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# The Struggle for Self-determination in Scotland and Bougainville

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## **Abstract**

This paper analyses and compares elements of the political, economic and socio-cultural environments of Scotland and Bougainville as they relate to their respective self-determination movements. While the geographic and socio-economic environments of the two are literally a world apart, the paper argues that the drivers of nationalism and ideological goals are similar.

The paper accordingly contends that Scotland's successful referendum in 2014 provides a useful case study to identify aspirational structures, strategies and processes that could apply to the forthcoming referendum on Bougainville, planned to be conducted before 2020. Drawing on the lessons from Scotland, the paper highlights the potential opportunities for a legitimate, democratic and violence-free referendum on Bougainville within the next three years.

# The Struggle for Self-determination in Scotland and Bougainville

## Introduction

The Bougainville self-determination referendum, due to be held before 2020, is increasingly the focus of observers, academics and the government machinery in both Papua New Guinea (PNG) and Bougainville, as well as countries in the region, notably Australia and New Zealand. There are significant issues that remain to be negotiated before the referendum is held. Accordingly, and given the history of violent conflict on Bougainville, and ongoing tensions on Bougainville and between Bougainville and Port Moresby, it is useful to consider what might be learned from other recent referendums.

In September 2014, for example, a peaceful referendum was successfully conducted on the question of whether Scotland should become independent from the UK. The issue had been the source of both violent and non-violent conflict for centuries—and it is probably no coincidence that the referendum was scheduled soon after the 700<sup>th</sup> anniversary of the legendary battle of Bannockburn in which the Scottish defeated the English during the bloody First War of Scottish Independence.<sup>1</sup>

Throughout the late 20<sup>th</sup> century, deep-seated economic and identity issues in Scotland, which underpinned the enduring but largely peaceful nationalist movement, developed further momentum, leading to the establishment—through a referendum held in 1997—of a semi-autonomous Scottish Parliament.<sup>2</sup> This led to a demand, agreed in 2012, for a referendum on independence.<sup>3</sup> While the majority of Scottish people voted in 2014 against independence from the UK, the referendum left a significant political legacy which is likely to result in further constitutional turmoil for the UK.<sup>4</sup>

The referendum in Scotland was both 'historic and precedent setting'.<sup>5</sup> Such referendums are often fiercely-contested events in which the legitimacy of the process can be widely and, at times, violently challenged. While the Scottish referendum has not dissolved the desire for greater autonomy and power distribution within the UK, it was conducted peacefully, the outcome has been accepted as legitimate, and there is no indication that the independence movement has been violently radicalised as a result. This establishes it as a useful case study, particularly given that PNG and its neighbours—as well as the people of Bougainville—will be keen to ensure that the Bougainville referendum is just as peaceful, democratic and legitimate.

As in the UK, notably in Northern Ireland, secessionist-related violence has been an unfortunate feature of PNG since its own independence from Australia, with Bougainville the epicentre of a bloody war from 1989 to 1998. The conflict, largely between the Bougainville Revolutionary Army and the PNG security forces, has been described as 'the deadliest, bloodiest, and most destructive ... in the South Pacific since World War 2'.<sup>6</sup> A process of post-conflict peace building has been underway since 1997 but is not complete and remains fragile.<sup>7</sup> The final element of the 'Bougainville Peace Agreement', signed in 2001, is for a referendum on self-determination to be held before 2020, the result of which requires ratification by the PNG government.

What happens in Bougainville is important to Australia. While the peace process has been widely lauded as successful—and Bougainville has not since seen a repeat of violence on the scale experienced during the 1990s—the final 'crunch' in the process poses some risk of re-igniting violent conflict.<sup>8</sup> As PNG's closest neighbour and most significant security partner, any such recurrence would have direct implications for Australia and its relationship with other countries in the region.<sup>9</sup>

Potentially-useful comparisons between Bougainville and Scotland may not be immediately apparent to the casual observer. The two are literally a world apart both geographically and in socio-economic terms, as well as in their respective political histories. However, as this paper will demonstrate, while the geographic and socio-economic environments are different, the drivers of

nationalism and ideological goals are similar. With that in mind, Scotland's successful referendum provides an opportunity to identify aspirational structures, strategies and processes that could assist in ensuring the upcoming Bougainville referendum is as peaceful and legitimate as Scotland's. The fact that the risk of violent secessionist conflict is far greater in Bougainville than in Scotland only serves to underscore the importance of understanding how violent conflict may be avoided.<sup>10</sup>

This paper will analyse and compare elements of the political, economic and socio-cultural environments of both Scotland and Bougainville as it relates to their self-determination movements. It is structured in three parts, followed by a short conclusion. Part 1 analyses the basis of nationalism in both places and establishes the case for comparison. Part 2 examines some of the systems, processes and structures that were established to manage the referendum process in Scotland, and compares them with preparations for Bougainville. It also outlines the relevant roles of key actors. Part 3 then discusses the implications of identified gaps, drawing also on other case examples. The paper concludes by highlighting the potential opportunities that exist for a legitimate, democratic and violence-free referendum on Bougainville within the next three years.

## Part 1: The case for comparison

Marc Helbling has described democracy and nationalism as 'mutually dependent logics'.<sup>11</sup> Nationalism is commonly defined as a desire by a large group of people who share the same culture, history and language, for example, to form a separate and independent nation of their own.<sup>12</sup> Democracy is a system in which people contest ideas of how best to organise themselves, which includes questions about what constitutes a nation, how cultural and territorial boundaries should be drawn and, ultimately, who is allowed to participate in a particular nation's democratic system. Within such democracies, referendums have increasingly been used as an instrument to redefine these boundaries.<sup>13</sup> It is, therefore, important to understand the drivers of nationalism when seeking to optimise a democratic referendum process.

### The basis of Scottish nationalism

Scotland's union with England is now over 300-years old and some ten generations of Scottish people have been born into this union. Yet the desire for independence is strong enough to have forced the recent referendum on the issue.

Bloody conflict has been a strong feature of the relationship through the centuries, beginning with invasion by the Romans in 80AD. The wars between the two countries have also produced some legendary heroes, such as Robert the Bruce, who famously defeated the English at Bannockburn, and William Wallace, a Scottish landowner who was one of the main leaders during the Scottish Wars of Independence. These characters of the late 13<sup>th</sup> century have since become icons of nationalism in Scotland.

*The Act of Union* in 1707 established the current union between the two countries on the basis of the economic advantages it would provide to Scotland. However, it was not a peaceful event and the Jacobite rebellions that followed over the early part of the 18<sup>th</sup> century ended with the bloody defeat of the Scottish at Culloden in 1746. This defeat was supposed to have marked the end of Scottish independence. However, the aftermath of the battle and subsequent crackdown on Jacobitism in Scotland by the English victors was brutal and continues to arouse strong feelings of nationalism today.

Interestingly, one of the many myths of this event is that it was a purely Scottish versus English affair, when in fact far more Scots supported and fought on the English side than on the side of the Scottish Jacobites. This lack of unity among the Scottish people on the issue of independence is also a feature of today's nationalist movement. However, these events also demonstrate the enduring impact that bloody conflict and oppression can have in perpetuating nationalist sentiment.

In the 18<sup>th</sup>, 19<sup>th</sup> and early 20<sup>th</sup> centuries, secessionism waxed and waned, with some significant forces working against it. These included the expansion of the Protestant movement into Scotland, the shared threat of France, and the commercial opportunities provided through unity.<sup>14</sup> It also seems likely that sentiments regarding the success or otherwise of the union were clouded by the impact of the two world wars in the first half of the 20<sup>th</sup> century.<sup>15</sup> For example, Scotland's heavy industries benefited from the manufacturing-related demands of the wars, while the interventionist and centralised style of the Westminster-based government improved social conditions and development in Scotland, with the government in London delivering what mattered most to the Scottish people—jobs, wages and welfare.<sup>16</sup> Indeed, the creation of the 'modern welfare state' was a key factor in holding the UK together, and correlated directly with a decline in support for independence in this period.<sup>17</sup>

However, in the decades following the end of World War 2, there was renewed support for the independence movement that culminated by the end of the century in the UK agreeing greater autonomy for Scotland. The movement was fuelled by electoral dismay with the industrial decline of Scotland as its industries (coal, shipping and steel) became less competitive under the weight of union power and increasing globalisation. Nevertheless, at a referendum in 1979, the movement failed to re-establish a Scottish Parliament, despite a majority of voters agreeing, as the percentage of people voting was insufficient to achieve the constitutional threshold of 40 per cent support from all registered voters. Eighteen years later, a further referendum resulted in the re-establishment of the Scottish Parliament in 1998.

Margaret Thatcher, who served as Prime Minister of the UK during the 1980s, is credited by many with inspiring the essential idea that lies behind the contemporary independence campaign, reviving the notion that 'Scotland is ruled by a foreign government that it has not elected'.<sup>18</sup> Despite the fact that some sectors of the economy in Scotland flourished during this period, the devastation of the industrial part of Scotland's economy under her tenure dominated politics and fuelled the independence movement.<sup>19</sup>

*The Scotland Act 1998* was legislated to appease the demands of Scotland by devolving some powers and creating a separately-elected Scottish Parliament and Executive, however, it had only a temporary impact on stemming secessionist sentiment.<sup>20</sup> The Scottish Parliament's powers were limited and, subsequently, the desire grew for more Scottish influence over a range of decisions.<sup>21</sup> Once the Scottish National Party formed a majority government in 2011, it was able to ensure that a referendum on independence became a political and legal reality through the Edinburgh Agreement, signed in October 2012 between the Scottish Government and the UK Government.

Naturally, a significant degree of interdependence between Scotland and the rest of the UK has also developed over the three centuries since the union was formed. There is also evidence to suggest that Scottish identity and sentiment has, in fact, been decreasing gradually since the advent of devolution, reflected by data indicating that the sense of 'Britishness' in Scotland has never been higher than at the time of the referendum in 2014.<sup>22</sup> Observers have concluded that many Scots have developed a sense of British identity that coexists with their Scottish identity.<sup>23</sup> Importantly also, commentators assess that political decision-making in Scotland is being decided not on the basis of national identity but rather on pragmatic evaluations about economic prospects, trustworthiness and political personnel.<sup>24</sup>

### **The basis of Bougainvillean nationalism**

Imperialism, invasion, bloody battles, suppression and violent secessionism are also features of Bougainville's past. Although its written history is not as ancient as Scotland's, Bougainville is known to have been inhabited for at least 2000 years.<sup>25</sup> It was given its name by the French explorer Louis Antoine de Bougainville, who explored it in the late 18<sup>th</sup> century. Germany subsequently annexed the island in 1885, as well as others in the Solomon Islands archipelago, before Britain and Germany split the archipelago between them in 1899.

It was this decision that contributed to the nationalist sentiment in Bougainville today, as it separated the inhabitants from their culturally and ethnically-aligned neighbours in the Solomon

Islands, instead placing them as part of PNG, with which they do not share the same connections. Britain established the first colonial station in 1905, and both Australia and Japan subsequently occupied Bougainville for parts of the first half of the 20<sup>th</sup> century. The Japanese occupation of Bougainville in World War 2 was the source of particularly fierce fighting.<sup>26</sup> Although these events are not in the living memory of most of those actively involved in the pro-independence movement today, these historical grievances have been used to fuel the contemporary nationalist movement in Bougainville.<sup>27</sup>

Although they have adapted to changing circumstances, the traditional social structures on Bougainville are still predominant today.<sup>28</sup> Bougainville society is made up of more than 20 different language groups and is distinctly tribal, with the population living mostly in small rural villages or settlements, with subsistence farming and fishing still the predominant sources of livelihood. However, Bougainville society (like much of the South Pacific) is not homogenous, as its languages, culture, land-holding status, religion and politics are relatively diverse.<sup>29</sup>

Despite these social divergences, there are also features of Bougainville that unify and set it apart from other parts of PNG. These forces have contributed to what is referred to as a 'pan-Bougainville' identity that has emerged from the colonial era. Bougainville's cultural practices are distinct from the rest of PNG in that its society adheres to a matrilineal tradition of inheritance and succession.<sup>30</sup> Land ownership has a 'customary' basis, and an individual's identity and status are closely linked to maternal clan lineage and land lineage. The sense of identity and connection with the land is qualitatively different to European notions of land ownership and is an important element of the contemporary nationalist sentiment.<sup>31</sup>

Other features that have influenced secessionist tensions are the traditional societal notions of 'balanced reciprocity' and the absence of centralised political structures.<sup>32</sup> A highly-visible point of difference between Bougainvilleans and other Papua New Guineans is their skin colour. This point of difference is commonly drawn upon in the narrative and rhetoric of the nationalist movement. Jill Nash and Eugene Ogan cite the example of 'redskins' of mainland PNG dubbing 'black skin' Bougainvilleans as *bilong sospen*, which translates as 'the burnt bottom of the cooking pot'.<sup>33</sup>

The prominence of Bougainville in the national and international agenda for PNG does not correlate with its relatively small size and population. Bougainville is comprised of two mountainous islands (Bougainville and Buka) and a number of smaller atolls, and is geographically remote from the mainland of PNG. It is 1000 kilometres from the capital of PNG and only around 4 per cent of the total landmass of PNG, and 2 per cent of the population.<sup>34</sup> However, it was the wealth of natural resources in Bougainville that provided PNG with an 'economic lifeline' in the 1970s and 80s, and earned it recognition by PNG as a place of special significance.<sup>35</sup>

Much of the literature associates the current secession movement on Bougainville with the violence that erupted between 1988 and 1997. However, conflict over independence was not new to Bougainville, with earlier movements dating back to the 1950s.<sup>36</sup> Certainly, in the 1970s, violence erupted over a failed bid for self-determination at the UN, which was largely a reflection of local grievances over the Panguna mine (which had been established at the behest of Australian colonial authorities, who viewed it as the best way to financially underwrite PNG's forthcoming independence). A negotiated settlement in 1976 resulted in Bougainville being provided increased self-governance powers, as part of a wider establishment of provincial governments. Secessionism was temporarily placated (or at least suppressed below any significant level of violence) by these increased autonomy arrangements.

The leaders of Bougainville's secessionist movement have obviously not had the international or Hollywood profile of the legendary medieval characters of Scotland (particularly William Wallace and Robert the Bruce). In 1988, what became known as the 'Bougainville crisis' erupted when the simmering anger of a group of militant landowners transformed into a violent campaign against the Panguna mine, which subsequently led to a PNG military intervention. Francis Ona emerged as the leader of these uprisings and took on local hero status. He declared the independence of the 'Republic of Me'ekamui' in 1990 and later himself as 'King of Me'ekamui' in 2004.

It was during this period that there was a convergence of historical grievances with the contemporary grievances that stemmed from land and environment mismanagement, as well as what was perceived as inequitable distribution of royalties from the mining enterprise in Bougainville.<sup>37</sup> The initial conflict in 1988 evolved into a complex web of clashes not only between the Bougainville Revolutionary Army and PNG security forces but also among factions within Bougainville.

This lasted until a truce and ceasefire were agreed in 1998.<sup>38</sup> The costs of the conflict were substantial, not just in terms of lives lost but also in terms of the damage to civil society, infrastructure and the personal toll on the population. A lengthy process of peace negotiations occurred between 1997 and 2001, culminating in the Bougainville Peace Agreement.

This agreement established two core provisions: the establishment of Bougainville as an autonomous region with its own constitution and government within PNG, and a referendum on the issue of its statehood to be deferred until 10 to 15 years following the establishment of an Autonomous Bougainville Government. The constitution of what became known as the Autonomous Region of Bougainville was adopted in 2004, and the first Autonomous Bougainville Government was elected in 2005, meaning that the referendum is scheduled to be held before 2020.

Despite the Bougainville Peace Agreement and the widely-lauded success of the peace process so far, the underlying contributing factors to the violent secessionism that occurred in the 1980s and 90s remain unresolved—and are continuing to fuel secessionist sentiment. The promised autonomy package has been slow to materialise, with the PNG Government being slow to transfer funding, powers and functions to the Autonomous Bougainville Government.

This has stifled Bougainville's development progress. Grievances relating to the Panguna mine also remain. Its closure negated the underlying basis for the violence but the debate continues—and is likely to escalate—on the issue of whether it should be reopened on economic grounds.<sup>39</sup> In addition, issues such as high rates of unemployment in young men, and a lack of unity within Bougainville regarding independence are still present, and add to the risk of violence should tensions escalate.<sup>40</sup>

## Part 2: Referendum arrangements

This part of the paper examines some of the systems, processes and structures that were established to manage the referendum process in Scotland, and compares them with preparations for Bougainville's referendum. It will also discuss the relevant roles of key actors.

### The political environment

The autonomy arrangements for Scotland enacted in 1998 did not sufficiently address all the desires for greater independence. *The Scotland Act* provided for a parliament elected by a system of proportional representation, with primary lawmaking and limited tax-raising powers, but funded largely through a system of grant allocation from London. The limitations of these powers began to frustrate elements within Scotland who perceived that the incumbent governments were slavishly following the priorities set by London. The Scottish National Party eventually harnessed these frustrations and won power in 2011. Interestingly, this victory was largely based on competence to govern and not on a platform of secession from the UK.<sup>41</sup>

The political environment in the UK at the time of the Scottish referendum was highly complex. Democracy was not an issue. However, a number of unresolved issues heralded a potentially-significant period of change within just a few years in relation to the UK's borders and constitution, and also in regard to its global economic status. There had been no clear winner in the general election of 2010, and the incoming government had only been able to form government through a coalition arrangement.

This made leadership more tenuous and created an environment in which political compromises were common, driven by the strong desire of the incumbents to quell domestic political frictions.



Among the compromises that ensued was the 2012 agreement to hold an independence referendum on Scotland and a further pledge in 2013 to hold a referendum on the question of whether Britain should remain within the EU by 2017.<sup>42</sup>

The referendum in Scotland has been described as ‘remarkable’ and ‘precedent setting’ for good reasons.<sup>43</sup> Despite the massive ramifications that a break-up of the UK could have both domestically and internationally, it was remarkable that the two governments worked so productively to agree that the referendum would be conducted, and then to ensure it was conducted legitimately and peacefully. This has been attributed by many to the high levels of public engagement in the process and the inclusive style of politics that existed at the time.<sup>44</sup>

For Bougainville, the success of the ‘final crunch’ in the Bougainville Peace Agreement (the promised referendum on self-determination) will depend on the propitious political desires of both the Autonomous Bougainville Government and the PNG Government, as there is still much left to provide for and to negotiate.<sup>45</sup> The UN-backed Lincoln Agreement (on Peace Security and Development on Bougainville) that was signed in January 1998, and the subsequent Bougainville Peace Agreement of August 2001, provided for a political solution to the bloody conflict but were only the first steps in a long process of resolving the tensions between Bougainville and PNG.<sup>46</sup>

While there has been some progress in implementing the requirements of the Bougainville Peace Agreement, most commentators agree that the governance capacity of Bougainville (and PNG) is weak, under-performing in the delivery of essential public services such as health and education, and severely constrained by inadequate funding allocations.<sup>47</sup> The Autonomous Bougainville Government’s 3<sup>rd</sup> House of Representatives was inaugurated in June 2015, with President Momis heralding that Bougainville is:

[On the] threshold of perhaps the most important, and portentous, five years in [its] history and that to achieve all that is necessary in that period will require great unity, a tremendous sense of purpose, intense energy and an unwavering commitment to the course.<sup>48</sup>

Momis went on to outline a very full agenda for his new government, much of which was aimed at contributing directly to the preparation, legitimacy and transparency of the referendum process. However, while the Autonomous Bougainville Government was set up with much wider powers than were established for Scotland in 1998, delays in the transfer of these powers, together with the necessary funding, have constrained true autonomy for Bougainville.<sup>49</sup>

Peter Jennings and Karl Claxton contend that the PNG Government’s failure to fulfil its responsibilities under the Bougainville Peace Agreement, which are now significantly in arrears, is fuelling Bougainvillean resentment of the PNG central government.<sup>50</sup> As Joanne Wallis identifies, the PNG Government’s tardiness may be motivating secessionist sentiment,<sup>51</sup> with Momis hinting that the lack of progress may be a deliberate ploy to provide reason for the PNG Government not to ratify the referendum outcome, asserting that:

When the National Parliament comes to make its decision on implementation of the referendum outcome, [and] if there are serious weapons disposal and good governance [concerns], they will be free to argue that it will not be safe for the people of Bougainville if independence is considered.<sup>52</sup>

Mining and the issue of fiscal self-reliance present both a significant opportunity and challenge to the referendum process. At present, Bougainville’s internally-generated revenue accounts for only around ten per cent of its annual budget.<sup>53</sup> The Bougainville Peace Agreement supported Bougainville’s long-term goal of fiscal self-reliance and the subsequent tax law provisions placed significant aspects of potential mining revenue under the direct control of the Autonomous Bougainville Government. Momis has also identified that the timeline for the referendum is placing significant pressure on the requirement for more rapid growth in the economy, with the re-opening of the Panguna mine seemingly the only realistic option to meet the required timeframe.<sup>54</sup>

While there appears to be significant public support on Bougainville for the re-opening of the mine (albeit with considerably revised financial arrangements), Anthony Regan considers it an

unlikely outcome.<sup>55</sup> He contends that the Autonomous Bougainville Government has inadvertently generated a 'new political economy' in Bougainville in which outside 'spoilers' are significantly undermining efforts to re-open the mine, including by talking up the risks of reigniting violent conflict. However, without a mining-generated boost to its economy, the transition arrangements for independence would probably need to be lengthy, which would likely be problematic as the public would be expecting a rapid transition in the event of a 'yes' outcome.

Like in Scotland, Bougainvilleans are also not united in their views on the levels of autonomy required. The crisis left Bougainvilleans roughly divided between those for who nothing short of complete secession from PNG will suffice (pro-independence) and those who desire autonomy but wish to remain within the nation state of PNG (pro-integration). Extensive reconciliation and nation-building efforts have ensured that both camps support the need for Bougainvilleans to be given a real choice through a genuine referendum process.<sup>56</sup> However, the followers of Francis Ona present a particular challenge to the reconciliation process as they intentionally remained disengaged from the peace and constitution-making processes, and have established their own government institutions, including security control of the area in the vicinity of the Panguna mine area.

The death of Ona in 2005 and a subsequent change in leadership has enabled elements of Me'ekamui to become more involved in the peace process and more engaged with the Autonomous Bougainville Government. A 2013 study of the security situation in Bougainville has concluded that the Me'ekamui group no longer poses as significant a threat to peace and stability as previously.<sup>57</sup> Continuing engagement in the peace process by such dissenting groups—and more broadly with the Autonomous Bougainville Government—is important to ensure the political legitimacy of the Autonomous Bougainville Government, regardless of Bougainville's future within or outside of PNG.

It is perhaps a sign of significant optimism for continued peace in Bougainville, and for the referendum arrangements, that Momis was re-elected President of the Autonomous Bougainville Government in 2015 by a significant margin. His electoral platform included support for re-opening the Panguna mine. He is also perceived by most as being pro-integration. It was also significant that Momis had the publicly-declared support of Me'ekamui's leadership, who are the main potential spoilers of both a re-opening of the mine and the referendum process.<sup>58</sup>

Finally, it is important to consider the concerns of PNG that secessionism in Bougainville would catalyse demands from other provinces for independence, an important issue given PNG's relative fragility as a nation.<sup>59</sup> Nation states which experience the challenges of accommodating the secessionist demands of regions are understandably fearful that it will have a motivating impact on other regions or provinces. However, fears of a domino effect from secessionist movements are arguably exaggerated, and the independence of Eritrea, Timor-Leste and Kosovo are examples where there has been no resultant spread of secessionism.<sup>60</sup>

## Fundamental provisions for a referendum

### *Legal authority*

The signing of the Edinburgh Agreement in October 2012 confirmed the Scottish Parliament's power to deliver a referendum, which has been praised as a significant example of effective democratic dialogue and conciliation.<sup>61</sup> The Scottish National Party's majority government brought the question to a head in January 2012 with the announcement of its intention to hold a referendum towards the end 2014. Initially, there was some discussion as to whether the UK Government might challenge the legal basis on which the Scottish Parliament could pass the requisite legislation. However, a pragmatic assessment of the potential backlash from Scottish voters ensured that course was not pursued.

The process of determining the requirements of the referendum process involved multiple levels of government in both the UK and Scotland, and was of fundamental importance in ensuring that the result would be accepted regardless of the outcome.<sup>62</sup> The Edinburgh Agreement established

that the referendum would be involve a single question, that the rules would be set by Scottish-elected institutions, and that it should be conducted in a fair, transparent and legitimate way so as to command the confidence of stakeholders and deliver a result that would be respected.<sup>63</sup>

Authority was then formally devolved to the Scottish Parliament to legislate the detailed rules. Two pieces of legislation were accordingly enacted: *The Scottish Independence Referendum (Franchise) Act* in August 2013 and the *Scottish Independence Referendum Act 2013* in December 2013.<sup>64</sup> The latter established the statutory responsibilities for the Convenor of the Electoral Management Board for Scotland (appointed as the Chief Counting Officer) and the UK Electoral Commission.<sup>65</sup> Responsibility for the conduct of the referendum (poll and vote counting and participation) was assigned to the Chief Counting Officer, and responsibility for regulation, governance and reporting of the campaign to the UK Electoral Commission.

In Bougainville, there is a solid legal basis for the conduct of a referendum, although there is still much to be resolved. The referendum was guaranteed in the Bougainville Peace Agreement, which was given effect by amendments to PNG's Constitution and the 2003 *Organic Law on Peace-Building in Bougainville*.<sup>66</sup> As in Scotland, consultation and cooperation have been central to the development of these legal instruments and should ensure that there is broad and enduring acceptance of the legal basis for the referendum.

However, there were many issues that could not be determined at the time, which were deliberately left for later determination or negotiation. To that end, a Joint Referendum Working Group, as mandated by the Bougainville Peace Agreement, was established in 2009 to progress these unresolved issues.<sup>67</sup> Despite some progress, significant impediments exist.

In March 2015, President Momis provided an update on preparations for the referendum.<sup>68</sup> The recent decision of both governments to appoint an independent institution to conduct the referendum resolved the most important issue and will further legitimise the process. However, four critically-important (and many other substantive) issues remain to be resolved, namely the date of the referendum, the wording of the question(s), the development of a charter for conducting the referendum, and the rules for qualification for voter registration of non-resident Bougainvilleans.

Momis went further to stress that failure to adequately deal with the issues of good governance and the disposal of unlawful weapons will undermine the ability of both governments to resolve these issues, and ultimately degrade their ability to ensure Bougainvilleans are provided the promised opportunity of a free, fair and legitimate referendum process.

The achievement of good governance and the disposal of weapons are not pre-requisites for the conduct of the referendum, although the issues were specifically listed in the Bougainville Peace Agreement as conditions that need to be taken into account in determining when the referendum will be held.<sup>69</sup> There is some evidence to suggest the PNG Government is considering whether the lack of progress on one or both would provide a basis on which to challenge the right of Bougainville to hold the referendum or to exercise its right of veto of the result. However, Momis inferred that he would consider any such action to be a breach of the peace agreement, saying that:

Suggestions at the national level that the referendum could be delayed beyond 2020 on the grounds of weapons [disposal] ... or [good] governance are a matter of grave concern for the Autonomous Bougainville Government.<sup>70</sup>

### *The referendum question*

The UK Government had taken special interest in the question to be posed in the 2014 Scottish referendum and signed the Edinburgh Agreement on the condition there be only one question.<sup>71</sup> It is likely that polling and other sources of electoral survey available to the incumbent UK government were influential in persuading the demand for a one-question referendum.<sup>72</sup> Indeed, Alexander Nicoll identified political advantage in ensuring that options for greater autonomy were reserved for potential future negotiation, rather than including them in the referendum.<sup>73</sup>

However, the polarising of the referendum question as a binary choice (vote for status quo or independence) had a particular impact on the campaign in Scotland due to the known fact that the electorate had consistently shown most support for increased autonomy over either independence or the status quo.<sup>74</sup> It meant that those in favour of greater autonomy became the primary target or 'battleground' of campaigners on both sides.<sup>75</sup>

For Bougainville, it is a requirement of the peace agreement that the question or questions to be included in the referendum must be agreed by the PNG Government and the Autonomous Bougainville Government—but also must include the choice of independence for Bougainville, and be formulated to avoid dispute or an unclear result. Beyond that, there has been no official discussion of the options although, as Nicole Haley and Anthony Regan have identified, the obvious additional ones deserving of consideration are status quo, higher autonomy, free association and graduated independence.<sup>76</sup>

### *The referendum franchise*

In Scotland, the franchise for the referendum was agreed with minimal controversy in the *Scottish Independence Referendum (Franchise) Act 2013*. Those eligible were determined on residency status rather than ethnicity, based on the franchise used for local and Scottish parliamentary elections (which is consistent with the approach taken in most constitutional referendums).<sup>77</sup>

For its part, the UK Government was reluctant to significantly vary the electoral franchise, with concerns it could undermine the process through perceptions that changes were being made to suit one side or the other. The only agreed exception was that the voting age would be reduced from 18 to 16 years, just for this referendum, after the Scottish Government argued that the participation of younger people was consistent with the level of rights and responsibilities expected of this demographic.<sup>78</sup> The opening up of the referendum to younger people is seen as significant in maximising their political participation and enriching the public discourse.<sup>79</sup>

On Bougainville, the 2003 *Organic Law on Peace-Building in Bougainville* made some provisions for defining the franchise of the referendum in line with national election eligibility. However, further decisions are still required, notably to define eligibility for non-resident Bougainvilleans. While the size and relevance of the diaspora remains unclear, the early resolution of voting eligibility is important as the state of existing electoral rolls is known to be very poor and requires a significant investment of time and money to remediate.<sup>80</sup>

### *Timing arrangements*

In general there was very little complaint or controversy over the timings of the Scottish referendum. The *Scottish Independence Referendum Act 2013* established that a formal campaign period of 16 weeks in the lead-up to the vote, which was relevant in terms of formally regulating funding allocation and governance issues. However, as Stephen Tierney highlights, legislation confirming the referendum date was passed so far in advance that it provided for a lengthy period of unregulated campaigning with potential advantage for one campaign over another.<sup>81</sup> The *Act* also made provision for a statutory 'purdah' or moratorium period in the 28 days before the referendum, designed to prevent the release of any official material or information that might further influence voters.<sup>82</sup>

In its post-referendum report, the UK Electoral Commission contended that a relatively long period between the announcement of the referendum and its voting date provided the following benefits:

- Improved capacity of relevant bodies to comprehensively consider and assess proposals (including of the referendum question, for example), as well as facilitating the conduct of relevant surveys of the electorate and research on any particular issue;

- Improved capacity to ensure thorough preparation by campaigners, the Chief Counting Officer, electoral registration officers and the Electoral Commission. This is particularly important where any variation to the normal voting franchise is being considered; and
- Improved capacity to ensure the electorate is adequately informed and educated.<sup>83</sup>

For Bougainville’s referendum, constitutional provisions require that the actual date be agreed between the PNG Government and the Autonomous Bougainville Government, taking into account the conditions of weapons disposal and good governance. As discussed earlier, there are considerable implications if the parties fail to resolve an agreed position on the interpretation of these provisions. It will also be necessary to improve the awareness in the electorate of the provisions, as the level of misunderstanding is currently very high.

### Communication: issues and actors

In Scotland, the electorate was actively engaged from the time the Scottish National Party-led Government first declared its intention to hold a referendum.<sup>84</sup> The *Scottish Independence Referendum Act 2013* placed specific responsibilities on the Electoral Commission in relation to the management of campaigners and promoting public awareness and understanding of the referendum, including of the question.<sup>85</sup>

The Electoral Commission approached its communication responsibilities on the basis that voters required two distinct sources of information. These were public information (on the mechanics of the referendum and how to register and vote) and campaign information (that provided the more detailed arguments for and against each outcome). The provision of the former was largely the domain of the Electoral Commission, although it was also supported and assisted by a number of partner organisations, and was delivered through a range of information channels.

Voter engagement and debate was encouraged and triggered through a range of mechanisms and began well before the rules of the referendum were formally established through the Edinburgh Agreement in October 2012 and the campaign formally commenced in May 2014. The Scottish and UK Governments both published a number of consultation and analysis papers. Government working groups and independent think tanks were also convened to consider and debate the issues and publish reports. Various government departments also issued position statements, and a number of public meetings were held.<sup>86</sup>

Government-issued papers provided an effective tool through which the public’s attention and understanding of the issues was developed.<sup>87</sup> It was clear that the population (including young people) was deeply engaged with high levels of involvement in local campaigning and debates about the referendum. Peter Hopkins notes that there was ‘something about the Scottish referendum [that] clearly captured the imagination of Scottish people’.<sup>88</sup>

There is good evidence that the provision of information to the electorate was very effective, with high voter registration and turnout. Libby Brooks asserts that ‘people who were not exercised by any kind of politics [saw] it as an opportunity to change how we organise our society’.<sup>89</sup> Alan Convery and Malcolm Harvey concluded that:

The numbers [of voter turnout and registration] here do not do justice to the democratic success of the independence referendum. Town hall meetings were packed, previously un-engaged citizens gave up their evenings and weekends to campaign and you couldn’t enter a pub, shop or taxi without someone mentioning the referendum.<sup>90</sup>

The use of partner organisations—such as youth groups, universities and colleges, carer and disability organisations, homeless shelters and council housing authorities—assisted in ensuring that sectors of the population were not left out or excluded from being provided with essential information. The Electoral Commission provided a very detailed report on the range of initiatives and mechanism they used to achieve this, with particular interest being the joint statement by both Governments outlining the process that would follow as an outcome of either result.<sup>91</sup>

The various actors in the campaign were well established and organised, which helped to ensure that the voters were well informed and that there was a high level of inclusion.<sup>92</sup> The Electoral Commission provided an important regulatory responsibility over official ‘campaigners’ and it appears that this responsibility was executed well and that compliance levels were high.<sup>93</sup> The *Scottish Independence Referendum Act 2013* required campaigners to register in one of the two campaign groups. In the end, 42 campaigners were officially registered, with 21 groups on each side.

Each campaign had its own web site and associated social media sites. The major political parties also ran campaigns in support of one side or the other, and made extensive use of online technologies. Both sides also worked hard to attract new voters, particularly given the extension of the voting franchise to younger people and the challenge of the reported ‘missing million’ unregistered voters.<sup>94</sup> In practice, campaign information was delivered from various different sources, with a number of groups involved that had no formal ties with the official campaign organisations.<sup>95</sup> Evidence of the success in maximising engagement is that close to 200,000 previously-unregistered voters did so for the referendum (excluding the 16 and 17-year olds who had not previously been permitted to register).<sup>96</sup>

The role of the media in the Scottish referendum was vital but not without controversy. This was likely the direct effect of some unique dynamics that were at play both in Scotland and in the referendum style of voting. The media was criticised heavily for perceived bias during the Scottish referendum.<sup>97</sup> It is interesting to note that some research suggests that the unique nature of a referendum campaign alters the relationship between the media and politicians in such a way as to increase the level of perceived media hostility.<sup>98</sup>

Despite the criticism and controversy, there is no doubt that the media is the main source of information for citizens and is therefore essential to the referendum process.<sup>99</sup> The Electoral Commission relied heavily on the media for its transfer of information.<sup>100</sup> It has also been demonstrated that the flow of arguments in the agenda-setting of a referendum campaign is a top-down structure that goes from the political parties to the media and finally to the public.<sup>101</sup>

It might be assumed that since the Scottish referendum was held at a time when the digital revolution was in full flow, social media would play a dominant role in how voters sourced information and engaged in public discourse on the referendum. However, research has demonstrated that voters in this campaign relied more heavily on the traditional modes of communication (newspapers, television and radio), which has been attributed to the format of social media not being conducive to knowledge exchange, broad participation and deliberative engagement.<sup>102</sup>

The various campaign actors were voracious consumers of poll results throughout the campaign and there are some significant instances where the polls had influence.<sup>103</sup> One occurred just prior to the referendum and had an impact beyond the campaign. Polls were reporting that the gap between the campaigns had narrowed significantly, despite the ‘No’ campaign having been consistently ahead throughout most of the period. In response, the three major UK parties made a tri-partisan public pledge to devolve more powers and money to the Scottish Parliament.

Subsequent analysis concluded that this vow did not significantly sway voters.<sup>104</sup> It did, however, significantly influence voters at the general election held only months later. This tri-partisan tactic is an example of how single-issue referendums can alter the political alliance dynamics that are in place. In this case, Labour voters felt ‘betrayed’ by their party’s alignment with the opposition on this issue. As a result, the traditionally-dominant Labour party in Scotland suffered massive and surprising defeats at the national election with some forming the view that the political landscape in Scotland has ‘changed forever’.<sup>105</sup>

Inclusion and consultation, while a Western value, is also a Melanesian value and an accepted democratic tradition.<sup>106</sup> However, the communication resources available in Bougainville are substantially different to those available in Scotland, and there are some significant but not insurmountable barriers to effective communication with the Bougainville electorate. For example, there has been no opinion polling conducted in Bougainville, which make it difficult for

campaigners, the government and other stakeholders to gauge the reaction to public debates or the effectiveness of the information campaign. Most of the population lives in scattered rural communities, with limited road, transport and access to IT and media resources.

While more people are obtaining information by listening to the radio and watching TV, as well as there being increased use of mobile phones and SMS messaging, access to these forms of communications is fairly limited. Newspaper and radio coverage is currently restricted to less than 20 percent of the region.<sup>107</sup> This provides significant barriers to both the distribution of information and the ability of people to attend public meetings and be engaged in a consultative manner.<sup>108</sup> Combined with limited transport infrastructure and a challenging geography, it also adds considerably to the costs of awareness/campaign work.

The more vulnerable elements of the community on Bougainville will also require special measures and greater investment in electoral and civic awareness programs in order to ensure their full participation. These include women, the elderly, people with disabilities and the less literate who are not only vulnerable to coercion and intimidation, but often face difficulties in accessing polling stations. Literacy levels across Bougainville are improving and adult literacy is higher than in PNG but is still well below the UN-established goals (not least because of the 'lost generation' demographic—those who missed out completely on education during the 10-year conflict).

The use of partner organisations along the lines used in Scotland may provide some opportunities to address the potential gaps in communications. The example of community engagement that was pursued by the Autonomous Bougainville Government in exploring the level of community support for reinitiating large-scale mining in Bougainville would suggest it has the capacity to undertake a reasonable level of community outreach and communication.<sup>109</sup>

Consideration may need to be given to using a third-party intermediary to assist in ensuring ongoing commitment by the PNG Government and the Autonomous Bougainville Government to the agreed path to a referendum. As indicated in the previous discussion, there is a risk of deterioration in the constructive and cooperative style of communication that currently exists between the Autonomous Bougainville Government and the PNG Government, particularly since—unlike between Scotland and the UK—their relationship lacks a mature communications framework. The utility of third-party engagement has been proven already in Bougainville and the Solomon Islands in their respective peace negotiations. The Pacific Islands Forum is one option worth considering, where its role would also be consistent with its mantra of providing regional solutions to national problems.<sup>110</sup>

### **The voting system and process**

Statutory responsibility for the conduct of the referendum in Scotland was assigned to the Chief Counting Officer, who was supported by the Electoral Management Board of Scotland (staffed by a suite of skilled and experienced counting and registration officers). The four priorities of the Chief Counting Officer were to ensure the accessibility, consistency, efficiency and integrity of the referendum. To that end, the Chief Counting Officer issued a consultation paper in November 2013 in which she sought to maximise voter engagement.<sup>111</sup>

Detailed instructions were also issued by her office to provide detailed guidance on how the vote was to be conducted.<sup>112</sup> A final element in the governance regime was a memorandum of understanding between the Electoral Commission and the Chief Counting Officer. This was important as each was tasked with responsibilities that varied slightly from their usual roles in previous elections. It particularly clarified areas where potential overlap or duplication might occur.<sup>113</sup>

Registration was conducted utilising the well-established and mature system of annual electoral 'canvass' used in Scotland. It was commenced almost 12 months prior to the poll date and allowed individuals to update their details as circumstances changed. Registration was closed 12 days prior to polling day. Although allowing registration to remain open closer to the polling day would likely have increased participation marginally, consideration needed to be given to

ensuring that registration officials had sufficient opportunity to verify eligibility and support the legitimacy of the vote.

The opening of the franchise to younger voters also created some additional challenges in the registration process, with the requirement for separate forms and a register that protected their identities and personal details. Opinion polls showed very high satisfaction level with the registration process, and the number of registered voters for this referendum was the largest ever recorded, increasing by 6.7 per cent over the parliamentary elections conducted in the same year.

There were also high levels of satisfaction with the voting process, despite the large turn-out and some (but notably very minimal) reports of violence or intimidation. Some relevant features were that voting occurred at 2608 polling sites, chosen to maximise access by groups in the community. A larger-than-previous number of people elected to use postal votes (18 per cent). Postal votes also resulted in a larger return rate than polling station voters, and some 31,000 voters elected to nominate a proxy in advance of the vote. Of note is the predominant observation that the atmosphere at polling places was positive and engaged, in contrast to the feared civil unrest as anticipated by the media in the lead-up to the vote.<sup>114</sup>

Important factors that contributed to the overall validity and integrity of the vote related to the counting process, which included the selection of counting agents and observers, the counting process itself and the collation process. The 'mini-count' methodology was utilised, whereby voting papers within electorates were split into definable small bundles that could be readily re-checked if necessary. The Electoral Commission concluded that it contributed to the efficiency, accuracy and security of the count and has recommended that it be more broadly employed.<sup>115</sup>

More than 200 international observers registered for the referendum under the accreditation system and code of conduct mandated under the *Scottish Independence Referendum Act 2013*.<sup>116</sup> Participation by foreign observers can at times draw some interesting public responses from nations which use the opportunity as a platform on which to promote views about their own democratic processes and circumstances.<sup>117</sup> However, it is widely acknowledged that the presence of a range of international observers positively contributes to the legitimacy and democracy of such processes.

A key challenge for the Chief Counting Officer was managing expectations in regards to the timing of the announcement of the result. High levels of national and international interest fuelled the need for the Chief Counting Officer to ensure unrealistic guarantees were not made to the public. As a result, public statements were made cautiously while the high levels of early engagement and consultation on the process assisted in ensuring the public was well informed.

Post-referendum polling revealed that a relatively high level (34 per cent) of respondents believed that some degree of electoral fraud had occurred at the referendum. However, this perception did not match what actually happened, and is thought to reflect the powerful influence of the media and other actors in undermining the confidence of the voting public in the integrity of the electoral process, as well as the higher-than-usual participation rates and the emotive sentiment inherent in the nationalistic movement (with 'yes' voters a majority of those expressing such concerns).<sup>118</sup>

On Bougainville, while the required legal instruments for delivery of a referendum already exist, there are critical decisions yet to be made on the voting process. Most significant is selection of the agency to conduct the referendum, with the *Organic Law on Peace-Building in Bougainville* including a detailed schedule of provisions and rules, most of which require input from the responsible agency.<sup>119</sup>

A report from a joint government review, tabled in 2013, criticised the two governments for having failed to deliver on commitments relating to the referendum. The report clearly identified the significant and complex issues still requiring agreement, and assessed that it would be almost impossible for a referendum to be held within the planned timeframe, given the lack of progress. Given that these issues are still outstanding—and that two years has since past since this report



was generated—an extraordinary and immediate cooperative effort would be needed for a free and fair referendum to be held before 2020.<sup>120</sup>

The existing resources of the Bougainville Electoral Commission are extremely limited, and the Commission lacks experience in the conduct of referendums, traditionally relying heavily on assistance from the PNG Electoral Commission and from Australia. Other potential sources of a lead agency may be through the UN or the Pacific Islands Forum. Regardless, failure to identify an appropriate lead agency could become a critical issue, linking to the integrity of the referendum and a potential trigger for further violence.

Another significant risk to the credibility of the referendum is the state of the electoral roll, which is known to lack integrity, compounded by flawed voter registration and verification processes. An additional complication is that the franchise for the referendum is slightly different to that applied for normal elections on Bougainville, which makes it even more important that sufficient time is allowed for voter registration.<sup>121</sup>

### **Integrity issues and announcement of the result**

For Bougainville's referendum, issues surrounding the determination and announcement of the result may become crucial for both governments and, if managed poorly, could provide a trigger for further violent conflict. The fact that the result requires ratification by the PNG Government is a significant potential 'spoiler', particularly in the event of a 'yes' result. The PNG Government's right to ratify the result—effectively on the issue of PNG's sovereignty—was an important condition of the peace negotiations, and its inclusion was essential to obtaining PNG's agreement at that time. Nevertheless, as the example of Scotland demonstrates, there would be benefit in the PNG Government making an early declaration of its willingness to accept the result.

As discussed previously, a failure to achieve adequate weapons disposal and the provision of good governance pose a risk to the legitimacy of the outcome. Expectation management is also central. The 2013 report on autonomy arrangements provides a useful insight into the poor level of general understanding of the referendum purpose, process and consequences across the community.<sup>122</sup> It also evident that not much progress has been made since, suggesting that poor community engagement remains a significant risk to the process, exacerbated by the 'nationalist' profile of the incumbent president acting as a barrier to robust public debate.<sup>123</sup>

## **Part 3: Discussion**

### **Should Bougainville be holding a referendum?**

It is important to consider the purpose of the referendum and what can reasonably be expected from it. The lessons from other referendums have been analysed extensively in the literature and some relevant considerations are briefly outlined here.<sup>124</sup> A referendum has the advantage of narrowing public attention on a single important issue. As part of the referendum process, the issue can be deeply debated. A referendum also ensures that focus on the issue at hand is not diluted or distracted by the wide range of issues on which general elections are conducted. The direct decision-making process of a referendum also serves to strengthen the democratic process by confirming a decision as the direct will of the majority of the people.

The right of Bougainville to self-determine its political status is guaranteed in the legal structures that have been agreed. Despite such structures also accommodating the right for the Autonomous Bougainville Government to elect not to hold a referendum, this seems an extremely unlikely scenario given the level of public support for a referendum and the practical implications involved in electing to pursue such an option.<sup>125</sup> As the case of Scotland has demonstrated, secessionist sentiment can be enduring even when autonomy arrangements and opportunities for self-determination have previously been provided.

If seeking a comparison with another country for which the right to a referendum was part of a post-conflict peace settlement, New Caledonia demonstrates also that secessionist sentiment is enduring despite relative stability and significant autonomy arrangements being in place.<sup>126</sup> A

failure to hold a referendum in Bougainville is highly likely to result in a return to violent conflict. It would seem, therefore, that there is no choice but for a referendum to be held within the agreed timeframe. However, the risks and challenges require urgent remediation to minimise the risk of it not being free, fair and violence free.

### **Can the Scottish example offer some potential solutions?**

In considering the Scotland referendum, the following three prevailing issues are considered to be the most obvious opportunities from which the preparations for Bougainville may benefit.

#### ***Third party engagement***

Although a third party was not used in Scotland's referendum, there is good reason to consider it for Bougainville, especially given the lack of mature and well-trodden path of communication between the PNG Government and the Autonomous Bougainville Government, and more broadly the lack of trust on both sides and the weakness of institutions, including electoral commissions.

A third party would help to ensure that the respective governments continue to engage constructively in resolving key issues in relation to the referendum. Such an approach has been used previously to good effect on Bougainville, and should be considered as early as possible. An initial task for a third party would include resolving the paradoxical posture that the PNG Government appears to be adopting in relation to the transfer of powers and adequate funding to Bougainville, in order to facilitate its effective autonomy in accordance with the Bougainville Peace Agreement.

#### ***High levels of consultation and inclusion***

As in Scotland, it is axiomatic that high levels of consultation and inclusive, cooperative engagement between the two governments, as well as increased levels of public engagement and understanding of the process, will be key elements to the success of the referendum on Bougainville. In Scotland, these factors contributed directly to the transparency and legitimacy of the process by managing stakeholder expectations and subsequently supporting a peaceful outcome. While the environmental and geo-social factors on Bougainville may well necessitate an alternative approach, these factors are fundamental to the success of the referendum.

#### ***Preparation and planning***

In the post-referendum assessment of Scotland's example, clear recommendations were made regarding the benefits of ensuring adequate time is provided for essential planning and preparation by key stakeholders across a number of areas. These included the referendum system and processes, stakeholder engagement and education and, most importantly, the issue of managing expectations.

The analysis of the situation on Bougainville has demonstrated that central to ensuring this time is provided are the early decisions that need to be made on the critical issues that have been identified by President Momis. In particular, serious attention is required on the issues of selecting an appropriate agent to conduct the referendum, and on weapons disposal and good governance provisions between now and the referendum.

### **What aspects do not apply and are there other relevant experiences?**

#### ***The question***

The issue of whether the wording of a referendum question can significantly impact the outcome has been debated at length but is of questionable relevance.<sup>127</sup> There are valid and aspirational democratic principles that underpin generally-accepted standards for a referendum question. These include that it should be easy to understand, concise, unambiguous and to the point; it also needs to be legal, fair and decisive, and must not lead the voter in one direction or another.<sup>128</sup> Some analysts have also observed that a binary choice provides a significant obstacle to the

population being able to fully 'weigh and balance' the complexities of the constitutional options.<sup>129</sup>

Elisenda Adam, for example, has argued that excluding the possibility of a third option in the referendum makes the debate more limited, confusing, uncertain and unbalanced in favour of the 'No' side.<sup>130</sup> On the specific issue of whether there is a risk that inherent bias of a question will persuade the electorate, Matt Qvortrup identifies two case examples which demonstrated that voters are not necessarily persuaded by the use of positive language in a referendum question posed by their government; these were in East Timor in 1999 and Quebec in 1995.<sup>131</sup>

### *The franchise*

Teirney has explored in some detail the influences and impacts of different approaches to the rules of franchise used in referendums.<sup>132</sup> Broadly, he demonstrates that there are two types of nationalism (ethnic and civic) on which franchise arrangements are determined. A detailed discussion of the concepts is beyond the scope of this paper, however, he suggests that there are specific circumstances of the current and historical contexts of a nation that need to be considered when determining the franchise rules.

Broadly speaking, civic nationalism ideas support the inclusion of voters based on whether or not they would be bound by the laws of a devolved administration and would contribute financially to the tax base of the country. Ethnic nationalism ideas support the inclusion of those who, through no choice of their own, should be entitled to vote while being out of country. Circumstances include, for example, where populations have been forcibly transferred, ethnic cleansing has occurred, or for people who are the descendants of such people.

In the case of Bougainville, these arguments tend to support the proposal that non-Bougainville residents should be entitled to vote, and also that non-resident Bougainvilleans have a right to vote but which might be determined, for instance, by placing a timeframe on when they last resided in Bougainville.

### *Consultation, voter education and security*

While the case of Scotland demonstrates the potential benefits of providing sufficient opportunities and an inclusive approach for the full electorate (including minorities) to become informed, this lesson is perhaps better informed by other cases in which voters were not provided sufficient opportunities to be informed and in which minority groups were excluded.

Guatemala is a case in point. There, a referendum to ratify the constitutional reforms agreed during peace negotiations was held in 1999, in which 81.5 per cent of voters abstained from voting—which meant the reforms were unable to be ratified. The outcome, which significantly undermined the peace process, was attributed to the lack of an inclusive approach to consultation, a lack of voter education, and a general lack of security within Guatemalan society.<sup>133</sup>

### *Preparations for the aftermath*

At the heart of the challenge of anticipating and then preparing for an independent Scotland was the fact that key decision-makers and influencers were strongly motivated to support arguments that independence would be complex and damaging. There is a wealth of literature that explores and analyses the impact that independence would have had on Scotland's substantive interests.<sup>134</sup>

However, as Tierney points out, it is probably unrealistic to expect either the Scottish or UK Government to have been able to articulate, prepare fully or negotiate with relevant international bodies or nations the implications of independence, because there are simply too many vested interests that undermine that process.<sup>135</sup> An example is Scotland's potential new relationship with the EU and with regional neighbours, neither of which would want to encourage their own constituent parties to feel too comfortable about the prospects of independence.

In regard to preparations in the event of a 'yes' result, South Sudan may offer some more useful lessons and a more relevant comparison. It faced enormous economic and development challenges in the wake of a referendum requiring considerable international support and creating ongoing sources of tension and conflict. Roberto Belloni identifies that the period of time between the peace agreement and the referendum represented a missed opportunity for development investment by the parent nation.<sup>136</sup> This scenario resonates strongly with the situation on Bougainville, where PNG is significantly in arrears with its development funding. The lack of development in South Sudan has left it at significant risk of escalating internal conflict and a raft of 'scary' human development problems.

## Conclusion

There is no doubt that significant differences exist between Scotland and Bougainville in historical, geographic, cultural and socio-economic terms. However, the demand for independence in both has its origins in identity and economic grievances that have not been adequately addressed by the devolution of powers already granted. Although autonomy arrangements have been in place for the last decade and a half in Bougainville and Scotland, nationalism provides a fusion of many similar issues in both.

Like the Scottish people within the UK, the people of Bougainville possess a distinctive identity that separates them from the rest of PNG. This identity is rooted in language, history and culture. Both groups mark their identities with their own flag, seal and anthems. Nationalism in both places has been characterised in history by bloody conflicts. Inequities in income distribution and other centralised economic and political structures have fuelled nationalist movements in both places, despite reasonably high levels of economic integration.

A point of difference is the role of cultural and ethnic identity in secessionism. For the Scots, this was historically stronger but has now become a secondary issue to more important economic, foreign policy and political issues. For Bougainvilleans, it has developed greater importance as the sense of nationalism has matured. But it is still no more important than the fundamental economic, social and political priorities. A further point of difference is that the referendum agreement in Scotland was born out of a peaceful political negotiation, whereas in Bougainville it was born out of a negotiated peace settlement that ended a period of violent conflict. Most importantly, both Scotland and Bougainville share a common interest in supporting democratic values and minimising violent conflict.

This analysis and case study has by no means provided a comprehensive assessment of all the relevant and important elements to consider in preparation for the Bougainville referendum. More thinking is clearly needed. However, it is evident that time is a critical issue, reinforcing the need for decisions to be made expeditiously to ensure further opportunities are not lost. In the end, it is clear that simple principles will prevail. These are good communication, transparency, inclusivity, preparation, planning and a willingness to negotiate and compromise. Continued lack of traction on issues like the transfer of power and resources is likely to continue to aggravate independence hard-liners in Bougainville and further compromise the prospects of achieving a free, fair and peaceful referendum.

Reaching an agreement on the interpretation of the conditions for the referendum, setting the date (including effective and transparent communications in this regard), and enabling Bougainville to exercise its autonomy must be immediate priorities for the governments of PNG and Bougainville alike.

## Notes

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- 116 For more detailed information on the observers who attended and the governance, see UK Electoral Commission, 'Scottish independence referendum'.
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