Responsibility for subjects not on either list (ss289 and 290) will be divided between the two governments, in line with the principles underlying the two lists. The process for Bougainville taking over

new powers and functions will involve the giving of 12 months notice to the National Government (to allow for necessary arrangements to be made in relation to budgets, staff, assets and so on). Joint implementation plans will be required which, among other things, are intended to provide for the development of the capacity in Bougainville needed to exercise new powers and functions.

In relation to foreign affairs, Bougainville will be able to enter into international agreements under the authority of the National Government, and can send representatives or observers to regional meetings and organisations with consent from Port Moresby. While all Bougainville powers will be subject to Papua New Guinea's international obligations, the National Government is required to consult Bougainville before entering into new obligations, and international agreements with a purpose of altering the autonomy arrangements will take effect only with Bougainville consent (Constitution s293).

One of the most controversial aspects of the autonomy arrangements during the negotiations for the political settlement concerned Bougainville's demands for powers to establish separate public service, police, correctional service and judiciary. Such powers were eventually agreed, but subject to complex arrangements providing for cooperative links with equivalent national institutions (see Constitution ss305–318 and Organic Law ss7–37). Bougainville's ability to develop such institutions will depend very much on financial capacity, for additional costs (in addition to costs of service provision) involved in establishing such institutions will not be met by grants.

The funding arrangements (Constitution ss324–329 and Organic Law ss38–51) are premised on both Bougainville's intention to reach fiscal self-reliance, and the reality that because of the weak economic base in

Bougainville at present, in the meantime it will have to rely on grants from the National Government. All national taxation collected in Bougainville will be quarantined, with the proceeds of all save customs duties (expected to be phased out according to World Trade Organization proposals over the next 10–15 years), company tax and 70 per cent of value-added tax¹³ being paid to the autonomous Bougainville Government. Revenue from the three taxes mentioned will be allocated towards meeting costs to the National Government of the main grant payable to Bougainville (the recurrent grant). Fiscal self-reliance will be reached when receipts from the three taxes are sustainably greater than the total of the grant, at which point the excess will be shared between Bougainville and the National Government (Constitution ss278(1) and 324). In this way, if the Bougainville economy expands to the point where the Bougainville Government is fiscally self-reliant, Bougainville will nevertheless continue to meet a share of National Government costs.

Bougainville will also have power to collect all taxes other than the three already mentioned, and so will have far wider taxing powers than provincial governments, extending to personal income tax, export taxes, excises and so on. The main grant will be one in respect of recurrent costs, and will be calculated on the basis of the costs of existing functions as well as the costs to the National Government in the year before transfer of new powers or function transferred to Bougainville in the future.

The system for inter-governmental relations includes a 'joint supervisory body' (Constitution s332) responsible for handling the implementation of autonomy. That body can also be used as the first stage in a dispute settlement procedure which either side can invoke, where consultation is required as a first step, failing which mediation or arbitration may be attempted, and in some circumstances the courts may become

involved. The National Government will have no power to suspend the autonomous Bougainville Government or to withdraw powers and functions from it. However, there will be strictly limited powers for the National Government to withhold grant funds as a last resort in cases of serious financial mismanagement of grant funding by the autonomous government.

While a high level of autonomy will be made available to Bougainville when the constitutional laws come into operation and are implemented, it is far from certain that such a level of autonomy will actually develop. Funding will be the key, and the agreed arrangements do not provide firm guarantees of grant funding. In a sense the autonomy arrangements provide for a reverse of the situation experienced by the North Solomons Provincial Government under the Organic Law on Provincial Government, under which the Provincial Government had limited guaranteed legislative powers, but strong guarantees of funding. The latter included a guaranteed minimum unconditional grant to meet costs of most basic government services, and high levels of funding for discretionary spending provided by payment of mining royalties and imposition of retail sales tax (which produced reasonable revenue because of economic activity associated with mining). Under the autonomy arrangements, reflecting the much changed economic conditions in both Port Moresby and Bougainville when compared to 1976 (when the Organic Law on Provincial Government was negotiated), while extensive legislative powers will be available to Bougainville, its guaranteed funding is limited.

Further, movement towards fiscal self-reliance by Bougainville will be possible only with rapid economic growth in Bougainville. Many observers believe that without a return to mining the future scope for major economic development is limited. Of course, the question of re-opening mining operations is a very sensitive one for Bougainville that will

not easily be resolved. Further, even if renewed mining were to be agreed, it is far from certain that investors would be prepared to consider the risks that might be involved in operations in Bougainville.

The weapons disposal plan

The Agreement sets out verbatim the three-stage weapons disposal process agreed in May 2001. The plan is intended to be implemented gradually, depending on readiness in different parts of Bougainville. Initiation of the process in any area was to be originally associated with the withdrawal of PNG security forces, ultimately resulting in their complete withdrawal from Bougainville when weapons disposal was under way in all areas. In fact, withdrawal of the Defence Force proceeded much faster than anticipated by the weapons disposal plan—they were stationed in only three places by late 2001, and were expected to be restricted to just one location (Bonus Plantation, in the north of Bougainville) by April 2002. They would ultimately be expected to leave Bougainville altogether, in accordance with the plan.

The first stage of the plan involves handing weapons to local-level unit commanders of the Bougainville Revolutionary Army and the Bougainville Resistance Forces for storage in secure containers sealed by the UNOMB for verification purposes. The second stage itself involves three distinct steps. First, the weapons are to move to secure containers in a few central locations, under control of more senior Bougainville Revolutionary Army and Bougainville Resistance Forces commanders. Second, after the Parliament passed the constitutional laws implementing the Agreement, the weapons are required to be moved to secure containment with two locks—one held by the commander of the ex-combatant group that has handed over the weapons in question, and the second held by the UNOMB. Third, the constitutional laws will come into

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operation, but only when the UNOMB verifies that the weapons are in secure, double-locked containers, under UNOMB supervision.

The third stage involves consideration of the making of a decision on the final fate of the weapons. That issue must be considered within four and a half months of the coming into operation of the constitutional laws, provided that if no such decision is made the election of the autonomous Bougainville Government may be delayed by agreement of the parties (Papua New Guinea and the Bougainville groups), taking account of progress in disposal of weapons and the security of the weapons disposed of. The UNOMB can also be called on to verify whether there has been substantial compliance with the weapons disposal plan, and whether the level of security of the weapons is conducive to the holding of elections, in which case the parties are to be bound by the UNOMB findings on whether or not elections should be deferred, and if so, for how long.

In fact the third stage has been left extremely open ended. This ambiguity reflects the difficulties in reaching agreement in the final stages of negotiations of the disposal plan. While the Bougainville Resistance Forces and the National Government wanted final disposal of weapons before an election of the autonomous government could be held, the Bougainville Revolutionary Army wanted to leave the issues more open. This was in part a reflection of the continuing suspicion of the Defence Force by the Bougainville Revolutionary Army, and in part reflected the views of some in the Bougainville Revolutionary Army who envisaged that their weapons might ultimately become those of the defence force of an independent Bougainville. The National Government and the Bougainville Resistance Forces were able to live with the ambiguity because of the agreement that elections might be delayed

without either a decision on final disposal or substantial compliance with the agreement on handing in of weapons.

There is a two-way link between the constitutional amendments and the weapons disposal plan because

- the weapons disposal plan put pressure on the National Government to honour its commitment to change constitutional laws, because secure containment of weapons is not required until the constitutional laws implementing the Agreement are passed
- the plan also puts pressure on Bougainville to ensure that secure containment occurs and is maintained not only because the constitutional amendments on both referendum and autonomy do not come into operation until the UNOMB certifies that secure containment of the weapons has occurred but also because the provision for possible UNOMB verification concerning substantial compliance and so on could result in delay of election and operation of the autonomous Bougainville Government and, ultimately, in delay of holding the referendum (for the referendum is not to be held until 10–15 years after the establishing of the autonomous government).

The disposal process has been proceeding well during the first three months of 2002, largely because of the recognition by the ex-combatant groups that progress with disposal would encourage support in the Parliament for passing the constitutional laws implementing the Agreement. By 27 March, over 900 weapons had been handed in, 230 of them classified as 'high-powered', including many automatic weapons captured or purchased from the PNG security forces. It is expected that at least several hundred more weapons remain to be collected.

There are two main factors that could limit continued rapid progress in weapons disposal. The first involves the possibility of

the Me'ekamui Defence Force remaining outside the process. The second involves the lack of progress yet in finalising arrangements for an amnesty and pardon for persons who have or might be accused of criminal offences connected with the conflict. Amnesty and pardon were provided for in the Lincoln Agreement of January 1998, the Bougainville Peace Agreement and the constitutional amendment passed on 27 March 2002 (see Constitution s344). However, there has not yet been action to define in particular the amnesty (immunity from prosecution), in part because of complex legal and political issues involved. Further delay could slow weapons disposal because many ex-combatants have made clear their reluctance to disarm until they are clear on the terms of the amnesty.

Protecting the settlement from unilateral change

A major concern for the Bougainvillean negotiators was to ensure that the agreed constitutional arrangements for referendum and autonomy could not be changed unilaterally once they had been enacted. This issue was of particular importance to the Bougainville Revolutionary Army, who were concerned that having disposed of their weapons following a political settlement, the National Government might then simply amend the Constitution, removing provision for the referendum. Hence, the Bougainvilleans argued for what they called 'double entrenchment', that is, additional provisions concerning the amendment of the constitutional provisions concerning Bougainville, to the effect that amending laws would need to meet all the normal constitutional requirements for such laws, but in addition, the legislature of the Bougainville Government would need to approve the proposed amendments. The National Government eventually agreed to these proposals, the Constitution specifying

a two-thirds majority vote in the Bougainville legislature in relation to amendments to the provisions of the Constitution concerning the referendum, and a simple majority vote of that body in relation to other provisions of the Constitution or the Organic Law.

Arrangements of this kind are unusual except in fully federal systems. They provide a very high degree of protection for the constitutional aspects of the Bougainville political settlement.

The future of the settlement and the prospects for peace

While there is general agreement among the leaders involved in the process that the Agreement and the passing of the constitutional laws needed to implement it represent enormous steps towards achieving long-term peace for Bougainville, there continue to be a number of uncertainties about the future of the settlement, and whether it can provide the basis for sustainable peace. In the space available in this paper it is possible to do no more than highlight just two sets of the major issues involved. Other important issues (such as the future role of Francis Ona and the Republic of Me'ekamui, the possible problems for the National Government in managing the possible 'domino effect' the Bougainville autonomy arrangements may have in other provinces, the possible dangers of impacts in Bougainville of instability in Solomons Islands, and so on), must be left to one side.

Will the constitutional laws come into operation?

There continues to be some uncertainty about when the constitutional laws and the autonomy arrangements under them will begin to operate. Initial uncertainty arises from the requirement for verification by the UNOMB that the second stage of the weapons

disposal plan is complete before the constitutional laws come into operation. The indications are that there is strong awareness among ex-combatants that the onus is on them to ensure that the UNOMB is in a position to verify completion. Provided acceptable amnesty arrangements can be put in place and uncertainties concerning the Me'ekamui Defence Force resolved, the indications are that continued good progress in relation to weapons disposal can be expected.

There has also been some speculation that if progress in the weapons disposal process is not rapid, then the question of the laws coming into operation may not arise until after the PNG general election scheduled for mid 2002. The suggestion is that if a new government were to take office after the election, it might oppose the laws coming into operation. However, the relevant provisions of the laws require their being brought into operation as soon as verification occurs—there is no room for exercise of a discretion on the part of the government.¹⁴ As a result, provided weapons disposal occurs in accordance with the agreed plan, there should be little room for argument about the coming into operation of the laws. Further, there was bi-partisan and unanimous support in the Parliament for the constitutional laws implementing the Agreement, offering the prospect of support for operation of the laws across all parliamentary groupings likely to be in government after the election.

Of course, if there were to be problems with the coming into operation of the laws, the potential for renewal of conflict remains. There would also be the possibility of renewal of exploration by Bougainville leaders of closer links with western areas of Solomon Islands, something there has been pressure to explore at various times as a result of insecurity in Solomon Islands since the June 2000 coup.

Implementing autonomy and dealing with the developing dynamics of Bougainville

Perhaps the most important role for any system of government is to facilitate the development of a framework, involving government, the private sector and 'civil society', within which the ever-changing dynamics of the society the system is responsible for can be responded to and—in a general sense—managed. In a society where problems and challenges are great, expectations are high, the capacity of government limited, and the private sector very weak, it can be a short step for significant numbers of people to lose faith in the system and explore alternatives. The experience of the generally highly regarded North Solomons Provincial Government stands as a stark warning here.

The inability of that government to meet the high expectations of ordinary Bougainvilleans following the 1975–76 attempted secession of Bougainville was undoubtedly a factor in the origins of the conflict in 1988. Many had expected a Bougainville Government with powers and capacity close to those of an independent National Government, able to deal with the most pressing problems of Bougainville—for example, able to establish and administer policy on mining, the environment, land, freedom of movement and squatters. As a result of the very limited ability of the North Solomons Provincial Government to meet those expectations, ordinary people saw little prospect of their problems being dealt with through the existing provincial government system. As a result, secession and independence appeared to offer the promise of a panacea.

The expectations of Bougainvilleans of the autonomy arrangements under the political settlement are very high, both because they have been negotiated as a significant part of a package intended to end

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a bitter conflict and because many Bougainvilleans believe that with autonomy close to independence they will have the ability to change society in Bougainville for the better, and in ways that reduce the likelihood of a repetition of the conflict of 1988–97. Among other things, there are plans to develop a system of government, courts and policing more linked to traditional authority, in part with a view to traditional authority being strengthened and contributing to increased social cohesion. Whether or not such aims are achievable is not so much the issue here—rather, the point is that expectations are high.

At the same time, however, the problems and challenges of post-conflict Bougainville needing to be addressed by the autonomous Bougainville Government will probably be even greater than those faced by the North Solomons Provincial Government from 1977. Not only are there massive social problems to deal with arising from the impact of the conflict, but the economy is weak. As a result, opportunities for economic advancement for Bougainvilleans (including ex-combatants and young men with scanty education) limited, and the revenue base for the Bougainville Government can also be expected to be poor for a long time to come, something that will limit the ability of the government to develop its capacity and programs.

There is room for considerable uncertainty about the extent of the implementation of the autonomy arrangements that will occur. The relevant provisions of the Agreement and the constitutional laws do not provide for automatic achievement of the goal of high autonomy. Rather, they provide for a process for developing and moving towards that goal over some years. The speed of progress will depend on many factors, including the financial resources and administrative capacity available in Bougainville. Both can be expected to be in short supply in the early years of operation of the autonomy arrangements, just when pressures and

expectations can be expected to be highest. The impressive administrative capacity of the North Solomons Provincial Government has been severely undermined by the conflict. The weak economic base in Bougainville suggests that fiscal self-reliance will take a long time to achieve, so that the autonomous Bougainville Government can expect to be heavily dependent on National Government grants and donor funding. In general, however, the financial arrangements under the settlement do not guarantee significant new financial resources from the centre, and indeed, with the National Government's mining and petroleum revenues expected to fall over the next 10 years, Port Moresby will have limited capacity to fund the autonomy arrangements. Further, those arrangements are complex, and will require both administrative capacity and goodwill on the part of key agencies at the national level. Again, there is limited administrative capacity at the centre.

These factors suggest that the ability of the autonomous Bougainville Government to respond to the unfolding dynamics of post-conflict Bougainville may be limited, in which case the expectations of ordinary Bougainvilleans concerning the likely impact of the political settlement may not be met. If that does prove to be the case, there could be considerable dangers for both the autonomous Bougainville Government and the National Government.

In this regard it is significant that one of the most unprecedented aspects of the settlement is that it keeps open the possibility of Bougainville secession (following the deferred referendum on independence), something that will perhaps both contribute to the expectations in relation to autonomy and keep open the possibility of an alternative should those expectations not be met. An understanding of this possible interaction between the autonomy and referendum aspects of the settlement should ideally put pressure on the National Government to ensure that the autonomy

arrangements are seen by most Bougainvilleans as a success, thereby encouraging support for continued integration of Bougainville into Papua New Guinea when the referendum is held. Such pressure has had a strong impact on the policies of the Government of France in relation to New Caledonia, since the Matignon Accord. However, it is not as yet clear that the issue has yet been widely understood in Port Moresby. Perhaps more importantly, it is most unlikely that Papua New Guinea will have the financial resources available to emulate French policies.

Hence, among the most pressing concerns for the future of the Bougainville peace process should be attention to the twin tasks of encouraging the development of broad-based economic development in Bougainville, and building of the capacity, especially (but not only) in Bougainville necessary to ensure that the autonomy arrangements are implemented. In this regard, the role of governments of countries in the region—especially Australia and New Zealand—can be expected to be of considerable importance in providing assistance to Papua New Guinea and Bougainville. In a very real sense, the tripartite partnership that enabled the peace process to develop may need to be maintained and developed in new ways if the process is to be sustainable in the longer term. On the other hand, a different kind of sustainability is also important—that is, the autonomy arrangements must be established in a way that is sustainable. There should not be heavy dependence on donors, especially in the longer term.

Finally, while it is appropriate to explore possible problems inherent in the political settlement, it must also be remembered that there is a high degree of commitment in Bougainville and Port Moresby to the peace process, and considerable energy and, at times inventiveness which has constantly been committed to the process. It is this, as much as anything else that has ensured that there has

been continuous—if sometimes incremental—progress since 1997. Undoubtedly that same energy and inventiveness can be brought to bear in the process of developing the autonomy arrangements.

Conclusion

By any measure, the Bougainville peace process has achieved a great deal, and the political settlement is very much at the heart of the success so far. While the negotiation of the settlement was protracted, and not without difficulty, the National Government has shown good faith throughout the process, and especially during the implementation that has occurred since the signing of the Agreement. The commitment shown in drafting and ensuring the passage through Parliament of the constitutional laws is already contributing to altered perceptions of Papua New Guinea in Bougainville.

The key question now is whether this positive momentum can be maintained. In this regard, it should be remembered that at least until weapons disposal is complete and the autonomy arrangements operating, the peace process will still be on foot. There is, therefore, still a long way to go before there can be certainty that the political settlement does in fact provide the basis for sustainable peace. Of particular concern in this regard is whether the autonomy arrangements can provide a workable framework within which the complex dynamics of Bougainville and its relationships with the rest of Papua New Guinea can unfold without violent conflict. Many of the forces that contributed to the conflict from 1988–97 continue to operate, and the legacies of conflict have added to the complexity of the situation. While the conflict and the process have thrown up great energy and inventiveness in terms of responses to both problems and opportunities in Bougainville, the weak economic base and the limited funding and administrative

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capacity available in both Port Moresby and Bougainville suggest that the high expectations of the political settlement may not readily be met when it comes to establishing and developing the autonomy arrangements. As with earlier phases of the process, there will probably be a need for an ongoing close partnership between Port Moresby and Bougainville, especially in the early stages of implementing autonomy, and a continuing need for close involvement of the third partner in the peace process—that is, the international community, and especially Australia and New Zealand.

Notes

- ¹ To amend the Constitution or to make or alter an organic law (see note 10 below) two votes of high majorities—normally two thirds absolute—separated by at least two months are required. In the case of the laws giving effect to the Bougainville Peace Agreement, the first vote occurred on 23 January 2002 and the second on 27 March 2002. They were also unanimous.
- ² There is an extensive literature on the underlying conditions contributing to the conflict—see May and Spriggs 1990, Connell 1991, Ghai and Regan 2000, Denoon 2000 and Regan 1998a, and the sources they refer to, and also the bibliography prepared by Wesley-Smith (1992). For discussion of the development and unfolding of the conflict see: May and Spriggs 1990; Connell 1991; Spriggs and Denoon 1992; Regan 1998a, 1998b, 1999 and 2002a.
- ³ The Bougainville Interim Government was the civilian government associated with the Bougainville Revolutionary Army established in 1990, with Francis Ona as President and Joseph Kabui as Vice President.
- ⁴ The Bougainville Transitional Government was the provincial government for Bougainville, re-established with a name change in early 1995, the North Solomons Provincial Government having been suspended in 1990. The name change was to emphasise the role of the Transitional Government in negotiating a transition from provincial government to the 'highest possible autonomy' espoused by Miriung.
- ⁵ Following the Lincoln Agreement of January 1998, Ona's opposition to the peace process took the form of for a second time declaring Bougainville independent, and announcing the Republic of Me'ekamui (roughly translated as 'sacred land' in the Nasioi language of Central Bougainville). In fact Ona has limited control of only a small part of the mountains of central Bougainville. The Me'ekamui Defence Force is a force of between 100 and 200 men, based on what was once 'A' Company of the Bougainville Revolutionary Army.
- ⁶ See, for example, the 1992 report of a government committee on the Bougainville crisis chaired by Sir John Kaputin (Kaputin 1992).
- ⁷ For a history of the South Pacific Peace-Keeping Force, see Breen 2002.
- ⁸ On the origins and development of the Truce Monitoring Group and the Peace Monitoring Group see Regan, 2002b, and for discussion of the operation of the Truce Monitoring Group, see Adams 2001, and of the Peace Monitoring Group, see Wehner and Denoon 2002.
- ⁹ Further implementation in relation to developing the autonomy arrangements will depend largely on progress in implementation of the weapons disposal plan (due to the linkages that plan provides to the coming into operation of the constitutional laws).
- ¹⁰ See PNG *National Gazette*, No.G143, 12 November 2001.
- ¹¹ Under the PNG constitutional system, organic laws have almost the same status in the hierarchy of laws as the Constitution itself. In general the same rules as to procedures and majorities required to make and alter apply to both amendments to the Constitution and the making and altering of organic laws.
- ¹² Constitution ss338–343, and Organic Law, ss52–63 and Schedule 1.
- ¹³ The other 30 per cent of value-added tax collected in Bougainville will be paid to the Bougainville Government, consistent with the arrangements for sharing value-added tax collections between the National Government and the provincial governments.

- ¹⁴ See Constitutional Amendment (Peace-building in Bougainville—Autonomous Bougainville Government and Bougainville Referendum, Preamble and s2, and Organic Law, Preamble).

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