

Appendix J - Bougainville Reconciliation Government: Draft Agreement and Constitution

Draft Basic Agreement Concerning the Bougainville Reconciliation Government

Constitution for the Bougainville Reconciliation Government

**DRAFT BASIC AGREEMENT CONCERNING THE BOUGAINVILLE
RECONCILIATION GOVERNMENT (BRG)**

Name: Annex 2 to the Lincoln Agreement. Basic agreement concerning the Bougainville Reconciliation Government. (BRG)

PREAMBLE:

The Government of Papua New Guinea, The Bougainville Transitional Government, The Bougainville Resistance Force, The Bougainville Interim Government, The Bougainville Leaders (quote the parties unquote):

Reaffirming their shared commitment to lasting peace by peaceful means,

Determined to continue consulting and cooperating in implementing the Lincoln agreement, and

Bearing in mind the need to establish a Bougainville Reconciliation Government by January 1 1999, hereby agree as follows:

PRINCIPLES:

A. The BRG is intended to provide an agreed political framework through which the parties and other participants in previous conflicts can co-operate in providing good government for Bougainville in order to:

1. Consolidate and strengthen the peace process,
2. Work for a political settlement,
3. Create an environment in which churches, communities and non-governmental organisations can work with the people to bring about genuine reconciliation,
4. Promote public awareness and understanding, and
5. Make and implement plans for restoration and development.

B. The BRG will be established in accordance with the principles laid out in this agreement.

The BRG will conduct itself in accordance with the wishes of the people of Bougainville and the laws of Papua New Guinea.

A. The document establishing the BRG will provide for continuing progress towards free and democratic elections and settlement of the political issue as provided in the Lincoln Agreement.

B. The elections will be held as soon as the necessary arrangements can be made.

The powers, functions and resources of the BRG will be set out in a document to be concluded between the Papua New Guinea Government and the BRG.

The parties (and, when it is formed, the BRG and the Papua New Guinea Government) will provide one another with the information and advice they require to implement this agreement and other agreements.

Recognising that leaders, voters and the community generally must be able to speak and make decisions freely and according to conscience, the parties will co-operate in taking urgent steps to ensure a secure environment.

Implementation for this agreement, including the establishment and operations of the BRG, will be transparent, accountable and cost effective.

The parties (and when it is formed, the BRG and the Papua New Guinea Government) will consult and co-operate with a view to resolving any difference or difficulties which might arise in relation to this agreement including follow-up arrangements and implementation.

ESTABLISHMENT OF THE BRG

- A. Bougainvillean leaders will convene a constituent assembly, broadly representative of the people of Bougainville, to adopt the document establishing the BRG.
- B. The document establishing the BRG will be forwarded to the Papua New Guinea Government without delay after its adoption by the constituent assembly.
- C. The document establishing the BRG may provide for the progressive development of the BRG.

Existing administrative arrangements, including local-level government, the delivery of services, reconstruction and development, will continue pending review and progressive restructuring on the initiative of the BRG.

Officials will remain at their posts in order to facilitate an integrated approach towards public administration.

STRUCTURE OF THE BRG

The BRG will have both legislative and executive arms.

The legislative arm will be broadly representative of the people of Bougainville, with special provision for representation of women and other interest groups as agreed by the Bougainvillean parties or, after it is established, the BRG

The document establishing the BRG will provide for the appointment, organisation and procedures of both the legislative and the executive arms, including relations between them.

The four members who represent Bougainville in the national parliament will be full members of the legislative arm and entitled to be appointed to the executive arm.

The cost of the legislative and executive arms (including allowances and travel) will be met from the budget for the BRG.

The parties (and, when it is formed, the BRG and Papua New Guinea Government) will cooperate to ensure that members of the BRG can represent their people by speaking and making decisions freely within the law and according to conscience.

FURTHER PROGRESS:

- A. The parties (and when it is formed, the BRG and the Papua New Guinea Government) will co-operate in producing a report before the national parliament meets in July 1999 recommending long-term arrangements, including such legislation and other preparations as may be required, for the government of Bougainville.
- B. The report will contain details of progress in:
 - 1. Restoring civil authority, including restoration of civilian peacetime policing and courts,
 - 2. Promotion of public awareness and understanding,
 - 3. Restoration and development, and
 - 4. Implementation of this agreement and other agreements generally.

The parties (and, when it is formed, the BRG and the Papua New Guinea Government) will meet regularly to brief one another, promote mutual awareness and facilitate co-operation in relation to:

- A. Implementation of this agreement and other agreements,
- B. Developing on the ground, and
- C. Progress towards a political settlement, including the political issue.

The parties agree that negotiations on the political issue shall continue in accordance with past agreements.

CONSTITUTION OF THE BOUGAINVILLE RECONCILIATION GOVERNEMENT

Preamble

PART I.-GENERAL PRINCIPLES

1. Purpose of Constitution
2. Mandate for Peace by Peaceful Means
3. Purpose of the Bougainville Reconciliation Government
4. Political, Social, Cultural and Indigenous Rights of the People
5. Constitution to be facilitative of the Peace Process
6. Constitution to apply until Political Settlement

PART II- BOUGAINVILLE RECONCILIATION GOVERNMENT

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7. Structure of the Bougainville Reconciliation Government

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8. Purpose of Congress
9. Exercise of Law making Power

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10. Composition of the Congress
11. Nominated Members
12. Qualification for and disqualification for membership
13. Normal Term of Office

Subdivision D-The Speaker

14. Office of the Speaker and Deputy Speaker

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15. Quorum
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Subdivision F-Special instances of Congressional Power

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18. Congressional Committees on Core Functions of Government
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Subdivision H-Calling etc of the Congress

21. Calling of Congress

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22. Constituencies
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32. Policing Arrangement and Court System

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36. Continuation of Local Level Governments
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CONSTITUTION OF THE BOUGAINVILLE RECONCILIATION GOVERNMENT

PREAMBLE

We, the people of Bougainville, proud of the wisdom and worthy customs of our ancestors, mindful of our heritage and conscious of our destiny;

DECLARE that-

- (a) All power in Bougainville belongs to its people and is exercised on their behalf by the Congress to be established by this Constitution.
- (b) The resources of Bougainville belong to the people of Bougainville.

PART 1. GENERAL PRINCIPLES

1. Purpose of Constitution

The purpose of this Constitution is to unite and reconcile the people and communities of Bougainville through the establishment of the Bougainville Reconciliation Government.

2. Mandate for Peace by Peaceful Means

It is the expressed desire of the people of Bougainville to achieve lasting peace through only peaceful means. The mandate of the Bougainville Reconciliation Government under this Constitution is based on this principle.

3. Purpose of the Bougainville Reconciliation Government

The primary purpose of the Bougainville Reconciliation Government is to negotiate an amicable political settlement with the government of Papua New Guinea and to provide for the governance of Bougainville.

4. Political, Social, Cultural and Indigenous Rights of the People.

The Bougainville Reconciliation Government shall take into full account the inherent political, social, cultural and indigenous rights of the people of Bougainville, as these rights may, effectively or notionally, be known under international law, when negotiating a settlement with the government of Papua New Guinea.

5. Constitution to be facilitative of the Peace Process

The clear intention of this Constitution is to facilitate the peace process on Bougainville. Nothing is intended under this Constitution to pre-empt the outcome of any issue (including the political issue) which, by agreement of the parties under the Lincoln Agreement is to be resolved by the Bougainville Reconciliation Government and the Government of Papua New Guinea.

6. Constitution to Apply until Political Settlement

This constitution shall remain in force until such time as a political settlement is reached between the Bougainville Reconciliation Government and the Government of Papua New Guinea.

PART II-BOUGAINVILLE RECONCILIATION GOVERNMENT

Division 1. Bougainville Reconciliation Government

Subdivision A-Structure of Government

7. Structure of the Bougainville Reconciliation Government

The Bougainville Reconciliation Government consists of two principal arms, namely-

- (a) the Bougainville People's Congress, which is an elective legislature with powers of law-making, and
- (b) the Congressional Executive Council

Subdivision B-Congressional Power

8. Purpose of Congress

The primary purpose of congress is to steer the negotiations done on behalf of the Bougainville Reconciliation Government in the negotiations between the Bougainville Reconciliation Government and the Government of Papua New Guinea.

9. Exercise of Law-making Power

The legislative power of the people is vested in the Congress but may be exercised by a smaller Congressional Legislative Council and if established by the Congress.

Subdivision C-Composition of Congress

10. Composition of Congress

- (1) The Congress is a single-chamber legislature consisting of-
 - (a) All members representing the Bougainville people in the Parliament of Papua New Guinea; and
 - (b) members elected from the forty (40) former community governments, established under the former North Solomons Constitution; and
 - (c) members elected from communities not otherwise provided by or under the former North Solomons Constitution, in addition to the forty community governments; and
 - (d) members appointed as nominated members, appointed and holding office in accordance with Section 11 (nominated members)
- (2) For the purpose of this section, the Congress may, by resolution, determine the maximum number of members in the Congress, taking into account the need for the fair representation of all factions and areas on Bougainville in then Congress.

11. Nominated Members

- (1) The Congress shall appoint as nominated members except for paragraph (g) and (h) –five members from each of the following groups, namely-
 - (a) Francis Ona’s group;
 - (b) The Bougainville transitional government
 - (c) The Bougainville Interim Government
 - (d) The Bougainville Revolutionary Army;
 - (e) The Resistance Forces;
 - (f) The Women organisations;
 - (g) The Churches; and
 - (h) Indigenous religious groups
- (1)The Congress shall appoint one member each from the Churches and Indigenous religious groups.

12. Qualification for and disqualification for membership

- (1) A member of Congress must not be less than 25 years of age
- (2) A candidate for election to the Congress must have been born in or is indigenous to the Constituency or area for which he or she intends to nominate for elections

13. Normal Term of Office

The normal term of Congress shall be no longer than three years.

Subdivision D-The Speaker**14. Office of the Speaker and Deputy Speaker**

- (1) There shall be an office of the Speaker and deputy Speaker of the Congress.
- (2) The Speaker and Deputy Speaker must be members of the Congress, and shall be elected by the Congress by secret ballot in accordance with the standing orders of the Congress.

Subdivision E-Powers, Functions & Procedure**15. Quorum**

The quorum for the sitting of the Congress is fifty percent of the number of seats in the Congress at the time.

16. Voting

- (1) Except as provided in this section, all questions before a meeting of the congress shall be decided in accordance with the majority of votes of the members present and voting.
- (2) Where a question is of such importance that a simple majority vote on it is, in the judgment of Congress not sufficient or inappropriate, the Congress may, by resolution, determine for itself the necessary numerical majority.

Subdivision F-Special Instances of Congressional Power

In the event that Congress believes that the political future of Bougainville is to be determined by an act of self-determination by the people, it may, by resolution, so specify the matter and manner in which such an act may be implemented; but this shall not, in any way, restrict the options available to the Bougainville Reconciliation Government and the Government of Papua New Guinea in developing a peaceful outcome to the negotiations.

Subdivision G-Congressional Committees

18. Congressional Committees on Core Functions of Government

(1) The Congress may form a Congressional Committee for each or for a number of core functions of Government.

(2) The Core functions of Government will be determined, from time to time, by the Congressional Executive Council.

(3) The membership of such a committee, including its chairman and deputy chairman shall not exceed ten members of Congress.

19. Function of Congressional Committees

The primary function of a Congressional Committee responsible for any or a number of core functions of Government is to ensure that the particular function of Government is carried out efficiently and effectively and shall, in this regard, be responsible for-

(a) the development of the overall congressional policy regarding that function of government;

(b) subject to this Constitution, the confirmation or otherwise of appointments of heads of departments or divisions within the administration;

(c) the review of all actions of the executive to ensure their consistency with congressional policy.

20. Other Committees

The Congress may form other Committees for a specific task of the Congress

Subdivision H-Calling, etc, of the Congress

21. Calling of Congress

(1) The Congress shall meet four times a year or more frequently as necessary.

(2) The Congress shall be called to meet within six months of the adoption of Constitution.

Subdivision I-Constituencies & Elections

22. Constituencies

The first Constituencies under this Constitution shall be the areas of community governments established under the Community Government Act of the former North Solomons Constitution including those additional areas created

by agreement of the Constituent Assembly, at, or after, the adoption of this Constitution.

23. Elections

(1) A general election to the Congress shall be held within three months, or within such longer period not exceeding six months, of the adoption of this Constituent Assembly.

(2) Subject to Section 13, general elections to the second and subsequent Congresses shall be called the Speaker.

Division 2-The Executive

24. Vesting of the Executive Power

The executive power of the people is vested in the Congressional Executive Council, to be exercised in accordance with this Constitution.

25. The Congressional Executive Council

(1) Subject to subsection 2, the Congressional Executive Council shall consist of-

(a) the President-who shall be head of the council; and

(b) the two Vice Presidents

(c) such other members of the Congress, not exceeding twenty, who are fairly representative of all areas and communities of Bougainville.

(2) The president, in consultation with the Congress, shall appoint the members of the Congressional Executive Council under paragraph (c).

26. Responsibility of the Congressional Executive Council

The Congressional Executive Council is responsible to Congress and is answerable to the people through Congress.

27. The President and Vice-Presidents

The President and the two Vice Presidents shall be elected by Congress at the first meeting of Congress.

28. Resignation

(1) The President may resign from office by notice in writing to the Speaker of Congress.

(2) A member of the Congressional Executive council may resign from office by notice in writing to the President.

29. Normal Term of Office

The normal term of a member of the Congressional Executive Council will be at the pleasure of the President.

30. Functions of Congressional Executive Members

The President in close consultation with the Congress will determine the functions of the Congressional Executive Council members.

PART III-ADMINISTRATION

Division 1-Introductory

31. Administration

(1) The Administration of Bougainville, by the model and structure in which it was established under the Administration Act of the former North Solomons Provincial Government will be adopted, initially, by the Bougainville Reconciliation Government as its administrative arm.

(2) The Secretariat, as known under that administration structure, which will be under the effective control and direction of the Bougainville Reconciliation Government, will be modified to incorporate officials presently engaged by the Bougainville Interim Government.

Division 2-Special Policing Arrangements and Court System

32. Policing Arrangement and Court System

(1) There shall be a policing entity and a system of traditional dispute settlement processes recognised by the Bougainville Reconciliation Government to complement the work of other agencies in the maintenance of justice, peace and order on Bougainville.

(2) The entity and system in subsection (1) shall be established as soon as final arrangements under the Lincoln Agreement are made, if not earlier by the parties to the Lincoln Agreement, by the Bougainville Reconciliation Government and the Government of Papua New Guinea.

PART IV-TRANSITIONAL PROVISIONS

33. Constituent Assembly

(1) The Constituent Assembly, for the purpose of this Constitution, shall consist of-

- (a) Francis Ona and, or, a number of his nominees; and;
- (b) All the four Bougainville National parliamentarians; and
- (c) All members of the Bougainville Transitional Government
- (d) All members of the Bougainville Interim Government; and

- (e) ten (10) members of the Bougainville Revolutionary Army; and
- (f) ten (10) members of the Resistance Force; and
- (g) six (6) members to represent the women of Bougainville; and
- (h) three (3) members to represent all churches on Bougainville; and
- (i) three (3) members to represent all indigenous religious groups.

(2) The Constituent Assembly shall upon the adoption of this Constitution elect two co-chairman for the purpose of the Constitution

(3) The purpose of the Constituent Assembly is to serve as the political body between the adoption of this Constitution and the first meeting of the Congress to continue the peace process and ensure the distribution of services to the people.

34. Dissolution of Constituent Assembly

At the first meeting of Congress and upon the swearing-in of members of the first Congress elected in accordance with this Constitution the Constituent Assembly will be dissolved.

35. Chairman of the First Meeting of Congress

At the first sitting of Congress the Regional Member for Bougainville in the Parliament of Papua New Guinea or the former Premier of the Bougainville Transitional Government or the Vice-President of the Bougainville Interim Government shall preside to deal with the business of the Congress under this Constitution.

36. Continuation of Local Level Governments

The system of Council Elders and the Councils of Chiefs and Village Governments established by the Bougainville Transitional Government and the Bougainville Interim Government will continue until such a time as the Congress legislates otherwise.

37. Standing Orders of Congress

The standing orders of the former North Solomons Provincial Assembly shall be adopted for the purpose of the Congress and shall be applied in a way that they facilitate, and not restrict, the procedures of Congress.


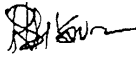



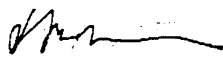



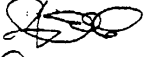
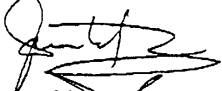
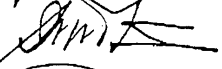
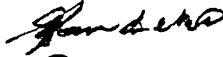
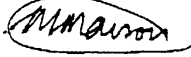
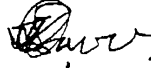

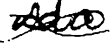



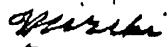


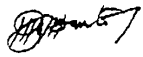
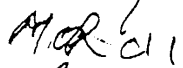


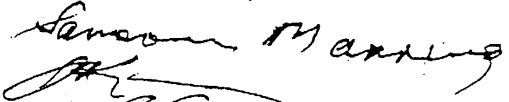
PART V-PROVISION TO AMEND THE CONSTITUTION

39. Amendment of the Constitution

This Constitution may be amended by a simple majority vote of the Congress.

Adopted at Arawa by the Constituent Assembly and representatives of the people of Bougainville on 24th Dec 1998.

Signatories:

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| Sapoung |  |
| RSD |  |
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| Sam-ogano |  |
| Patrid. Tanasa |  |
| Abulac Anauit |  |
| PC PINA |  |
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| Aknohon | |
| Demi |  |
| TAMUA | |
|  | Mank Roberson Reavani |
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|  | P. PARUNG |
| BANAU |  |
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This section contains several handwritten signatures and marks. On the left side, there is a vertical column of five signatures, starting with a large, complex scribble at the top, followed by a signature that appears to be 'John', and then two more signatures. In the center, there is a vertical column of four signatures, starting with a circular mark containing the letters 'AB', followed by a signature that appears to be 'Alou', a signature that appears to be 'John', and a signature that appears to be 'John'. On the right side, there is a horizontal line at the top, followed by a signature that appears to be 'Alou', and a signature that appears to be 'John'. There is also a small black square mark on the right side.

