

|                                 |  |
|---------------------------------|--|
| <b>Country/entity</b>           | Papua New Guinea<br>Bougainville   |
| <b>Region</b>                   | Asia and Pacific   |
| <b>Agreement name</b>           | Sharp Agreement on the Dispensation of Constitutional Requirements Relating to the Process of Transfer of Functions and Powers |
| <b>Date</b>                     | 13 May 2021  |
| <b>Agreement status</b>         | Multiparty signed/agreed   |
| <b>Interim arrangement</b>      | Yes  |
| <b>Agreement/conflict level</b> | Intrastate/intrastate conflict   |

### **Bougainville Conflict (1987 - 1998)**

The conflict on Bougainville, an island under the jurisdiction of Papua New Guinea (PNG), began in 1987 as a dispute over compensation for the use of land by Bougainville Copper Ltd, a an Australian subsidiary. The underlying issue of independence soon emerged and the conflict escalated between the government of PNG and the native islanders, in turn spearheaded by the Bougainville Revolutionary Army (BRA). Until fighting ended in 1998, an estimated 20,000 died in the conflict. Several pre-negotiation agreements culminated in an agreement to a 'permanent and irrevocable' ceasefire, and a framework for normalizing the PNG-Bougainville relationship, which included elections.

Close

Bougainville Conflict (1987 - 1998)

|                        |   |
|------------------------|---|
| <b>Stage</b>           | Implementation/renegotiation  |
| <b>Conflict nature</b> | Government/territory  |
| <b>Peace process</b>   | Bougainville: peace process   |
| <b>Parties</b>         | Hon. James Marape, MP<br>Prime Minister<br>Government of Papua New Guinea<br><br>Hon. Ishmael Toroama, MHR<br>President<br>Autonomous Bougainville Government |

**Third parties** Witnessed by:  
  
Hon. Brian Kramer, MP  
Minister for Justice  
Government of Papua New Guinea

Hon. Ezekiel Masatt, MHR  
Attorney General & Minister for Bougainville  
Independence Mission Implementation  
Autonomous Bougainville Government

**Description** Agreement to remove impediments to the constitutional process of transfer of functions and powers from the Government of Papua New Guinea to the Autonomous Bougainville Government, following the results of the Bougainville Referendum on independence.

---

**Agreement document** [PG\\_210513\\_Sharp Agreement.pdf \(opens in new tab\)](#) | [Download PDF](#)

---

**Groups**

**Children/youth** No specific mention.

**Disabled persons** No specific mention.

**Elderly/age** No specific mention.

**Migrant workers** No specific mention.

**Racial/ethnic/  
national group** No specific mention.

**Religious groups** No specific mention.

**Indigenous people** No specific mention.

**Other groups** No specific mention.

**Refugees/displaced  
persons** No specific mention.

**Social class** No specific mention.

---

## Gender

**Women, girls and gender** No specific mention.

**Men and boys** No specific mention.

**LGBTI** No specific mention.

**Family** No specific mention.

---

## State definition

**Nature of state (general)** No specific mention.

**State configuration** No specific mention.

**Self determination** No specific mention.

**Referendum** Page 2, Preamble,  
Whereas the Prime Minister of Papua New Guinea has on the occasion of the declaration of the result of the Bougainville Referendum on the 13th of December 2019, and on other occasions, declared his Government's commitment to facilitate the transfer to Bougainville of all powers available to Bougainville under Section 290 of the National Constitution;

**State symbols** No specific mention.

**Independence/secession** No specific mention.

**Accession/unification** No specific mention.

**Border delimitation** No specific mention.

**Cross-border provision** No specific mention.

---

**Governance**

**Political institutions (new or reformed)** No specific mention.

**Elections** No specific mention.

**Electoral commission** No specific mention.

**Political parties reform** No specific mention.

**Civil society** No specific mention.

**Traditional/religious leaders** No specific mention.

**Public  
administration**

No specific mention.

## Constitution

Governance→Constitution→Constitutional reform/making

Page 2,

An Agreement proposed at the Sharp Memorial Centre, Arawa, and made today at Port Moresby between the Government of Papua New Guinea and the Autonomous Bougainville Government to remove impediments to the constitutional process of transfer of functions and powers.

Page 2, Preamble,

Whereas Section 295 of the National Constitution provides for a process for the transfer of functions and powers from the National Government to the Bougainville Government by which a function or power may be requested by the Bougainville Government to be transferred to it;

Page 2, Preamble,

Whereas the pre-requisite steps for initiating the process for transfer of a function or power being for Bougainville to assess its needs and capacity in relation to the function and power; and, for the Bougainville Government to give to the National Government 12 months' notice of its intention to seek the transfer of the function or power; and, for Bougainville to then consult with the National Government concerning the transfer of that function or power;

Page 2, Preamble,

Whereas Section 295 of the National Constitution further provides that both Governments may however agree to waive or dispense with those requirements;

Page 2, Preamble,

Whereas the Prime Minister of Papua New Guinea has on the occasion of the declaration of the result of the Bougainville Referendum on the 13th of December 2019, and on other occasions, declared his Government's commitment to facilitate the transfer to Bougainville of all powers available to Bougainville under Section 290 of the National Constitution;

Page 2,

2. The requirements under Section 295(a) and (b) of the National Constitution relating to the process of transfer of functions and powers available to Bougainville under Section 290 of the National Constitution, irrespective of whether a specific request was made or not by the Bougainville Government since the establishment of the Autonomous Bougainville Government, are dispensed with, effective as of the date of this agreement;

Page 2-3,

3. The Autonomous Bougainville Government shall, in consultation with the National Government, proceed to develop and continue to implement agreed plans for the transfer of functions and powers for which the Bougainville Government shall become responsible in accordance with the Bougainville Peace Agreement and Section 3 of the Organic Law on Peace-Building in Bougainville - Autonomous Bougainville Government and Bougainville Referendum, 2002;

Page 3,

4. The Autonomous Bougainville Government shall as from this day be at liberty to legislate on any, or all, of those areas or matters under Section 290 in accordance with agreed plans;

Page 3,

Page 7 of 16

5. All outstanding issues of the transfer of a function and power for which notice under Section 295(b) has been given, which includes the signing of inter-agency memorandum

---



**Power sharing**

**Political power sharing**

No specific mention.

**Territorial power sharing**

Power sharing→Territorial power sharing→Autonomous regions

Page 2,

An Agreement proposed at the Sharp Memorial Centre, Arawa, and made today at Port Moresby between the Government of Papua New Guinea and the Autonomous Bougainville Government to remove impediments to the constitutional process of transfer of functions and powers.

Page 2, Preamble,

Whereas Section 295 of the National Constitution provides for a process for the transfer of functions and powers from the National Government to the Bougainville Government by which a function or power may be requested by the Bougainville Government to be transferred to it;

Page 2, Preamble,

Whereas the pre-requisite steps for initiating the process for transfer of a function or power being for Bougainville to assess its needs and capacity in relation to the function and power; and, for the Bougainville Government to give to the National Government 12 months' notice of its intention to seek the transfer of the function or power; and, for Bougainville to then consult with the National Government concerning the transfer of that function or power;

Page 2, Preamble,

Whereas Section 295 of the National Constitution further provides that both Governments may however agree to waive or dispense with those requirements;

Page 2, Preamble,

Whereas the Prime Minister of Papua New Guinea has on the occasion of the declaration of the result of the Bougainville Referendum on the 13th of December 2019, and on other occasions, declared his Government's commitment to facilitate the transfer to Bougainville of all powers available to Bougainville under Section 290 of the National Constitution;

Page 2,

2. The requirements under Section 295(a) and (b) of the National Constitution relating to the process of transfer of functions and powers available to Bougainville under Section 290 of the National Constitution, irrespective of whether a specific request was made or not by the Bougainville Government since the establishment of the Autonomous Bougainville Government, are dispensed with, effective as of the date of this agreement;

Page 2-3,

3. The Autonomous Bougainville Government shall, in consultation with the National Government, proceed to develop and continue to implement agreed plans for the transfer of functions and powers for which the Bougainville Government shall become responsible in accordance with the Bougainville Peace Agreement and Section 3 of the Organic Law on Peace-Building in Bougainville - Autonomous Bougainville Government and Bougainville Referendum, 2002;

Page 3,

4. The Autonomous Bougainville Government shall as from this day be at liberty to legislate on any, or all, of those areas or matters under Section 290 in accordance with agreed plans;

Page 3,

Page 11 of 16

5. All outstanding issues of the transfer of a function and power for which notice under Section 295(b) has been given, which includes the signing of inter-agency memorandum

|                               |  |
|-------------------------------|--|
| <b>Economic power sharing</b> | <p>Power sharing→Economic power sharing→Other</p> <p>Page 2, Preamble,</p> <p>Whereas both Governments understand the need also to remove other forms of economic and financial controls which hinder the ability of the Autonomous Bougainville Government to effectively perform its function:...</p> <p>Page 3,</p> <p>6. All economic and financial controls by the National Government that continue to impede on the ability of the Autonomous Bougainville Government to effectively manage its own revenue collection - whether or not these controls have arisen under agreed plans by the implementing agencies as envisaged by Sections 4, 5, and 39 of the Organic Law on Peace-Building on Bougainville -Autonomous Bougainville Government and Bougainville Referendum 2002 - shall be reassessed or reviewed by the relevant agencies and have them removed as soon as practicable.</p> |
| <b>Military power sharing</b> | No specific mention.   |

---

## **Human rights and equality**

|                                   |                      |
|-----------------------------------|----------------------|
| <b>Human rights/RoL general</b>   | No specific mention. |
| <b>Bill of rights/similar</b>     | No specific mention. |
| <b>Treaty incorporation</b>       | No specific mention. |
| <b>Civil and political rights</b> | No specific mention. |
| <b>Socio-economic rights</b>      | No specific mention. |

---

## **Rights related issues**

|                                |                      |
|--------------------------------|----------------------|
| <b>Citizenship</b>             | No specific mention. |
| <b>Democracy</b>               | No specific mention. |
| <b>Detention procedures</b>    | No specific mention. |
| <b>Media and communication</b> | No specific mention. |
| <b>Mobility/access</b>         | No specific mention. |

**Protection measures** No specific mention.

**Other** No specific mention.

---

### **Rights institutions**

**NHRI** No specific mention.

**Regional or international human rights institutions** No specific mention.

---

### **Justice sector reform**

**Criminal justice and emergency law** No specific mention.

**State of emergency provisions** No specific mention.

**Judiciary and courts** No specific mention.

**Prisons and detention** No specific mention.

**Traditional Laws** No specific mention.

---

### **Socio-economic reconstruction**

**Development or socio-economic reconstruction** No specific mention.

**National economic plan** No specific mention.

**Natural resources** No specific mention.

**International funds** No specific mention.

**Business** No specific mention.

**Taxation** Socio-economic reconstruction→Taxation→Power to tax  
Page 3,  
6. All economic and financial controls by the National Government that continue to impede on the ability of the Autonomous Bougainville Government to effectively manage its own revenue collection - whether or not these controls have arisen under agreed plans by the implementing agencies as envisaged by Sections 4, 5, and 39 of the Organic Law on Peace-Building on Bougainville -Autonomous Bougainville Government and Bougainville Referendum 2002 - shall be reassessed or reviewed by the relevant agencies and have them removed as soon as practicable.

**Banks** No specific mention.

---

### **Land, property and environment**

**Land reform/rights** No specific mention.

**Pastoralist/  
nomadism rights** No specific mention.

**Cultural heritage** No specific mention.

**Environment** No specific mention.

**Water or riparian  
rights or access** No specific mention.

---

### **Security sector**

**Security  
Guarantees** No specific mention.

**Ceasefire** No specific mention.

**Police** No specific mention.

**Armed forces** No specific mention.

**DDR** No specific mention.

**Intelligence  
services** No specific mention.

**Parastatal/rebel and opposition group forces** No specific mention.

**Withdrawal of foreign forces** No specific mention.

**Corruption** No specific mention.

**Crime/organised crime** No specific mention.

**Drugs** No specific mention.

**Terrorism** No specific mention.

---

### **Transitional justice**

**Transitional justice general** No specific mention.

**Amnesty/pardon** No specific mention.

**Courts** No specific mention.

**Mechanism** No specific mention.

**Prisoner release** No specific mention.

**Vetting** No specific mention.

**Victims** No specific mention.

**Missing persons** No specific mention.

**Reparations** No specific mention.

**Reconciliation** No specific mention.

---

**Implementation**

**UN signatory** No specific mention.

**Other international signatory** No specific mention.

**Referendum for agreement** No specific mention.

**International mission/force/similar** No specific mention.

**Enforcement mechanism** No specific mention.

**Related cases** No specific mention.

**Source** Language of Peace Database <https://peaceadmin.languageofpeace.org/v3/agreements/1353/pdf> (Accessed on 13/6/2022)

---