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What effect does the inclusion of the provision of a referendum have on the likelihood of a lasting peace after a settlement in conflicts over territory?

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What effect does the inclusion of the provision of a referendum have on the likelihood of a

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Abbreviations and Acronyms

APODETI	Popular Democratic Association of Timorese
ASEAN	Association of Southeast Asian Nations
BCC	Bougainville Constitutional Commission
BIG	Bougainville Interim Government
BPA	Bougainville Peace Agreement
BRA	Bougainville Revolution Army
BRF	Bougainville Resistance Forces
BTG	Bougainville Transitional Government
CNRT	National Congress for Timorese Reconstruction
CPA	Comprehensive Peace Agreement
DoP	Declaration of Principles
Fretilin	Revolutionary Front for an Independent East Timor
GA	General Assembly
GoNU	Government of National Unity
GoS	Government of Sudan
GoSS	Government of South Sudan
IGAD	Intergovernmental Authority on Development
INTERFET	International Force in East Timor
JIUs	Joint Integrated Units
NCC	National Consultative Council
NCP	National Congress Party
PNG	Papua New Guinea
PNGDF	Papua New Guinea Defence Forces
SAF	Sudanese Armed Forces
SC	Security Council
SPLM/A	Sudan People's Liberation Movement
SSRA	South Sudan Referendum Act
SSRC	South Sudan Referendum Commission
UDT	Democratic Union of Timorese
UNMISET	United Nations Mission of Support in East Timor
UNAMET	United Nations Mission in East Timor
UNMIS	United Nations Mission in Sudan
UNOMB	United Nations Observer Mission in Bougainville
UNOTIL	United Nations Office in East Timor
UNTAET	United Nations Transitional Administration in East Timor
CRTR	Commission for Reception, Truth and Reconciliation

Chapter 1- Introduction

Today, the field of conflict resolution is increasingly becoming influential due to the increase of conflicts that we are facing. While there are set standards of rules and procedures for dealing with conflicts that happen between states, this cannot be said when it comes to civil wars. What is sought when it comes to conflicts is either starting a peace process or restoring a failed one. What usually results from a peace process is a negotiated settlement that lays out several provisions to appease both sides to achieve a durable peace. Provisions in a peace agreement are a very important factor in a negotiated settlement especially in conflicts regarding self-determination/ secession conflicts. Negotiated settlements in conflicts over territory increasingly contain provisions for referendums. The idea of a referendum on such cases is not a new phenomenon.

There has been a long history of the use of referendum, serving a variety of political functions. Most of the boundary-related referendums were typically concentrated in Europe. One of the first examples of a modern-era sovereignty referendum, dating back to post-revolutionary France, was the referendum held in Avignon in 1791 to determine its integration into France.[1] There were around 13 referendums held in France between 1791-1799. The types of referendums that were held in France were for the transfer or reallocation of authority over a territory. The main logic behind those referendums was to provide political legitimacy to national unification

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[1] Peter Radan, "Secessionist Referenda in International and Domestic Law," *Nationalism and Ethnic Politics* 18, no. 1 (2012): 8-21, doi:10.1080/13537113.2012.654083.; Fernando Mendez and Micha Germann, "Contested Sovereignty: Mapping Referendums on Sovereignty over Time and Space," *British Journal of Political Science* 48, no. 1 (2018): 141–65. doi:10.1017/S0007123415000563; Ron Levy, "Shotgun Referendums: Popular Deliberation and Constitutional Settlement in Conflict Societies," *Melbourne University Law Review* 41, no.3 (January 2018): 1237-1277. http://web.a.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=3&sid=282744d3-33f0-4d03-84ea-91e6a5bfc3ce%40sdc-v-sessmgr02; Matt Qvortrup, "The History of Ethno-National Referendums 1791-2011," *Nationalism and Ethnic Politics*18, no. 1 (March 2012): 129-150, doi:10.1080/13537113.2012.654081.

processes, and not for separation as it is usually the case today.[2] This function continued to be the prevalent one during the mid-nineteenth century in which there were a total of 43 referendums held with 22 of them related to creating the Swiss confederation in 1848 after a civil war has occurred.[3] The other 21 referendums were for the unification and creation of modern Italy in 1848.[4] With the end of WWI, there were around 26 referendums that dealt with the redrawing of borders. These referendums were held in the backdrop of President Wilson's doctrine of self-determination and post-Versailles settlements. All referendums were concentrated in Europe except for two referendums in the Ottoman Empire.[5] These referendums were held in the years 1919-1923 with other ones held in 1935 and 1938. The logic behind these referendums was integrative with only a few cases of separation.

The next wave was during the context of decolonization after WWII, with around 143 referendums held.[6] This time the referendums were not concentrated in Europe anymore but in places such as Africa, Asia, and Latin America. These were independence referendums held in European colonies. The main logic is separation and disintegration from their colonial rulers. After the decolonization era, the were various referendums held for secession or autonomy, with its peak in the 1970s. These referendums are usually ignored when discussing the history of referendums since most jump from WWII to the 1990s with the dissolution of the Soviet Union. Most of the referendums in the 1970s followed the logic of secession. There was the Trust Territory of the Pacific Islands referendum held in 1975 in order to gain independence from the

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[2] Mendez and Germann, "Contested Sovereignty."
[3] Ibid.
[4] Ibid.; Baogang He, "Referenda as a Solution to the National-Identity/Boundary Question: An Empirical Critique of the Theoretical Literature," *Alternatives: Global, Local, Political* 27, no. 1 (2002): 67-97, doi:10.1177/030437540202700103.
[5] Matt Qvortrup, *Referendums and Ethnic Conflict* (Philadelphia: University of Pennsylvania Press, 2014), https://ebookcentral.proquest.com/lib/aucegypt/detail.action?docID=3442334.
[6] Mendez and Germann, "Contested Sovereignty."

U.S.[7] There was also an attempted devolution of Scotland in 1979, and the Basque and Catalonia holding referendums calling for greater autonomy also in 1979. Another major referendum was held in 1980 when Quebec voted to secede from Canada.

The final wave that set the stage for the referendums that are being held today is the fall of the Soviet Union. With the disintegration of the Soviet Union in 1991, there was a domino effect of independence referendums with their peak from 1990-1993. The referendums were held in former Soviet Republics. The main logic behind these referendums was disintegration, with a few cases of merging to other countries which constituted around 10 percent of all the cases during that time.[8] Other devolution referendums were held again in 1997 by the Welsh and Scotland. In the 2000s, more referendums were held in Latin America. There was also the wave of substate partitions such as Jura's separation from Berne in Switzerland. Other successful cases of secession referendums include Eritrea's separation from Ethiopia in 1993, East Timor's separation from Indonesia in 1999, South Sudan's separation from Sudan in 2011, and the most recent referendum on independence held on the 23rd of November 2019 in Bougainville. There are also upcoming referendums regarding independence/secession such as the Palawan partition plebiscite in the Philippines which is to be held on May 11, 2020, and New Caledonia will be holding their second independence referendum on September 6, 2020 while the last chance for another independence vote will be held in 2022.

Just because there has been a plethora of cases on self-determination referendums does not mean that it does not come with its obstacles and difficulties. The holding of a referendum is

still a very contentious issue, especially when it comes to the determination of the future of a territory, especially since one would believe that forming decisions on partition could lead to the recurrence of violence and even aggravate the issue. However, there have been many studies that discussed the importance of forming a 'well designed' negotiated settlement that includes the provision of a referendum[9]. This is because it is more effective in the amelioration of violence and conflict rather than unilateral declarations of independence, or awaiting a military victory of either party.[10] Therefore, a prevalent argument is that one of the most effective forms of conflict resolution when facing issues of secessionist claims, is to pursue the formation of a negotiated settlement with various provisions, including the provision of a referendum. However, this does not mean that one should ignore other factors that could be the cause of the success or failure of the referendum leading to a durable peaceful post-conflict environment. One of the main factors is the climate and context of the civil war, such as its intensity, number of warring parties, and ripeness. Another important factor to be considered is the process of the negotiations that lead to the formation of a peace settlement. Finally, the degree of third-party involvement especially the UN in the formation and implementation of the peace agreement, in particular, the provision of the referendum needs assessing.

1. Research Questions/ Hypothesis

The principle of territorial integrity remains one of the most important principles in the international community and it is interesting to see how this is challenged with the increasing number of new states being born from sovereignty referendums where in the 20th century most

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[9] Ramzi Badran, "Intrastate Peace Agreements and the Durability of Peace," Conflict Management and Peace Science 31, no. 2 (April 2014): 193-217, doi:10.1177/0738894213501133; Virginia Page Fortna, "Scraps of Paper? Agreements and the Durability of Peace," *International Orgnization* 57, no. 2 (Spring 2003): 341, doi:10.1017/cbo9780511808760.023.
[10] Ibid.

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new states used referendums to determine their independence[11]. In contemporary international politics, the main reason why the topic of referendums is very relevant and important relates to the growing interest in using referendums as part of peace settlements. It is also very interesting and important to see how referendums, which are considered a democratic process and tool are even allowed or held in countries with no democratic institutions in place and how such a democratic tool is a result of dreadful long years of civil wars. Moreover, the conflict resolution study is always looking for the best tools that can bring out the most peaceful and best outcomes when trying to find solutions for conflicts. Especially when it comes to conflicts over territory where there is so much at risk therefore, is considered to be one of the most difficult conflicts to resolve since it usually entails other issues like ethnicity and natural resources.

Although this kind of study is highly context based, it is important to learn from the failures and successes of certain cases and adopt them in a way that can be applied to several other cases with similar contexts and factors at play. This could give us some insight into state formation as a result of a referendum that acts as a form of an effective tool that leads to successful cases of durable peace. Moreover, as mentioned above, there are around two referendums on territory issues that will be held this year and others in upcoming years which makes this research relevant. I expect this research to supplement and enhance the conflict resolution literature relating to state formation and secession movements in the $20^{th} - 21^{st}$ centuries. This research will be based on answering one main question and two sub questions:

Question 1: What effect does the inclusion of the provision of a referendum have on the likelihood of a lasting peace after a settlement in conflicts over territory?

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[11] Qvortrup, *Referendums and Ethnic Conflict*.

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Hypothesis 1: The inclusion of a provision for a postponed referendum is an effective stipulation that serves as a costly signal which results in a lasting peace after a settlement in conflicts over territory.

Question 1.1: Does a referendum serve as a costly signal of intent?

Hypothesis 1.1: The provision of a referendum serves as an assurance/incentive to commit warring parties to the peace process which reduces the commitment issues and makes for such a desirable and anticipated result of a negotiated settlement which results in a more durable agreement. The holding of a referendum increases the legitimacy of a secession movement since it is the people of concern that are voting on the issue of the future of their territory, which increases the likelihood of its acceptance by the state and the international world.

Question 1.2: What is the role of timing in the implementation of a referendum?

Hypothesis 1.2: Having a provision for a postponed referendum on secession increases the likelihood of a durable peace. When the holding of the referendum is postponed to a later stage, there is time given to both the people and the state to reconcile after long years of conflict. Moreover, this gives the opportunity to the state to attempt to persuade the seceding party to consider unity or autonomy. This time also allows the seceding party to develop their own methods and institutions to run their own territory should they achieve independence. This leads to a better result and can therefore, lead to a peaceful and successful post-conflict transition within five years. However, if a referendum is held too early there is a higher likelihood of recurrence of a conflict.

The research seeks to trace the effect of a promised referendum in a negotiated settlement on the likelihood of peace or recurrence of conflict within the five years after the signing of the peace negotiated settlement. These questions will be answered by examining three dynamic cases of civil wars based on territorial issues; namely Bougainville, South Sudan, and East Timor. The particular peace agreements that will be examined are, the Bougainville Peace Agreement (BPA) signed in 2001, Sudan's Comprehensive Peace Agreement (CPA) signed in 2005, and the Agreement between the Republic of Indonesia and the Portuguese Republic on the question of East Timor signed in 1999. The cases are very different in many ways in terms of their history, context, intensity of violence, peace process, and negotiated settlement. Another important aspect of the use of these cases is that there have not been any sources that have examined these three specific cases in comparison with each other and if they were mentioned in the same literature they were mentioned mostly as examples. Moreover, according to international law, each of these cases fit in very different categories of self-determination. They vary in the legitimacy of the plight to self-determination.

The case of East Timor was clear cut, where they are guaranteed a right to self-determination in international law as a former colony. The UN recognized East Timor as a non-self-governing territory that has the right to self-determination as early as 1960. This was also cemented further after Indonesia occupied East Timor in 1975. As for South Sudan, according to international law it was seen as a remedial case of secession since this was seen as the only solution possible after a long-civil war that did not seem to be ending anytime soon. As for the Bougainville case, it's a little vague on whether Bougainville had a right to self-determination. There was the issue with Bougainville where it was in between remedial secession and right to

secession since there were doubts if they consisted of a distinctive people, also there was some form of federal arrangements with local governance as well as representation in Papua New Guinea (PNG). Hence, one can see that these are very diverse cases in international law perspective, and despite these great differences they all had the same result of a peaceful post-conflict environment due to the inclusion of a referendum in a negotiated settlement. The referendum operates similarly in providing a stronger guarantee to peace than not having a referendum in different settings. Hence, other cases of secession were not included especially ones with that did not have a referendum all together in a negotiated settlement since the main premise of the thesis is to show its important effect in variant situations, contexts, conflicts etc. Moreover, an important variation is also the timing of the holding of the referendum in which Bougainville's referendum was held after fifteen years of the signing of the agreement, South Sudan's referendum held after six years of the signing of the agreement and finally East Timor's referendum held only a few months after the signing of the agreement.

However, what they share is that the three cases have gone through a civil war which resulted in a peace agreement that includes the provision of a promised referendum. Moreover, in all of the cases, the referendums have already been held and both South Sudan and East Timor are now member states of the UN, except for Bougainville since their referendum was only held at the end of last year. This makes the case of Bougainville the most interesting since its post-conflict environment was the most peaceful despite the postponement of their referendum to 10-15 years. Furthermore, both South Sudan and Bougainville have natural resources that have been abused by their parent states, which is one of the main reasons for their claims to secession. South Sudan has oil as the main natural resource and Bougainville has the Panguna copper mine.

All cases have underlying issues of ethnicity as a result of the colonial legacy that played out after the decolonization of the parent states.

Additionally, in all cases, the regional states and organizations have played an important role either during the peace process or after the signing of the negotiated settlement. For example, Australia played an important role in both cases of East Timor and Bougainville for varying reasons while the Intergovernmental Authority on Development (IGAD) was the main mediator in the Sudan issue. The UN has also played a role in all cases with varying degrees of involvement ranging from acting as a monitoring group to taking over the government functions of a territory. Moreover, both Bougainville and East Timor have made unilateral declarations for secession but to no avail and their independence and the ending of the conflict were only possible after the promise of a referendum that was stipulated in a negotiated settlement.

2. Methodological Approaches

The main research design of the paper is a comparative study approach of most-different cases. The reason why this project focuses on specific case studies is because, in the study of civil wars, one cannot reach generalized conclusions simply on the basis of theoretical deductions since each case has different factors that amount to the same result. In the most-different case, the dependent variable i.e. a successful post-conflict environment should be constant and similar among the three cases especially when a research question is inductive.[12] This is especially true since the research questions call for an inductive approach, seeking to explain and illustrate the effect that a promised referendum in a negotiated settlement has on the likelihood of the success and evasion of the recurrence of conflict within the five years after the

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[12] Carsten Anckar, "On the Applicability of the Most Similar Systems Design and the Most Different Systems Design in Comparative Research," *International Journal of Social Research Methodology* 11, no. 5 (November 5, 2008): 389-401, doi:10.1080/13645570701401552.

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signing of the peace settlement. The thesis will examine how these cases have the same outcome i.e. a successful post-conflict environment five years after the signing of the peace settlement, due to the existence of provisions namely a referendum.

Most of the sources will be secondary sources, where the authors were present during the peace process and its implementation such as Ian Martin who served as Special Representative of the UN Secretary-General for the East Timor popular consultation. Two main databases will be utilized in the examination of these cases namely the Uppsala Conflict Data Program (UCDP) on armed conflicts and peace agreements and the Peace Accords Matrix (PAM). The PAM provides quantitative and qualitative data on the degree of implementation of Comprehensive Peace Agreement between 1989-2012. It also has a detailed account of every provision in an agreement along with a detailed description of steps that were taken to implement them, as long with the obstacles that they were faced with.[13] The UCDP will be mainly used for the definitions of variables, while the PAM will be used in the chapters of each case to refer to the main provision of the agreements as well as examine the referendum's implementation.

2.1 Independent Variables

The thesis treats the independent variables as root causes that affected the cases and the analysis and not as direct causes. These variables will be taken into account in order to see how there are certain root causes and factors that can let us know how and why such an outcome i.e. successful peaceful transitions occurred in the cases of Bougainville, Sudan, and East Timor. These variables will not be explicitly mentioned in the thesis; however, they (UCDP and PAM variables) were used to help with the selection of the case studies examined in the thesis. Generally, the empirical analysis in the thesis will take into account these research frameworks.

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[13] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, https://peaceaccords.nd.edu/.

For example, the Stedman variables that will be discussed below are mentioned implicitly when analyzing the difficulty that the peace processes were facing. Likewise, the peace process variables as well as peace agreement variables, will be indirectly mentioned when describing and explaining the peace process of each case and its outcome in forming a peace agreement. Finally, the most important variable that will be focused on which is the main premise of the whole thesis is the referendum variable that will also be discussed further below.

One of the variables that will be used to explain this outcome are the conflict variables which are: intensity, and nature of a conflict that lead to a certain peace process. However, before defining these variables a definition on what constitutes an armed conflict must be defined. According to the UCDP, an armed conflict is when there is the use of armed force between two parties in which one of them must be the government of a state that results in at least 25 battle deaths in a year.

This number of battle deaths is the minimum threshold to categorize a conflict as an armed conflict. This brings us to the definition of one of the main conflict variables which is intensity. According to the UCDP, there are three categories of intensity: *minor* where at least 25 battle-deaths per year but less than 1,000 battle-related deaths throughout the course of the conflict, *war* where there at least 1,000 battle-related deaths during the course of the conflict and finally, *not active* where there are less than 25 battle related deaths per year. As for the definition of the nature of the conflict, an armed conflict is usually about an incompatibility that concerns government and/or territory. The incompatibility concerning government is one in which the issue is the political system where the central government is either replaced or its composition changed. As for the incompatibility in territory, it concerns the status of a specific territory for example secession or autonomy. There are also other kinds of variables suggested by

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Stedman that can help us assess the difficulty of the environment of the conflict.[14] Some of these are: (1) *the number of warring parties,* when if there are more than two warring parties the degree of difficulty is higher; (2) *the likelihood of spoilers; (3) disposable natural resources* where if warring parties have access to disposable resources they provide them with a means to continue to fight and is used as a leverage and an issue of continuing the behavior of a spoiler. Although he lists more than these, the listed variables seem to be the best and most relevant ones that can be applied to the cases that will be examined by the thesis.

As for the peace process variable, this thesis differentiates between competitive, mixed and cooperative processes.[15] These processes are defined in several ways whether the parties at the negotiating table were seeking a zero sum game emphasizing absolute gains or, there was a mix of both integrative and distributive strategies finally, "… whether they primarily exchange concessions or share information about their interests and needs (Kressel et al., 1994)."[16] A sub-variable to the peace process variable is the degree of the involvement of a third party and their effect on the peace process and settlement. The negotiation variables are to a large extent affected by the context and intensity of a conflict. The intensity, context and environment of a conflict sets the whole tone for how a negotiation process and type of settlement is shaped.

The other independent variables that will be used as an explanatory variable are the peace agreement variables – namely, the type of agreement and the peace process. According to the UCDP, there are various types of peace agreements namely, full, partial, and peace process agreements. The full agreement is defined as an agreement where the whole incompatibility is

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[14] Stephen John Stedman, "Spoiler Problems in Peace Processes," *International Security* 22, no. 2 (Fall 1997): 5-53, doi:10.2307/2539366.

[15] Cynthia Irmer, and Daniel Druckman, "Explaining Negotiation Outcomes: Process or Context?" *Negotiation and Conflict Management Research* 2, no. 3 (2009): 227, doi:10.1111/j.1750-4716.2009.00038.x.

[16] Ibid, 211.

settled between one or several dyads.[17] This definition is very similar to that of the comprehensive agreement used in the PAM where an agreement is comprehensive when, "…. (1) the major parties to the conflict were involved in the negotiations that led to the written agreement; and (2) the substantive issues underlying the conflict were included in the negotiations."[18] The second type of peace agreement in the categorization of the UCDP is a partial agreement where only some parts of the incompatibility were settled by one or several dyads. Finally, a peace process agreement is where there is an agreement on the initiation of a process with the aim of reaching a settlement on the incompatibilities concerning one or several dyads.

Another major peace agreement variable is the inclusion of a provision for a postponed referendum. The referendum and in specific a sovereignty referendum is defined as, "a direct popular vote *which involves a major reallocation of sovereign rights over a given territorial entity between at least two territorial centres*."[19] The provision of the referendum is a constant variable in all the cases, however with varying degrees of timings, designs etc. Each of the cases held their referendums in varying timings as mentioned above in the case selectin section. What will also be taken into consideration are the conditions or lack of that are attached to the holding of the referendum. This allows us to see how both the timing and conditions attached to the referendum can either have a positive or negative effect on the likelihood of a lasting peace after a settlement in conflicts over territory.

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[17] "Definitions." Department of Peace and Conflict Research, https://www.pcr.uu.se/research/ucdp/definitions/.
[18] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, https://peaceaccords.nd.edu/.
[19] Mendez and Germann, "Contested Sovereignty," 7.

2.2 Dependent Variable

The dependent variable, is the success of the peace process or transition within 5 years after the signing of the negotiated settlement. It is understandable that this could be seen as short-sighted however, there are many scholars and literatures that have used the five-year threshold as a measuring variable.[20] Even through statistical results, it was evident that the critical period following a peace agreement ends by the fourth year.[21] It is difficult to define what does 'success' mean especially when it comes to cases with very different contexts and environment. There are various different standards of what peace or success is in the field of conflict resolution. The thesis will be adopting a minimalist standard of success/peace in which the definition of the failure of peace is, "…*the recurrence of internal armed conflict where a prior civil war is widely perceived to have ended.*"[22] The main reason for choosing this minimalist definition is because the focus of the thesis is to illustrate the effectiveness of the referendum as a tool that increases the likelihood of peace; where there is no recurrence of violence at least to the level of intensity that it has experienced in the conflict before the signing of the negotiated settlement. The thesis is focused on the recurrence or non-recurrence of violence between the parties of the settlement itself. This does not mean that I would be excluding that there would be violence within the party that secedes which was the case for South Sudan with the current civil war that it is going through. However, since the premise of the thesis is the referendum and the

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[20] Ibid.; Caroline Hartzell, Matthew Hoddie, and Donald Rothchild, "Stabilizing the Peace After Civil War: An Investigation of Some Key Variables," *International Organization* 55, no. 1 (Winter 2001): 183-208, doi:10.1162/002081801551450.; Stefan Wolff, "The Making of Peace: Processes and Agreements," *Armed Conflict Survey* 4, no. 1 (2018): 65-80, doi:10.1080/23740973.2018.1482065.

[21] Badran, "Intrastate Peace Agreements."

[22] Charles T. Call, "Introduction: The Tragedy of Civil War Recurrence," in *Why Peace Fails: The Causes and Prevention of Civil War Recurrence*, 8, Washington, DC: Georgetown University Press, 2012.

peace agreements between warring parties, the peace that is examined in the thesis specifically looks at the peace between the warring the parties and not within them.

3. Chapter Structure of Thesis

The next chapter will be introducing the main theoretical framework of the thesis, which is the deliberative democratic theory. The chapter will also include a literature review, in which it will explore some of the main arguments that have been discussed and research done on the subject of referendums. The theory/literature review chapter will be followed by the three separate chapter where each case study will be discussed and examined.

The Bougainville chapter will start out with a background in which we will examine how issues regarding the Panguna Mine, were the main issues that resulted in the eruption of a civil war that lasted around 13 years with PNG. The chapter will also examine the windows of opportunities and ripeness in the conflict that lead to the initiation of a peace process. The peace process will also be examined including all the pre-negotiations and reconciliation processes that Bougainvilleans went through amongst each other. Later the main negotiation between Bougainville and Papua New Guinea (PNG) will be explored on the issue of the referendum, and the regional intervention by Australia that broke the deadlock in the negotiations and led to the formation and signing of the BPA in 2001. This will be followed by a look at the implementation history of the five years after the signing of the BPA in order to see the post-conflict peace that Bougainville has experienced due to the referendum provision.

The Sudan chapter will also have a similar structure to the Bougainville chapter where it will start with background information to see the struggle of South Sudan towards independence dating back to Sudan's independence from England in the 1950s. This is what caused Sudan to

go through two separate civil wars with the last one ending in 2005 the same year Sudan's CPA. The peace processes that occurred after each of the civil wars will be discussed starting from the creation of the Declaration of Principles (DoP) in 1994 to the Machakos Protocol in 2004 to the CPA in 2005. The ripeness and windows of opportunities will also be discussed here including the importance of the IGAD as well as the international world especially the Troika (U.S., U.K., Norway) in the formation of the CPA. Finally, the chapter will explore the implementation of the referendum in 2011 as well as some of the obstacles that it faced in its organization during the 5 years after the signing of the CPA.

The last case study that will be explored is East Timor, in which the background will explain what led Indonesia to occupy and annex it in 1975. The role of the UN and the international community was very present from the very start after their condemnation of the occupation, leading up to the UN being one of the major parties and signatories of the Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor in 1999. The UN was given the responsibility to organize and implement the referendum, and eventually was the de facto ruler of East Timor until they gained independence. The chapter will illustrate the downfalls of a rushed agreement and referendum which was held only after a few months of the signing of the agreement.

The final chapter will be the conclusion chapter where the main question of the thesis and its sub-questions will be answered by comparing and contrasting the three cases explored. The chapter will illustrate the importance of the provision of the referendum and how it increased the likelihood of post-conflict peace in all cases regardless of the difference of contexts, geographies, and timing of implementation. Other factors such as the importance of third-party interventions (regional or UN), pressures whether internal or external that lead to windows of

opportunities and even the importance of certain individuals such as state leaders or mediators will be discussed as well.

Chapter 2- Literature Review and Theoretical framework

This chapter will discuss some of the major concepts and theories relating to referendums that are held on issues regarding territory. The concepts and theories will be organized according to the category of variables under which they fall within the framework of this thesis. The chapter starts off with the concept of "sovereignty referendum", which is the intervening variable, and will be followed by defining what peace is and what a durable peace entails, which is the dependent variable. Later the concepts and theories that will be discussed are, peace agreement theory, process/ context/ sequence of negotiation, third party involvement and monitoring, and Power Parity, all of which are treated by this thesis as independent variables. Finally, the main theoretical frameworks of the thesis – upon which my hypotheses are based – will be discussed, including the deliberative democratic theory and the concepts of costly signal, legitimacy, and timing /time pressure.

1. Independent Variable Concepts

1.1 Sovereignty Referendum (Independent variable)

The focus of this thesis is referendums held over issues of territory. The main concept that relates to issues of territory is the claim to secession. Although there are varying definitions of secession from different academics, Peter Radan provides us with a broad definition of secession that can be applicable to a diverse set of secession cases. He defines secession as "the

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creation of a new state upon territory previously forming part of, or being a colonial entity of, an existing state…extends secession beyond unilateral secession."[23]

Hence, the referendums that are held over territory issues and claims of secession is known as a sovereignty referendum. A sovereignty referendum is defined as, "a direct popular vote *which involves a major reallocation of sovereign rights over a given territorial entity between at least two territorial centres."[24]* Various types of sovereignty referendums with different purposes and functions are listed by Sen in his book *Sovereignty Referendums in International and Constitutional Law*.[25] These include: (1) Accession and Border in which an accession referendum is the vote on the incorporation of a region into a state. As for the border referendum, its purpose is to resolve territorial disputes between two states. (2) Unification referendum is employed when there is a merging of more than one entity into a separate state. (3) Status referendums are utilized in a decolonization context. (4) Transfer of Sovereignty referendum is employed to vote on the transfer of sovereignty on the supranational or sub-national level. An example of a supranational referendum is the integration of European countries in the EU. As for the subnational level, "may be found mostly in the constitutions of federal states that specify the legal framework of territorial alterations or division of federal units into one or two separate parts."[26] Finally, (4) independence in which referendums are employed to question the secession of territory or not. There are three different subcategories for independence referendums on territory: (i) De facto unilateral secession, (ii) De jure referendums

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[23] Radan, "Secessionist Referenda."
[24] Mendez and Germann, "Contested Sovereignty."
[25] Ilker Gokhan Sen, *Sovereignty Referendums in International and Constitutional Law*, Springer International Publishing Switzerland, 2015.
[26] Ibid, 66.

held in territories subject to decolonization (iii) De jure referendums not held in the colonial context, and are specified in a negotiated settlement or constitution of the central state.

1.2 Peace Agreement Theory

Before discussing the peace agreement theory, a definition for a peace agreement should be provided. The definition that will be used is based on the one applied by the UCDP – "a consensual contract between some or all conflict protagonists to settle all or part of the incompatibility and regulate future interaction, with a view to ending armed conflict… it is the overall contract that emerges gradually from the peace process. … regardless of the duration of the peace process, as long as the final act in the peace process confirms these accords and puts them into effect."[27] There has been literature on the importance of the inclusion of certain provisions such as a referendum to develop a 'well-designed' peace agreement which is more effective in the amelioration of violence and conflict rather than to wait for a military victory.[28] Therefore, the most ideal form of conflict resolution when facing issues of secessionist claims, is to pursue the formation of a negotiated settlement with various provisions, including the provision of a referendum. Hence, the design of the peace settlement and the provisions/ guarantees that are included are important factors to consider when assessing a peace settlement itself and its outcomes whether it was successful or not. In his article, Badran has set out to illustrate first of all that there is more durable and swifter peace when there is a peace negotiation settlement than a military victory. Furthermore, he emphasizes through statistical evidence that, "the design quality of the peace agreement has a statistically significant impact on halting armed conflict recurrence… A well-designed agreement leads to durable peace, whereas a poorly

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[27] Badran, "Intrastate Peace Agreements," 194.
[28] Ibid.

designed agreement is tantamount to a haphazard termination of fighting."[29] Badran even goes on to suggest a peace agreement theory that argues that the design of the peace agreement can have a great significance and effect on omitting the issue of the commitment problem that most civil wars are riddled with. The theory suggests that a well-designed agreement can encourage cooperative interaction between the signatories which serves to institutionalize peace.[30] Fortna also discusses the significance of the design, content, and provisions in an agreement although she is focusing more on ceasefires, this can also be applied to negotiated settlements.[31]

Other scholars emphasize the importance of the inclusion of power-sharing provisions in which a referendum is one these forms. From previous studies by Hoddie, Hartzell, and Rothchild implementation of military and territory provisions are the most important and has a positive impact in reducing the risk of recurring conflict, unlike focusing on the implementation of the political provisions.[32] Walter, on the other hand, argues that political provisions actually do have great significance with implementation.[33] Furthermore, Walter does not see that military provisions are important but the territorial ones are more important. The main reasoning behind this statement is because, "the implementation of territorial pacts entails larger and less retractable costs than the implementation of political pacts."[34] However, one cannot assess a peace agreement or its provisions without retracing the negotiation process and events that lead to the formation of a negotiated settlement.

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[29] Badran, "Intrastate Peace Agreements," 204.
[30] Ibid.
[31] Fortna, "Scraps of Paper?"
[32] Hartzell, Hoddie, and Rothchild, "Stabilizing the Peace"; Anna K. Jarstad, and Desiree Nilsson, "From Words to Deeds: The Implementation of Power-Sharing Pacts in Peace Accords," *Conflict Management and Peace Science* 25, no. 3 (2008): 206-223, doi:10.1080/07388940802218945.
[33] Barbara F. Walter, *Committing to Peace: The Successful Settlement of Civil Wars*. Princeton: Princeton University Press, 2002.
[34] Jarstad and Nilsson, "From Words to Deeds," 211.

1.3 Process/ Context/ Sequence of negotiation

By retracing the negotiation process, one can understand why certain provisions were included and why some were not. A peace process is defined as a, "process towards a non-military solution sought by the respective parties to a conflict, often supported by international involvement."[35] The retracing of the peace process could help us understand how the referendum provision carried so much weight of importance during the negotiation process for the seceding party, and how problematic it was for the parent state. One must not ignore the importance of the relationship between the peace/negotiation process and the outcome.[36] There is even literature that associates the commitment problem (voluntary and involuntary), and its emergence in events that are taking place during the process or the trajectory that the peace process is taking.[37]

Hence, it is important to take into consideration the sequence of events in a peace process that lead to the materialization of the provisions, which are eventually drawn up together to form a negotiated settlement. The most critical component and focal point of a peace process is the making of a peace agreement[38]. This provides us an outcome which can be used to retrace the different stages and steps of a peace process and will enhance our understanding of the process's relation to the outcome. In fact, a solution to avoid the pluralism problem that most of the civil wars are riddled with is the proper sequencing of the formation of a negotiated settlement at first before a referendum is held.[39] While referendums are becoming normative in the creation of new states, they also can result in electoral violence or can be considered as just freezing a conflict

[35] Wolff, "The Making of Peace."
[36] Irmer and Druckman, "Explaining Negotiation Outcomes."
[37] Wakako Maekawa, Barış Arı, and Theodora-Ismene Gizelis, "UN Involvement and Civil War Peace Agreement Implementation," *Public Choice* 178, no. 3-4 (2018): 397-416, doi:10.1007/s11127-018-0602-9.
[38] Wolff, "The Making of Peace."
[39] Stephen Tierney, *Reflections on Referendums*, (Stockholm, Sweden: International Institute for Democracy and Electoral Assistance, 2018), 16, https://www.idea.int/sites/default/files/publications/reflections-on-referendums.pdf.

that is prone to return to war and conflict once again.[40] Hence, the factor of timing and sequence of implementation is very important to consider which will be further discussed in the theoretical framework section.

Another factor that could affect the peace process and its outcome is the context that it is playing out in. The contexts in which the peace processes are being enacted in can set the whole tone and outcome. [41] The context explanation also elaborates on the characteristics of the different parties that were involved in the civil war, which will provide us a clearer explanation on the sequencing of events and how it led to a negotiated settlement that came to include a referendum as a provision. The idea of taking the context into consideration also allows us to factor in other explanations for the failure or success of a negotiated settlement or referendum and not blame it solely on the referendum; "… the "success" or "failure" of the referendum device depends on the wider political context rather than factors inherent to referendums."[42] The condition in which the referendum is first of all proposed and later on held in is very important to assess whether the referendum can be considered a 'conflict amelioration tool' as Lee and Mac Ginty claim.[43] When one studies the kind of environment and context that the proposal of the referendum materialized in, one can understand the importance and weight that it carries in the making or breaking of the peace process when it comes to conflicts over territory.[44] Another important factor to take into consideration when assessing a peace process, the negotiated

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[40] Katherine Collin, "Peacemaking Referendums in Oceania: Making or Delaying Peace in New Caledonia and Bougainville," *Ethnopolitics*18, no. 2 (2019): 139-157, doi:10.1080/17449057.2018.1513726.

[41] Wolff, "The Making of Peace."

[42] Sung Yong Lee and Roger Mac Ginty, "Context and Postconflict Referendums," *Nationalism and Ethnic Politics* 18, no. 1 (2012): 59, doi:10.1080/13537113.2012.654085.

[43] Ibid.

[44] Ibid.; Wolff, "The Making of Peace."

settlements and its provisions is third party guarantees that usually go hand in hand with the implementation of referendums in war-torn countries.

1.4 Third-party involvement and monitoring

Other than the significance of having a referendum provision in a peace settlement is the guarantee of the monitoring of a third party on the implementation of the settlement. Walter believes that it is insufficient to have power-sharing provisions without third party security guarantees to assist with the implementation.[45] Peacekeeping and mediation help alleviate some of the issues of the commitment problem since it increases the costs of returning to war. With external intervention, you have the international community and especially the mediating country itself to deal with other than your main opponent. Accepting peacekeeping or mediation can also be seen as good intentions and a costly signal of intent (a concept that will be discussed further below) not to start conflict again; "Physical constraints, audience costs, and third-party guarantees or peacekeeping efforts change belligerents' incentives, but also serve as important signaling devices that can reduce uncertainty about intentions. Willingness to accept measures that make war more costly is a credible signal of benign intent."[46]

Third-party guarantors range from individual countries, regional powers, or international organizations. From the initial stages of the peace process, international assistance often has a great significance in getting the warring parties to the negotiating table in the first place. Therefore, when both parties trust this international assistance then having guarantees and provisions on their monitoring and aid in implementing a negotiated settlement helps the peace process to succeed; "By reducing risks to negotiators… they facilitate not only the conclusion of

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[45] Walter, *Committing to Peace.*
[46] Fortna, "Scraps of Paper?", 344.

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peace agreements but also their implementation and operation, especially when international involvement is directed towards monitoring and verification, dispute resolution and an international military and/or civilian presence."[47] When there is international monitoring and implementing, especially when it comes to demilitarizing, the party that has to disarm will not feel like this is so much of a defeat, and therefore mitigate commitment problems, which can lead to the recurrence of violence.[48]

Quantitative research has been produced on the significance of the promise of a third-party to enforce the settlement. In a study done by Hartzell, Hoddie and Rotchild, they were seeking to examine several variables in order to see which of them have the most significance in affecting the success of a peace settlement. The authors have come to the conclusion that, "…the inclusion of a third-party enforcer of the agreement reduces the hazard by an estimated 98 percent."[49] Other literature have focused on the influence of international involvement in referendum cases in particular. There are two main factors that resulted in the peaceful cases of post-referendum environments. One of the factors is the involvement of the international community in the administering of the referendum which guarantees proper and fair conduct of the referendum and therefore the results whatever they may be, will be recognized thus adding to its legitimacy. The second factor is that the holding of the referendum was agreed upon and negotiated by both sides of the conflict.[50] Therefore, at the end the most ideal kind of peace process and negotiated settlement to ensure its success is the combination of a good design of a

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[47] Wolff, "The Making of Peace," 70.

[48] Maekawa, Ari, and Gizelis, "UN Involvement and Civil War"; Stefan Wolff, "From Paper to Peace: The Role of Guarantees in Peace Agreements," World Politics Review. December 17, 2013. Accessed April 08, 2019. https://www.worldpoliticsreview.com/articles/13444/from-paper-to-peace-the-role-of-guarantees-in-peace-agreements.

[49] Hartzell, Hoddie, and Rothchild, "Stabilizing the Peace."

[50] Qvortrup, Referendums and Ethnic Conflict.

peace agreement with important provisions, a well-thought-out sequence on implementation, and finally the involvement of international power; "…there appears to be both consensus and evidence that the design of peace agreements (i.e., the provisions that they contain) maters; that implementation and its sequencing are important; and that international involvement more often than not is a feature of sustainable peace that flows from negotiated agreements."[51]

1.5 Power Parity

One must also account to the power dynamics in a conflict since merely signing an agreement and agreeing on its provisions does not necessarily mean that the commitment problem and conflict are resolved. The change in the dynamics of power can bring back violence depending on which side's power has increased or decreased; "This argument thus suggests that the risks of recur- rent conflict increase if either belligerent experiences a change in leadership, especially if that change is rapid or unexpected."[52] The issue of power in a civil war, "…does not concern the balance of power but how long each belligerent can fight."[53] Hultquist lists three levels of power dynamics; (1) extreme asymmetry (2) parity (3) rebel superiority.[54]

When there is an extreme asymmetry between the powers of the rebels and the government it makes the cost of the war less for the government. Hence, the government will have little incentive to enter into negotiation especially since a negotiation could legitimize the rebels. As for the level of parity the rebels are established to be a legitimate threat to the government. This demonstrates to the government that the rebels have a greater probability of victory. Hence, negotiation and settlement are seen as a viable option by the government since

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[51] Wolff, "The Making of Peace," 66.
[52] Suzanne Werner, "The Precarious Nature of Peace: Resolving the Issues, Enforcing the Settlement, and Renegotiating the Terms," *American Journal of Political Science* 43, no. 3 (July 1999): 919, doi:10.2307/2991840.
[53] Philip Hultquist, "Power Parity and Peace? The Role of Relative Power in Civil War Settlement," *Journal of Peace Research* 50, no. 5 (September 2013): 624, doi:10.1177/0022343313486281.
[54] Ibid.

the rebels are an imminent threat and in almost equal power; "Fighting near parity has informational value to each side, which can expose information about relative strength and how long each side can hold out…gives both sides an incentive to find an appropriate settlement or pursue a ceasefire."[55]

Finally, there is the level of rebel superiority in which the rebels are stronger and on a higher level of power compared to the government. This type of power parity happens in rare cases, but when it happens it is more detrimental to a government than a weak rebel since the government cannot hide and practice hit and run tactics utilized by weak rebels. In this type of situation, the rebels might not want to settle when they have greater power to their advantage. Therefore, peace settlements are less likely when rebels are stronger. However, this creates even more incentive for governments to concede to the rebels' demands and accepting provisions that are greatly costly on their behalf such as power-sharing, referendums, and third-party guarantees.

2. Success, Peace and Durability (Dependent Variable)

Defining the success of a post-conflict environment is very difficult since there are so many different standards of success that are applied according to the study or explanation that is being sought. Another reason why it is difficult to define what a 'successful settlement' is because, "…a settlement is a complex and multifaceted outcome of a process, and arises from particular circumstances."[56] Some scholars believe that in order to label a settlement as 'successful', it should produce an arrangement which can be resilient and long-lasting, while others are satisfied with the idea that as long as it achieves the initial expectations then that is

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[55] Ibid, 633.
[56] Jorge Mestre-Jorda, "Are There Formulas for Successful Diplomatic Agreements?" *European View* 15, no. 2 (2016): 335, doi:10.1007/s12290-016-0421-7.

more than enough for it to be considered 'successful'. There is also the issue of defining what peace is or at least what is the standard of peace that one is seeking.

The most common definition of peace that is used by most scholars is negative peace.[57] Negative peace is known as the absence of armed conflict, meaning the non-recurrence of an armed conflict after a civil war has ended which is the definition that is utilized in the thesis as already mentioned in the introduction. However, one cannot also ignore the 'positive' peace concept which looks at the long-term success and durability of peace after a civil war.[58] Durability of peace is considered to be a combination of both negative and positive peace where in order to assess whether durability of peace is possible after a conflict it has to start with the absence of violence (negative) and only then can the development of a state can begin (positive); "Building on the peace agreement literature, the elements of durable peace include indicators of conflict management as well as positive (improving quality of life) and negative (improved security) peace…"[59]

However, assessment of the durability of peace is not as simple as assessing negative peace since, "Durable peace is a complex, multidimensional concept that includes both conflict resolving (reconciliation) and institutional (security, governance and economic) building during the post-agreement period."[60] Some factors that are usually taken into consideration when evaluating the durability of a peace agreement are, the development of security institutions; was

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[57] Badran, "Intrastate Peace Agreements"; Fortna, "Scraps of Paper?"; Karl Derouen et al., "Civil War Peace Agreement Implementation and State Capacity," *Journal of Peace Research* 47, no. 3 (2010): 333–46, https://doi.org/10.1177/0022343310362169.

[58] Lynn Wagner and Daniel Druckman, "Drivers of Durable Peace: The Role of Justice in Negotiating Civil War Termination," *Group Decision and Negotiation* 26, no. 1 (2017): 45–67, https://doi.org/10.1007/s10726-016-9511-9.

[59] Ibid, 47.

[60] Ibid, 49.

there the integration of rebels in the military, was there police reform, demobilization, and disarmament of rebels, etc.[61] There is also the factor of governance institutions in terms of how well and effective was the implementation of power-sharing arrangements and development of governance systems in the territory or in general the effective implementation of provisions that were stipulated in the peace settlement.[62] Governance factors also entail whether there have been any constitutional changes or electoral reform. As for in the economic factor, did the standard of living improve, were there policies and plans for development of the economy set, etc.[63] Although these factors are important to take into consideration when assessing the degree of success of a case, however when it comes to territories that have been war-torn for as long as 10-20 years of civil war, even if some of these factors were not achieved immediately or not yet this does not mean you can label a case as a failure in peace. Hence, most of the scholars use the negative peace definition the most, since it is a great achievement in any territory that went through a long peace process and an even longer civil war.

3. Theoretical Framework

After explaining some of the literature regarding the variables that are taken into consideration in the assessment of the case studies, this chapter will now move to the theoretical frameworks and concepts that are the main base of my hypotheses. The concepts and theories are the deliberative democratic theory, costly signal, legitimacy, and finally time. Each of these concepts will be discussed in detail further below. However, I would like to first illustrate how these concepts prove the importance of the different aspects and nature of a referendum in a negotiated settlement which all support the hypothesis of the thesis discussed in the introduction.

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[61] Ibid; Call, "Introduction: The Tragedy of Civil War Recurrence."
[62] Wagner and Druckman, "Drivers of Durable Peace."
[63] Call, "Introduction: The Tragedy of Civil War Recurrence."

The combination of these concepts when applied to a referendum can illustrate how and why referendums have a positive effect on the likelihood of durable peace.

The deliberative democratic theory sheds a light on the importance of political inclusion or in the case of civil wars over territory, the importance of the people in the contested territory to have their voice heard in the decision that is being made on the future of their own territory. Moreover, it also illustrates the importance of value-deliberation when negotiating a peace settlement; since only when the roots of the issue that resulted in a civil war are discussed and settled through provisions stipulated in a peace agreement can it increase the likelihood of peace. Hence, in a conflict over territory, the referendum can be seen as holding a significant 'value' in a negotiated settlement since it ultimately provides a final legitimate answer and decision on the future of the contested territory.

This brings us to the legitimacy concept since official referendums stipulated in an official negotiated settlement ensures that this is what the people want. This particular concept concerns the nature of the referendum when it comes to its outcome. This is important also for the international community since they can accept a challenge to the principle of territorial integrity only when a referendum is stipulated in a formal negotiated settlement which gives legitimacy to the referendum and its outcome. Moreover, since a referendum holds a significant 'value' it increases its legitimacy since it is the people of concern that will be making the decision on the future of their own territory. Additionally, the weight of legitimacy that the referendum carries helps ameliorate the commitment issue since breaching it or denying the results can be very costly and could lead to the recurrence of violence.

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Mistrust and commitment issues always are major obstacles during the peace process as well as after the signing of a peace settlement which can result in the recurrence of violence. Hence, what is needed in the peace process is a costly signal that is seen as a major concession in order to help gain the trust of the other party. The concept of costly signal when applied to a referendum is associated with the nature of the peace process; however, it does also illustrate some insight on the importance and costly weight that a referendum holds when it comes to its outcome since denying its results or denying its implementation can increase the likelihood of recurrence of violence. When the parent state allows for the stipulation of a referendum provision in an official negotiated settlement this is seen as a major concession and costly signal on behalf of the parent state. The parent state signals to the rebels and people of the territory that they are willing to accept the possible loss of territory in return for the costly signal of the rebels accepting to demilitarize and disarm. This increases the cost of breaching a negotiated settlement, which helps ameliorate the commitment issue and therefore increases the likelihood of durable peace. The durability of peace is also connected to the timing of implementation of a referendum in the cases of conflicts over territory.

The concept of time, when applied to the referendum, focuses on the nature of the outcome of the holding of a referendum as well as insight on the post-conflict period that leads to the holding of the referendum. The holding of a referendum in a rushed and ad hoc manner can actually increase the likelihood of recurrence of violence. Usually when a referendum is postponed there are interim/autonomy periods which allow both parties (rebels and parent state) to first of all recuperate from the long years of war and second of all work on bettering their relations. This allows the parent state the chance to convince the rebels to opt for unity instead of independence.

The main theory used for the explanation of the importance of a referendum is the deliberative democratic theory, specifically the value-deliberation concept discussed in Ron Levy's article "Shotgun Referendums: Popular Deliberation and Constitutional Settlement in Conflict Societies."[64] Levy brings attention to a gap in the literature of deliberative theory that was always applied to peaceful nations and never applied to conflict-ridden nations. Levy uses the past theories and concepts on the deliberative process of the formation of a constitution in a democracy. Unlike most of the literature on deliberative democratic theory, he has illustrated the same concept specifically focusing on the deliberative values that can be applied to referendums held under ongoing or apprehended violence.

Levy's theory says that, "those subject to collective decisions should have voices in the decision-making process… focuses on achieving 'overlapping consensus'… where citizens can find and share common ground despite differing worldviews."[65] The concept of a referendum corresponds with the main elements of this theory in which those who are the subjects of a certain decision should be the ones participating in the process of making this decision. This way, in a context with so many differences, the citizens can find a voice and reach some form of common ground. This theory used to explain the importance of the deliberation on important values meaning provisions such as a referendum in the formation of a constitution; nonetheless, the same explanations and concepts can be applied on a peace agreement. According to Levy, "It is possible that a settlement process focused on value-deliberation can aid settlement by encouraging the process to approximate public reason ideals more closely."[66] This emphasizes

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[64] Levy, "Shotgun Referendums."
[65] Ibid., 1240-1241.
[66] Ibid., 1250.

the importance of 'value-deliberation' when negotiating a settlement or constitutional change since it is the discussion of important values (provisions) and underlying issues that will lead to peace and success. The ones that are only focused on enforcement fall short of looking at the important issues that should be discussed and included in a constitution or peace agreement. Not all types of provisions and implementations carry the same weight, but the ones that carry high costs are expected to increase the probability of durable peace.

3.2 Costly Signal

The commitment problem is known to be one of the main problems often discussed in the conflict resolution literature. The commitment problem is seen as one of the main obstacles in the negotiation process and settlement.[67] Even when both parties do not want to fight anymore each side does not know the intentions of the other. Hence, there is an endless cycle of mistrust which, "… can undermine cooperation even where perfect information would automatically yield a co-operative outcome."[68] Once the rebels are asked to demilitarize in order to move to the process of negotiation, it is seen as a great disadvantage to them. One main strategy for the amelioration of the commitment problem is 'costly signaling'. Costly signaling is the idea of the inclusion of certain guarantees and provisions provided and laid out in the peace agreements such as power-sharing territorial autonomy, referendums etc.; "Only costly signals can reassure the fighting parties in the absence of trust in institutional reforms."[69] Although addressing grievances is a vital part of a peace process and formation of a negotiated settlement, placing

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[67] Michaela Mattes, and Burcu Savun, "Fostering Peace After Civil War: Commitment Problems and Agreement Design," *International Studies Quarterly* 53, no. 3 (September 2009): 737-59, doi:10.1111/j.1468-2478.2009.00554.x; Maekawa, Arı, and Gizelis, "UN Involvement and Civil War Peace Agreement Implementation."; Michaela Mattes, and Burcu Savun, "Information, Agreement Design, and the Durability of Civil War Settlements," *American Journal of Political Science* 54, no. 2 (April 2010): 511-24, doi:10.1111/j.1540-5907.2010.00444.x.
[68] Fortna, "Scraps of Paper?" 341.
[69] Maekawa, Arı, and Gizelis, "UN Involvement and Civil War," 400.

certain guarantees/provisions can help compensate for the lack of trust that has naturally resulted from years of violent conflict. Therefore, guarantees/ provisions can, "help create an environment in which conflict parties are willing to give agreements a real chance… parties can develop greater confidence in each other's commitment to abide by an agreement."[70]

A signal can be considered credible only when it is costly. That is, the higher and more significant the costly signal is the more likely it is to decrease the recurrence of violence since it also helps ameliorate commitment issues. Hence, Fortna explains that a ceasefire is a costly signal since a state is willing to limit its ability to wage war[71], and the same can be said about the inclusion of a provision of a referendum in which the state is allowing the questioning of its sovereignty over a certain territory within its own borders. Implementing political provisions do not have high costs since it is easier to walk away from. There is a small cost to loose in political provisions which is possibly the loss of popularity and support from the rebel's side in which they are seen to be making too many concessions to the government, while on the government's side they can be seen as dealing with terrorists and rebels therefore giving them some kind of legitimacy. However, if this happens, they can simply pull out and stop cooperating. Another reason why Jarstad and Nilson see that political provisions do not have a great impact is because they can be used as a mechanism by the governments as just a façade in front of the international community that they are committed to the peace process as to not be labeled spoilers.[72] Therefore, territorial agreements have a much more significant effect on the likelihood of the durability of peace, since it has a higher costly signal and therefore it is harder to pull out of or be retracted without risking the recurrence of violence once again; "…the referendum has

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[70] Wolff, "From Paper to Peace."
[71] Fortna, "Scraps of Paper?"
[72] Jarstad and Nilsson, "From Words to Deeds."

become almost an automatic step in the move towards statehood for any people, and as such, even when the circumstances are extremely challenging for an exercise in direct democracy, the referendum may well be unavoidable."[73] Other than the weight of a costly signal that the referendum holds, the legitimacy that it creates to the claims of secession is also important to consider.

3.3 Legitimacy

In the conflict resolution literature, referendums were historically held to acquire support from their subjects and gain legitimacy. The book by Matt Qvortrup called *Referendums and Ethnic Conflict* has a theory which states that referendums are the most appropriate, efficient and legitimate mechanisms since it is the "pure" acclamation of the people and do not include the political parties' elites. [74] Therefore, elites and heads of states often utilize the use of a referendum in order to gain legitimacy for their own power and decision.[75]

Although there are arguments that claim that plebiscites and referendums are no less controversial than other mechanisms, we cannot deny that the advantage is significant since it will allow the people of concern and not the elites or any form of arbitrary decision to be made on an important issue such as ethnicity and boundaries.[76] The establishment of a provision to hold a referendum has become an informal norm that secession movements should require their people to vote since this will establish their legitimacy.[77] There are some arguments that say that with this guarantee of a referendum the legitimacy behind this tool can also help decrease the

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[73] Tierney, *Reflections on Referendums,* 17.
[74] Qvortrup, *Referendums and Ethnic Conflict.*
[75] Ibid.; Qvortrup, "Voting on Independence."
[76] He, "Referenda as a Solution."
[77] Qvortrup, *Referendums and Ethnic Conflict.*

commitment problem; "[t]he referendum's perceived legitimacy may even help to ensure against subsequent breach, once a settlement is reached."[78]

There is also certain literature on the legitimacy and significance of the presence of a negotiated settlement itself that could lead to a durable post-conflict peace. The agreement that results from a negotiation might be binding depending on the situation. Because peace negotiations are not binding, it is important that it culminates into a negotiated settlement since this gives the peace negotiation the effect of legalization.[79] Although this might not be true for all cases, and it does not always guarantee commitment, "…it raises the cost of violating the peace agreement. Legalization also strengthens the credibility of commitments, improves the enforceability of the settlement…"[80] There is also statistical evidence on the likelihood of peace failure after the formation of peace agreement and it was only 24.6% of the risk of failure after an indecisive outcome.[81] Therefore, a combination of a negotiated settlement with the provision of the holding of a referendum increases the likelihood of a successful and durable peace settlement. There is a legitimate power that a referendum has on a negotiated settlement. Hence, a referendum is a form of deliberative democracy which increases its legitimacy since it is the people of concern who are the ones voting for their own futures which makes it a larger and less retractable cost. However, the weight of the referendum's legitimacy, as well as its value as a costly signal, can be rendered useless unless the referendum is implemented in the right time.

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[78] Levy, "Shotgun Referendums," 1239.
[79] Badran, "Intrastate Peace Agreements."
[80] Ibid, 196.
[81] Ibid.

3.4 Time

There has been literature on the importance of timing of implementation of provisions. The design and timing of a referendum can lead to success even in cases where success is least likely to occur. Premature referendums especially ones that are poorly designed and not thoroughly thought-out have a higher likelihood of escalating conflict or lead to a continuous stalemate.[82] Preferably in contexts of post-conflict environment the postponement of issues and provisions can lead to peace.

There are two types of implementation of a postponed referendum on secession. One establishes an interim period where secession is neither agreed upon or denied however each side has a different expectation on the outcome. The entity has the choice later after assessing during the interim period if they would like to continue with unity or vote for independence. The second type has already an established agreement and inevitability of secession therefore the interim period can be seen as a time devoted for the preparation of the post-referendum period.[83] These types of provisions are noteworthy since it does imply that there is an implicit agreement by the state to the idea of the possibility of self-determination, but there is also a chance for the state to test the possibility of a union in the interim period. Bougainville and Sudan, which are two out of the three cases that will be examined, implemented the first type of a provision for a postponed referendum referendum while East Timor lies in the second type of since the inevitability of secession was obvious from the outset.[84] There are arguments that suggest that the postponement of an issue or in this case a referendum can be seen as a formalized way to ignore it. However,

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the counter-argument to that is, "…in agreeing to address the issue in the future lies a recognition that there is an issue to be addressed – this may include an acknowledgement that the case, at least potentially, may indeed be one of self-determination."[85]

Other literature in time concerning conflict resolution focuses on the idea of deadlines and time pressure. This is mostly applied to the analyses of the time leading to the start of a negotiation, the negotiation process itself, and how it ends. While this thesis seeks to examine what happens after the ending of the negotiation process some of its arguments can be applied to the timings of the holding of sovereignty referendums. The main argument of deadlines and time pressure on negotiations is that the higher the time pressure and closer the deadline is that is set can lead to quicker concessions which can lead to some sort of agreement in a deadlock situation. However, one of the issues that arise with time pressure is that it could go the opposite way and encourage brinkmanship, in which each party will stand their grounds awaiting the other to give in due to this deadline. Hence, this could lead to ending the negotiation altogether with no results whatsoever.[86]

There are three main conditions where time pressure has a negative impact on negotiations: (1) complex issues, when information is ambiguous or plainly lack of, when group dynamics come into play.[87] This argument here can be applied to the timing of the implementation of sovereignty referendums. A shortage of time does not give enough depth and

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[85] Marc Weller, *Escaping the Self-determination Trap*. Leiden: Martinus Nijhoff, 2008, 114, https://ebookcentral.proquest.com/lib/aucegypt/reader.action?docID=468508.
[86] Marco Pinfari, "Time to Agree: Is Time Pressure Good for Peace Negotiations?", *The Journal of Conflict Resolution* 55, no. 5 (October 2011): 683-709, doi:10.1177/0022002711414370.
[87] Marco Pinfari, *Peace Negotiations and Time: Deadline Diplomacy in Territorial Disputes*. London: ROUTLEDGE, 2013.

analysis of issues especially when many complex issues are at hand. In this situation, a territorial dispute especially on eventual secession is a very complex matter that cannot be decided on in a rushed or premature manner. Moreover, it is not enough time to process information, and negotiators tend to focus on the negative information or interpret it as negative.

A provision for a postponed sovereignty referendum can provide some time for both sides of the party especially the central state to process information and the future implication of this partition. An interim period is perfect to allow for the state to try to right their wrongs and convince the adversaries to vote for unity while the adversaries at the same time can take the time to prepare themselves economically, politically, and socially for their eventual independence. Finally, when there is a group or individual negotiating on behalf of people, the time pressure makes them more competitive which could lead to a sub-optimal outcome or no outcome at all. However, what can make up for this stalemate is the inclusion of a provision such as a referendum which increases the likelihood of peace and can be considered a great costly signal which carries the weight of legitimacy.

Chapter 3- Bougainville

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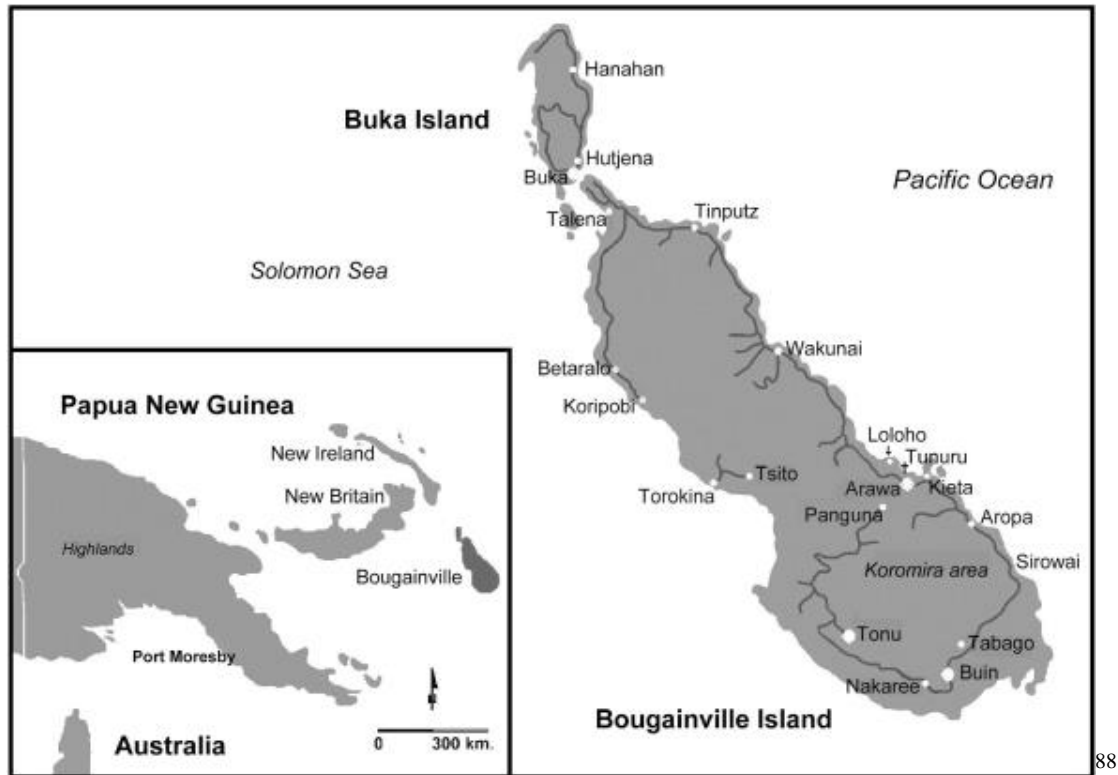
88 https://brill.com/view/journals/ssm/31/1-2/article-p130_7.xml?language=en

In this chapter, we will see the struggle of Bougainville for independence that has begun ever since PNG gained its independence from Australia. Other than the grievances of being denied their independence, there were issues regarding the Panguna Mine which not only took advantage of the Bougainvilleans and their own natural resources but also caused so many cultural grievances as well as environmental issues. This caused the eruption of a 10-year long civil war which was starting to see its end in 1997 with the effort of New Zealand and Australia in mediating between Bougainville and the PNG in order to come to a negotiated settlement. There were three main phases of a peace process starting from 1997 -2001, all under a regional effort. The BPA was eventually signed in 2001 guaranteeing a provision for a postponed referendum which would be held after 10-15 years. The referendum provision has conditions attached to it (good governance, disarming) provided that these conditions are implemented and achieved then the referendum will be allowed to be held. Ever since 1997 until 20 years after the signing of the BPA, Bougainville did not witness a recurrence in violence and was working hard on developing itself to be ready for independence. The referendum was eventually held on November 23, 2019 with an overwhelming vote for independence.

1. Background

Bougainville is the most remote PNG province which is made of a group of islands located around 1,000 kilometers from mainland PNG sitting within the Solomon Islands archipelago.[89] Bougainville was considered to be the richest Island in the Solomon Islands chain. In 1889 Bougainville has been under Germany's colonial power however, after the defeat of

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[89] Yash Ghai and Anthony J. Regan, "Unitary State, Devolution, Autonomy, Secession: State Building and Nation Building in Bougainville, Papua New Guinea," *The Round Table* 95, no. 386 (September 2006): 589–608, doi: 101080/00358530600931178; Jo Woodbury, "The Bougainville Independence Referendum: Assessing the Risks and Challenges before, during and after the Referendum," Australian Defence College: Centre for Defence and Strategic Studies, 2015.

Germany in World War I, Bougainville was annexed by Australia.[90] Although Bougainville was seeking independence it eventually failed and became part of PNG under Australian rule. Papua New Guinea eventually gained its independence in 1975. Bougainville has a population of around 300,000 which accounts for less than 4 % of PNG's population and includes up to twenty-five language groups spread across ten clans that culturally identify with Melanesia.[91] The Panguna mine, which is considered to be the trigger of the ten-year civil war in Bougainville, was run by a British- Australian company called the Bougainville Copper Limited (BCL) which was one of the largest open-pit mines in the world in the 1970s and 1980s.[92] Initially, the conflict was about challenging the mining company and the PNG government over issues on the distribution of mine revenues as well as the negative impacts socially and environmentally it had on Bougainville. However, at some point issues of autonomy, secession, and independence were the main agenda of Bougainville.

1.1 Panguna Mine

The Panguna mine was considered to be the backbone of PNG's economy and the single source of income for the government. The BCL has generated a revenue of around $1.9 billion in the seventeen years of its operation from 1972-1989 which amounts to around 17 percent of PNG's internal revenue.[93] With this large profit, only 5.63 percent of it went to Bougainville divided into subcategories of 4.27 percent that went to the provincial government and only 1.63

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[90] Mary-Louise O'Callaghan, "The Origins of the Conflict," *Accord*, no. 12 (2002): 6–11, https://rc-services-assets.s3.eu-west-1.amazonaws.com/s3fs-public/Accord 12_3The origins of the conflict_2002_ENG.pdf.
[91] Woodbury, "The Bougainville Independence Referendum"; Anthony Regan, "Bougainville, Papua New Guinea," *The RUSI Journal* 163, no. 6 (December 2018): 44–54, https://doi.org/10.1080/03071847.2018.1562020.
[92] Volker Boege, "Peacebuilding and State Formation in Post-Conflict Bougainville," *Peace Review* 21, no. 1 (2009): 30, https://doi.org/10.1080/10402650802690037.
[93] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession"; Woodbury, "The Bougainville Independence Referendum."

percent was given to the local landowners where the mine is located.[94] Other than the economic grievances surrounding the mine, there were social and environmental costs as well that were affecting Bougainville negatively. Land was taken away from the local communities which not only holds economic significance to them but more importantly it affected them socially and culturally; "The social and cultural significance of land was widely ignored by the management of the mining company and state authorities."[95] The locals were angered by the company and the government for not respecting the indigenous culture and their special status as the original owners of the land.[96] Furthermore, there was resentment that only those who own land used for mining were compensated, while there is no compensation for the negative impact that the mining company has on the rest of the whole community.[97] The benefits of modernization and mine revenue were mainly for the outsiders, while the local communities were just receiving the negative consequences of urbanization. There was a great influx of workers from outside of Bougainville who were squatting on their ancestral land. This influx of outsiders has brought with it an increase in crimes, alcoholism and prostitution which the locals were subject to. Due to all of these frustrations, the local community demanded reparations for the environmental degradation and negative effect that the mine had on their society and culture, as well as to form meaningful environmental protection measures. They have also demanded that large shares of the revenues that are generated by the mine to be given to the Bougainvilleans. However, these

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[94] Ibid.
[95] Boege, "Peacebuilding and State Formation," 30.
[96] Ibid; O'Callaghan, "The Origins of the Conflict."
[97] A. J. Regan, "The Bougainville Referendum Arrangements: Origins, Shaping and Implementation Part One: Origins and Shaping," *Canberra: Department of Pacific Affairs*, Discussion Paper 04 (2018): 1-15, http://dpa.bellschool.anu.edu.au/sites/default/files/publications/attachments/2018-08/dpa_dp2018_4_regan_pt_1_final.pdf.

demands were ignored by both PNG and the mining company, which resulted in one of the bloodiest conflicts in the South Pacific after WWII.

2. Civil War

Violence was triggered when a group of young locals brought the mining activities to a standstill by acts of sabotage by the end of 1988. The police could not control them; therefore, Papua New Guinea sent its military the Papua New Guinea Defence Forces (PNGDF) to the island in 1989. This move resulted in the formation of a guerilla force in Bougainville called the Bougainville Revolution Army (BRA) lead by Francis Ona. The BRA was able to control and shut down the Panguna mine in the early stages of fighting in 1989 with some of their factions to this day still controlling it and keeping it shut. Furthermore, the BRA started taking a secessionist stance from early on in the conflict when Ona made a unilateral declaration of independence (UDI) after the PNGDF withdrew from Bougainville in 1999. This was the not the first UDI Bougainville has declared. Another UDI was issued in 1975 just days before PNG became independent from their colonial authority Australia.[98] However, this declaration was dismissed by PNG's capital Port Moresby and, instead, a system of provincial governments with limited autonomous powers was constitutionalized in 1976. After this arrangement, discussions on secession have died down however, they have resurfaced by the 1980s since they have seen how limiting the autonomy arrangements were on their powers especially with those concerning the mine.

This conflict was not only a war between the locals and the central government but also a conflict amongst the locals themselves. The PNG was unable to control or restore order in

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[98] Regan, "Bougainville, Papua New Guinea."

Bougainville with the growing power of the BRA, hence they decided to withdraw in May 1990 and imposed a blockade on the island. The embargo caused a deficiency in essential goods and shortages of medicine which only worsened the living conditions in the island. This only caused more frustration and increased the hostilities amongst the Bougainvilleans and has reignited conflicts amongst already traditionally enemy groups.[99] The Bougainvilleans have been able to unite when they had a common enemy i.e. the national government and the mining company. However, "[i]n the absence of both of them, localised identities took precedence and were often a factor in conflict on the island."[100] This also lead to the creation of an opposing faction to the BRA, in which former BRA elements who were loyal to the PNG formed the Bougainville Resistance Forces (BRF). Often the locals would join either the BRA or the resistance unit and it was not unusual that individuals would change sides. There were many 'private wars' that were fought amongst the BRA and the resistance on local issues, the more prevalent one being land disputes.

Another idiosyncratic character of this conflict was that the parties were made up of many independent units that were based on kinship. Therefore, there was no main leader or hierarchal system of command and this was also the case with the PNGDF. The results of the conflict were from 3,000 to 20,000 deaths which was considered devastating at the time since Bougainville's population before the conflict was about 150,000.[101] There were many more extra-judicial killings by all groups involved in the conflict; by the end of 1997 around 10,000 deaths have been reported.[102] There was unknown large numbers of deaths as well caused by the

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[99] Antonino Adamo, "A Cursed and Fragmented Island: History and Conflict Analysis in Bougainville, Papua New Guinea," *Small Wars & Insurgencies* 29, no. 1 (2017): 164–86, https://doi.org/10.1080/09592318.2018.1404765.
[100] Regan, "The Bougainville Referendum Arrangements," 6.
[101] Regan, "The Bougainville Referendum Arrangements."
[102] Adamo, "A Cursed and Fragmented Island."

PNG blockade which was imposed after Ona's UDI in 1999.[103] There were several attempts

made since 1988 to try and stop the violence and achieve peace but to no avail. However, it was

not considered to be a waste of time since there were lessons learnt through these attempts.

Finally, in 1995 a trajectory to peace was emerging with the revival of Bougainville's provincial

government called the Bougainville Transitional Government (BTG) and the willingness of

several Bougainville factions to reconcile.

3. Peace Process

3.1 Ripeness

With the revival of the BTG, there were efforts to facilitate negotiations between the

Bougainville factions in Cairns Australia in 1995 between the BTG and BRF on one side and the

Bougainville Interim Government (BIG) and BRA on the other side. This was the first time that

moderate leaders representing the Bougainvillean factions came together in order to discuss

strategies to end the violence. Although there were voices to end the violence early on in the

conflict, it was only when the losses were more evident that there were efforts made to establish

communication between opposing leaders in order to lead the way to localized peacemaking.

They were also concerned that their chances to independence are not possible with a deeply

divided Bougainville. Hence, in 1994 the opposing leaders in Bougainville were meeting

informally which lead to more formal meetings held in Australia in 1995 however, due to the

escalation of the conflict between the PNG and BRA in 1996 talks have halted however they did

return again in mid-1997. Another event that lead to ripeness in the conflict was the Sandline

affair.

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[103] Regan, "The Bougainville Referendum Arrangements."

The PNGDF was growing weaker and was losing drastically which led to Julius Chan the then PM of PNG to be entangled in the Sandline affair in which he had hired mercenaries whom he claimed were only hired for training the PNGDF but in reality, were there to attack the BRA.[104] Julius Chan saw that if he was to find a solution to the Bougainville crisis it would guarantee his re-election. This affair has not only angered Bougainville but even the PNGDF, where they arrested and disarmed the Sandline mercenaries themselves. This move made the BRA and BIG leaders see the PNGDF in a newer more sympathetic light. The Sandline affair also could have resulted in a possible military coup in the PNG.[105] This affair was also an eye opener for the BRA and the BIG that there is always a great risk in the greater escalation of conflict. The PNGDF soldiers were also becoming war-weary since they were lesser in number and weaker than the Bougainville factions[106]; "Port Moresby, in its best condition, was unable to deploy more than 500 soldiers in Bougainville, which was completely inadequate for countering the BRA rebels."[107] Finally, this affair added more international pressure on the PNG to follow through in a peace process and there were also threats from Australia that it would withdraw its aid to the PNG.[108] By mid-1997 real progress towards peace was happening when New Zealand hosted some mediation meetings at first between the Bougainville factions in order to build trust again between them which had allowed them to eventually have a united agenda and set of demands in the peace process with the PNG.

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[104] Ibid.; Jim Rolfe, "Peacekeeping the Pacific Way in Bougainville," *International Peacekeeping* 8, no. 4 (2001): 38–55, https://doi.org/10.1080/13533310108413919; Pinfari, *Peace Negotiations and Time*; John Braithwaite et al., *Reconciliation and Architectures of Commitment: Sequencing Peace in Bougainville*, (Acton, A.C.T.: ANU E Press, 2010).

[105] Adamo, "A Cursed and Fragmented Island."

[106] Woodbury, "The Bougainville Independence Referendum."; Braithwaite et al., *Reconciliation and Architectures of Commitment.*

[107] Adamo, "A Cursed and Fragmented Island," 179.

[108] Braithwaite et al., *Reconciliation and Architectures of Commitment*.

3.2 End of Conflict and first phase of peace process (June 1997- June 1999)

New Zealand has made a lot of effort to broker meetings at first between the Bougainville factions and later including the PNG in the peace process around mid-1999. The New Zealand initiatives for reconciliation amongst the Bougainvilleans was encouraged by New Zealand's Foreign Minister Don McKinnon.[109] Due to the pre-negotiations that New Zealand hosted amongst the Bougainville factions in Burnham I, Bougainville was able to have a united front on what their agenda is and what their demands were for the PNG when they negotiated with them in Burnham II. In this phase, the end goal was not to achieve a peace agreement but instead to build a pathway and build an environment in order for a peace process to be able to take place. The most important part in this phase was the reconciliation between the Bougainville factions themselves. The successful pre-negotiations led to the Burnham Truce which secured the most durable ceasefire in Bougainville's history which officially ended the conflict; "Parties agree interim measures to refrain from intimidation and armed confrontation, to allow freedom of movement, respect human rights, and enforcement mechanism."[110] One of the main reasons for the successful pre-negotiation of the first Burnham meetings between the Bougainville factions was due to the lack of deadline diplomacy in order to provide them with enough time to reconcile amongst each other.[111]

3.2.1 Pre-negotiations

Although this phase of the negotiations was focused on reconciling between Bougainville factions, one of the main issues that resulted in a deadlock amongst them is the question of a referendum and secession. This was a very important issue to discuss since they had to agree on

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[109] Ibid; Rolfe, "Peacekeeping the Pacific Way in Bougainville."
[110] "Peace Agreements Database." *PA-X Peace Agreements Database*, https://www.peaceagreements.org/view/561/The Burnham Truce.
[111] Pinfari, *Peace Negotiations and Time.*

a united stance concerning this topic when it came the time to discuss it with the PNG. The intra-Bougainville negotiations did not occur and result in a united front without great difficulty. The pro-secessionists believed that Bougainville was already independent ever since Ona's UDI in 1999 and therefore no referendum on the question of its independence is needed. The pro-integrationists were calling for holding a referendum on independence so that it could be a democratic process in which the communities of Bougainville themselves can determine their own political future. Other smaller Bougainville factions that were also pro-integrationists feared that the armed BRA groups will rule them all if the referendum was to be held too early before the divisions amongst the Bougainvilleans were reconciled and normalcy returned. Hence, there were demands for the postponement of the referendum to a later period in order to allow some time for the weapons disposal process to be implemented as well as to work on reconciliation. Other minor groups were adamantly opposed on any idea of secession and proposed to be autonomous but still be part of the PNG. Eventually, in the Bougainville People's Congress they reached compromises amongst each other where the pro-secessionists accepted that the issue of Bougainville's political status would be dealt with through a referendum but only under the condition that it is binding. As for appeasing the integrationists especially those who proposed its postponement, it was agreed that there will be an autonomous arrangement however, a referendum on the future of Bougainville's political status will be held within 6-8 years. Thus, the united position that Bougainville agreed on was that the referendum will be held after 6-8 years and that it must be binding on both the PNG and all of Bougainville regardless of whether particular areas voted differently than the majority. [112]

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[112] Regan, "The Bougainville Referendum Arrangements."; Anthony J. Regan, "Phases of the negotiation process," *Accord: Weaving Consensus- The Papua New Guinea Bougainville Process,* no. 12 (2002): 32-35,

This is the phase in the peace process in which each party in the conflict was working to draft a comprehensive peace agreement named the BPA. The Bougainvilleans had the upper hand and a stronger position throughout the two years of negotiations. The power parity level between Bougainville and the PNG was the rebel superiority level, where BRA had military dominance towards the end of the conflict. With this asymmetric power parity, the PNG realized that the BRA has the power for further disruption due to their control of most of the arms.[113] Furthermore, the Ona faction who believed that they have already gained independence early on in the conflict refused to join the negotiations hence limiting the range of compromises that the Bougainvilleans can make on the secession issue for fear of losing popular support in Bougainville to Ona, which increased the pressure on PNG.[114] Moreover, the PNG has suffered majorly from this conflict, "…in terms of impacts on the economy, damage to morale in the police and the army, and undermining the country's international human rights reputation."[115]

3.3.1 Deadlock on Referendum issue

The negotiations on the development of the BPA occurred in 23 sessions over the length of more than two years in sessions that lasted a day or even a whole month.[116] In the early negotiation period, the PNG authorities always tried to avoid the discussion of the issue of the referendum; however, there was no progress happening on a peace settlement which led to a

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http://www.c-r.org/accord/papua-new-guinea%E2%80%93bougainville/phases-negotiations; Braithwaite et al., *Reconciliation and Architectures of Commitment*.

[113] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession"; Adamo, "A Cursed and Fragmented Island."

[114] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession."; Regan, "The Bougainville Referendum Arrangements."; Rolfe, "Peacekeeping the Pacific Way in Bougainville."; Regan, "Phases of the negotiation process."

[115] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession," 598.

[116] Regan, "The Bougainville Referendum Arrangements"; Regan, "Bougainville, Papua New Guinea."

stalemate on the referendum issue. When it came to the negotiations between Bougainville and PNG, Bougainville's proposal of the referendum and autonomy arrangement that they have formed in New Zealand was refused by the PNG since they believe that this could rile up other provinces in the PNG to seek secession and therefore threaten their sovereignty. Bougainville did not have previous examples or lessons that they could have followed since the main examples of island autonomies were all arising from the colonial context. Hence, the relationship between an autonomous island and their former/ present occupier has had interests in helping build their capacities and providing resources to them.[117] However, in the case of Bougainville, it is an island that is considered to be part of a 'parent state' (PNG), hence the relationship here is the feeling that Bougainville's claim to self-determination is a major threat to its territorial integrity. Moreover, the PNG has had a history of micro-national movements with many of their provinces and they saw that allowing Bougainville a referendum on secession could entice them to seek autonomy or independence. The other issue the PNG had was the proposed idea that there might be more than one referendum held following the New Caledonia example where they held around three referendums for independence from France.[118] Bougainville tried to compromise by dropping the idea of more than one referendum as well as the proposal on the special majorities that they have agreed upon amongst themselves in the intra-Bougainville pre-negotiations mentioned above. However, even after this concession the PNG was still hesitant since the referendum is seen as a threat to their sovereignty additionally, they could potentially loose Bougainville which was the backbone of their economy. The stalemate was finally broken in

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[117] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession."
[118] Regan, "The Bougainville Referendum Arrangements."

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2000 by the then Minister of Foreign Affairs of Australia Alexander Downer who formed a compromise proposal on the issue of the referendum.[119]

3.3.2 Deadlock Broken

Downer's proposal states that the PNG should constitutionally guarantee the holding of the referendum, however it would be held after a longer period than the one that the Bougainvilleans originally proposed (6-8 years) to 10-15 years after the establishment of an autonomous Bougainville government. Finally, the outcome will not be binding as previously proposed and the result of the referendum must be discussed first between Bougainville and the PNG with the PNG parliament having the final decision-making authority. The main point in this proposal is the long postponement period of the referendum, "… aimed to give the parties the opportunity to build trust and reach a better understanding through the operation of the autonomy arrangements…"[120]

This proposal was able to save the negotiation process which has already made so much progress. The proposal was fair enough providing both parties what they had sought for. This would provide the PNG the opportunity to implement the autonomy arrangements so well in order to bridge differences between them and the Bouganivilleans and convince them to vote against independence; "The assumption was that PNG would grasp the opportunity to make the autonomy arrangements work so well (for example, through financial support, transfer of powers, capacity building) that even many pro-secessionists might be persuaded to vote against

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[119] Ibid; Braithwaite et al., *Reconciliation and Architectures of Commitment.*
[120] Regan, "The Bougainville Referendum Arrangements," 11.

secession."[121] Moreover, the PNG was appeased due to the non-binding element of the referendum.

In this proposal, we can see a concession on behalf of Bougainville since the proposal is substituting the binding referendum into a non-binding one that is subject to the approval of the PNG parliament. However, Downer guarantees that the PNG will be constitutionally obligated to consult with Bougainville about the results. Moreover, the autonomous arrangement was advantageous to the Bougainvilleans since they have full authority to administer their own territory, from land to minerals and the environment.[122] There are some exceptions to their power including foreign affairs, central banking, international trade etc. However, Bougainville will have its own police force and taxation power, as well as its own judicial system, and legislation.

There has been talk amongst the Bougainville leaders on the East Timorese independence referendum in 1999. Joseph Kabui a former BRA leader and first president of the Autonomous Region of Bougainville as well as former president of Bougainville's people congress has stated that, "East Timor is a welcome regional precedent, a welcome wind of change. And if we cannot have a vote about our future in the same way —well, that will be like having a lid on top of a simmering volcano."[123] Hence, Downer has used the backdrop of the East Timorese referendum, emphasizing that just like his proposal it was a non-binding provision, however with the pressure of the international community Indonesia was forced to honor the outcome of independence[124]; "He pointed to the precedent of East Timor, saying that although the outcome of its 1999 referendum was not binding on Indonesia, once an overwhelming majority of East Timorese

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[121] Ibid.
[122] Braithwaite et al., *Reconciliation and Architectures of Commitment.*
[123] Mark Scott, "Bougainville: Island of Scars," *New Zealand Geographic*, Kowhai Media, 2000, https://www.nzgeo.com/stories/bougainville-island-of-scars/.
[124] Braithwaite et al., *Reconciliation and Architectures of Commitment.*

voted in favour of independence the international community ensured that the vote was honoured."[125] Hence, Downer promised Bougainville that there will be the same pressure and interest of the international community on the issue of their referendum; "Backstage, Downer and the other influential international players persuaded them that the international community could and would pressure Papua New Guinea to honour a vote for independence at that time. Because so much of the PNG budget at that time was funded by Australia, it seemed plausible that this pressure would work."[126] The Bougainville leaders were convinced that they would have the same international support as East Timor and will result in a similar outcome.[127]

4. BPA

Finally, the BPA was signed in 2001 tackling three main elements: (1) formation of an Autonomous Bougainville Government (ABG), (2) disposal of weapons under UN supervision, (3) a provision for a postponed referendum within 10-15 years on the question of Bougainville's future political status. The referendum will be held only after the establishment of autonomy of Bougainville which could only be established after the total disarmament of the Bougainville factions and disposal of arms. Furthermore, Bougainville must illustrate good governance according to international standards specified in section C number 313(a) in the BPA; "The benchmarks to be used in determining good governance will take account of internationally accepted standards of good governance as they are applicable and implemented in the circumstances of Bougainville and the rest of Papua New Guinea."[128] The referendum was promised to be held within 10-15 years as stipulated in 312 (a) after the first ABG elections

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[125] Regan, "The Bougainville Referendum Arrangements," 11.
[126] Ibid, 57.
[127] Regan, "Bougainville, Papua New Guinea."
[128] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, https://peaceaccords.nd.edu/provision/constitutional-reform-bougainville-peace-agreement.

which were held in May-June 2005 which schedules the referendum anywhere between mid-2015 and mid-2020; "… no earlier than 10 years and, in any case, no later than 15 years after the election of the first autonomous Bougainville Government."[129]

Bougainville's autonomy arrangement is both territorial and asymmetrical hence it is the most unique and different case compared to the rest of the provinces in the PNG especially with the promise of a postponed referendum. The BPA states that the provisions on the referendum must be constitutionally guaranteed as well as demands that this agreement should be incorporated in PNG's constitution; "BPA (C)(15): 309. The National Government will move amendments to the National Constitution to guarantee a referendum on Bougainville's future political status… 320. This agreement will be given effect through Constitutional Laws."[130] Another important provision in the BPA is that the autonomy arrangement of Bougainville and the referendum cannot be revised or changed by the PNG parliament without consent by the Bougainville legislature stipulated in section D number 325 (a)(b).

As stipulated in section B number 14, Bougainville will form their own constitution by a broadly representative body namely Bougainville Constitutional Commission (BCC) and a Bougainville Constituent Assembly both recognized by the PNG; "The Bougainville Interim Provincial Government in consultation with the Bougainville People's Congress will establish a Constitutional Commission and a Constituent Assembly to make the Bougainville Constitution."[131] The agreement states that the constitution should include the Bougainvillean's choice of names for both their government and Bougainville itself. The name that was decided

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129 Ibid.
130 Ibid.
131 Ibid.

upon for their government is the Autonomous Bougainville Government (ABG) and for Bougainville the Autonomous Region of Bougainville in which both names highlight Bougainville's special status in the PNG compared to the other provinces. Compared to the previous system of devolution of 1976 where the provinces were always subordinate to the national government which had the power to suspend provincial government or to revoke their power, there is more intergovernmental relations on equal footing between the national government and Bougainville. The agreement started to be enacted in 2002.

4.1 Incentives

The BPA was fair enough to provide conditions and incentives for both parties in the conflict in order for the provisions to be enacted one by one. The main reason for Bougainville especially the pro-secessionists to accept autonomy and not immediate independence is because of the provision for a postponed referendum which keeps the subject matter of secession still relevant and significant even after 10- 15 years.[132] It was surprising that Bougainville accepted the condition that the referendum would be non-binding especially since they could have held their grounds seeing that they had a stronger position on the negotiating table. However, what led to this compromise is due to the costly signal that the PNG has given first of all when they accepted the referendum provision as a whole. The other main costly signal is that it would be constitutionally guaranteed meaning that the holding of the referendum cannot be ignored even after so many years. Bougainville has also accepted demilitarization and disarming which can be considered as a great concession and costly signal since this put the rebels in a vulnerable position with no military or arm power. However, the main incentive for accepting this condition

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[132] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession."

was because the provision was linked to a series of other provisions that must be achieved before even having the countdown to the holding of the referendum. As mentioned above if disarmament is not achieved there will be no establishment of an autonomous Bougainville. Hence, with no autonomy established countdown to the holding of the referendum will not start. Another incentive for the concession on disarmament was that the PNG must withdraw its troops first before the process of demilitarization and weapons disposal.[133]

Although the concept of deadline diplomacy is usually used when speaking of the negotiation process itself and not the implementation of a peace settlement it is possible to apply it in this context. Since the referendum will be held in10-15 years, this allows Bougainville to develop institutions and gain experience in governing their own territory, in order to be ready for their possible independence in the future. This long period of time will also give them more time to reconcile amongst each other and build a unified Bougainville which will surely have a high rate in independence vote when the time comes; as noted by Wallis, it was hoped that "the deferred referendum would play a nation-building role, as it would give Bougainvilleans time to continue reconciliation and to learn to work together."[134] Finally, Bougainville saw that international pressure has aided them so far in influencing the national government to agree to a constitutionally guaranteed referendum; therefore, they would have the same support from the international community when the time of the referendum comes, in which, "the PNG government would find it difficult to ignore the result."[135]

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[133] Regan, "Bougainville, Papua New Guinea."

[134] Joanne Wallis, "Nation-Building, Autonomy Arrangements, and Deferred Referendums: Unresolved Questions from Bougainville, Papua New Guinea," *Nationalism and Ethnic Politics* 19, no. 3 (2013): 317, doi:10.1080/13537113.2013.818360.

[135] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession," 600.

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As for the main reasons and incentives behind PNG's concessions to the provision of the referendum is due to the conditions attached to the referendum. The PNG since agreed to the a provision for a postponed referendum only if Bougainville would agree to have an autonomous government as an interim period in order to give the chance to promote for integration. The countdown to the referendum will start only after the establishment of autonomy of Bougainville which according to the BPA will occur after the total disarmament of Bougainville. Therefore, the PNG would have an additional few more years before the establishment of the ABG to push the issue of secession further longer.

Once again, the concept of deadline diplomacy can be applied here since postponing the referendum does not put pressure on PNG about the possibility of losing territory so soon after the war. It is because there is no near deadline, the PNG are allowed to try and change the minds of Bougainvelleans to integration. Another more important specification in the referendum is that it is advisory where if the result is desiring secession it will have to be ratified by the national parliament. One would believe that this could have be an issue of contention that could have resulted in the recurrence of violence; however, this was not the case. Although the provision of the referendum was one of the main reasons for the appeasement of the Bougainvilleans which brought an end to the conflict there were other factors special to the Bougainville case that have also increased the likelihood of a successful peace process and a durable peace agreement.

5. The 'Pacific Way' and Regional intervention

Peacekeeping is a vital component in the peace process which also affects how the negotiations are set out and also affects their result; **"…**peacekeeping is a 'type of conflict

resolution' and the process and the outcome are probably not separable."[136] The three main peace keeping monitoring groups in Bougainville were the: (1) New Zealand-led Truce Monitoring Group (November 1997-March 1998), (2) Australian-led Peace Monitoring Group (April 1998-June 2003), (3) United Nations (UN) observer mission (1998- June 2005). The regional monitoring groups were the most important and biggest in size compared to the UN observer mission which consisted of no more than six personnel that monitored the ceasefire and offered mediation support as well as organized the demilitarization process.[137] Mediation and negotiations were mostly taken upon by the regional peace keepers as well as the elders and chiefs in the Bougainville community which resulted in executing the peace process the 'Pacific way'.

The 'Pacific way' was a very unique characteristic of the Bougainville case which was one of the main factors that have contributed in the durability of the agreements and the successful peace process that has resulted because of it.[138] Before the intra-Bougainville pre-negotiations there were countless of lose agreements between Bougainvilleans themselves and between Bougainville and PNG until the Burnham Truce (I and II) and the Lincoln agreement that have resulted due to the 'Pacific way' of meetings and reconciliation which led to an in-revocable ceasefire and encouraged further negotiations resulting in the BPA.

At both meetings in Burnham hosted by New Zealand, the process started with the Maori cultural greeting which have brought not only the Bougainvilleans together but also the

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[136] Rolfe, "Peacekeeping the Pacific Way in Bougainville," 53.
[137] Woodbury, "The Bougainville Independence Referendum"; Regan, "Bougainville, Papua New Guinea"; Peter Reddy, "Reconciliation in Bougainville: Civil War, Peacekeeping and Restorative Justice," *Contemporary Justice Review* 11, no. 2 (June 2008): 117–30, https://doi.org/10.1080/10282580802057744.
[138] Rolfe, "Peacekeeping the Pacific Way in Bougainville."

Bougainvilleans and the PNG in the second Burnham meeting.[139] The 'Pacific way' is a highly inclusive process and, where each side must be willing and happy in order to proceed. Furthermore, there is patience, considerations of each other and flexibility which fostered trust and a successful peace process. Finally, reconciliation ceremonies are entrenched in Bougainvillean and PNG culture, therefore it was very important for them to achieve it and once a reconciliation is made and an apology is accepted there is no going back.[140] Hence, due to the 'Pacific Way' the talks were conducted in New Zealand, they have paved the way for the second phase of the peace process to discuss the drafting of the BPA. Australia was more active in the second phase of the peace process.

As mentioned above it was the Australian minister of foreign affairs that helped resolve the deadlock that the parties in the conflict faced in their negotiations on the issue of the referendum. This was seen as something surprising since Australia ever since the beginning of the conflict has always been on PNG's side stating that its sovereignty is important. Australia has also given military aid and personnel to help the PNGDF and finally was the colonial authority that ordered the establishment of the Panguna mine which was the trigger of the conflict. This major policy change was a result of the close engagement of Australia in the peace process through the regional Peace Monitoring Group it has been leading since 1998. Through their monitoring they got to see how deep the issues really are and understand the demands of Bougainville more and understand the large gap between the PNG and Bougainville positions. Had non-regional parties intervened in the peace process, the conflict could would have been continuing and not have achieved more than 20 years of peace as it did now. It is because of the regional multinational

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[139] Ibid.
[140] Reddy, "Reconciliation in Bougainville."

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peacekeepers that are familiar with the 'Pacific way' of negotiations and meetings that Bougainville is one of the most successful cases of a peace process.[141]

6. Implementation History: 5 years

After the signing of the BPA, a few skirmishes have occurred between the PNGDF and some youth from the leta village in December 19 2001.[142] However, the confrontation was not too serious for it to be considered a violation of the ceasefire agreement. The Minister For Bougainville Affairs in the national government Sir Moi Avei has even commended the combatants for their commitment to peace which further assured the national government before committing to the inclusion of the provisions of the BPA in their constitution; "The commitment to the goal of peace by peaceful means displayed by ex-combatants meant that they put away many guns and helped to convince the National Parliament to give their support before the bills to give legal effect to the Bougainville Peace Agreement were put to vote."[143]

On January 23, 2002 the PNG parliament has officially passed the constitutional amendments related to Bougainville. On September 3, 2002 Bougainville's governor John Momis announced the formation of the BCC that will help draft the new Bougainville constitution which establishes the autonomous arrangements for Bougainville and includes a provision for a postponed referendum. The constitution making process in Bougainvillea made sure to elect representatives from different social economic and political groups especially

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[141] Rolfe, "Peacekeeping the Pacific Way in Bougainville."
[142] Peace Accords Matrix, https://peaceaccords.nd.edu/provision/constitutional-reform-bougainville-peace-agreement.
[143] Moi Avei, "Making, Building and Sustaining Peace by Peaceful Means," *Accord: Weaving Consensus: The Papua New Guinea - Bougainville Peace Process*, no. 12, 2002, pp. 62–63, https://rc-services-assets.s3.eu-west-1.amazonaws.com/s3fs-public/Accord 12_15Making, building and sustaining peace_2002_ENG.pdf.

traditional chiefs and leaders to ensure that there is a broad representation of the people of the Bougainville. The constitution made sure to set out principles of national goals as well as illustrate their history and how the people of Bougainville have shared symbols and culture and attempts to define future Bougainvillean identity. By including the provision for a postponed referendum, the constitution satisfies both the integration and independence supporters, since it does recognize that the people of Bougainville should have the opportunity to see for themselves through the referendum if after a process of trying to reconcile they want to seek their own sovereign state or remain with the status quo of being autonomous within PNG. This plays into the deliberative democratic theory concept since the referendum assures the political inclusion of all factions of Bougainville in which the future of their territory is in their hands. This appeases the pro-integrationists since no matter what the result is, they would have to accept it due to its legitimacy since it is the result of the Bougainvilleans' voices and opinions. The legitimacy of the referendum and its outcome also plays a role in gaining international support when the time comes to convince the PNG to accept the results.

After the constitution was made it was handed over to the ABG on January 2004.[144] While the constitution was being formed the weapons disposal process was in progress under the United Nations Observer Mission in Bougainville (UNOMB) and Peace Monitoring Group. Stages I and II of disarmament have commenced in 2001, in which stage I was collecting and placing the weapons in small containers and stage II was to take these containers away in to large shipping containers. The PMG sometimes would transport ex-combatants around the island to

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[144] Peace Accords Matrix, https://peaceaccords.nd.edu/provision/constitutional-reform-bougainville-peace-agreement.

help encourage disarmament and participate in disposal ritualistic ceremonies.[145] According to a report by the Secretary general on the UN office in Bougainville, by February 2003, 80.2 percent of Bougainville has already reached stage II. The main obstacle to the process is the refusal of the Ona faction to participate, however despite that they have managed to move more than half of the weapons out of villages to centralized steel containers under UNOMB observation. By mid- 2005 the disarmament process was successful and was given the verification it needed by the UNOMB to allow for the start of the first elections even to be held by the ABG which were held from May 20-June 2 2005.

Despite the holding of the elections, Bougainville did not have enough administrative power or capacity to hold the elections, which was making the transfer of power from PNG to Bougainville harder and longer.[146] Financially one would expect PNG to push significant amount of funding to Bougainville in order to persuade them against independence however, funding in the first full year of ABG's autonomy was at a minimum. Some national government elements, believed that since a high rate of independence vote was bound to happen in the future, the PNG should not invest too much into Bougainville due to the fiscal crisis they were going through. On the other hand, if Bougainville does not receive that funding, aid and autonomy measures that they highly expect, it can cause frustrations and potential recurrence of violence. The ABG was getting frustrated and even thought of opening the mine once again in order to generate their own revenue and build up Bougainville in order to have enough capacity to be independent. As for PNG's side, they believed that ABG is pushing the limit on the power that is allowed to be

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[145] Natascha Spark and Jackie Bailey, "Disarmament in Bouaginville: 'guns in boxes',"*International Peacekeeping* 12 no. 4 (2005): 599-608, doi: 10.1080/13533310500202025.
[146] Ghai and Regan, "Unitary State, Devolution, Autonomy, Secession."

autonomous (ex. participating in international meeting in the region) and that the ABG is too confrontational when dealing on certain issues with the national government.[147]

Despite these bumps during the infancy stage of the autonomy arrangements, Bougainville has been able to develop its governance institutions, a constitution, parliament etc.; "the ABG has successfully conducted three general elections, passed 50-plus pieces of legislation and established its own public service structures and financial management system separate from those of Papua New Guinea."[148] Bougainville has also managed to draw in foreign investors in order to aid them in their economic development. The economic development of Bougainville is the most lacking due to the shutdown of the Panguna mine until this day. Although there have been talks throughout the years of re-opening it, Bougainville leaders do not want the risk of recurrence of violence therefore they believe that its best left closed until Bougainville is more stable.

The referendum was eventually held on November 23 2019, after it has been postponed over the years starting from 2016, however due to the deadline of 15 years it had to be held on 2019. The voting polls were open for 14 days, asking the people to choose between greater autonomy or independence. The turn-out was overwhelming of around 180,000 Bougainvilleans ready to vote. The result was a landslide win for independence in which almost, "98% of people (176,928 people) voted for independence and less than 2% (3,043 people) voted to remain as part of Papua New Guinea but with "greater autonomy.""[149] Now, the next step for Bougainville to

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[147] Ibid.
[148] Gordon Peake, "Bougainville's Autonomy Arrangements: Implementation Dilemmas," *The Round Table*, 108, no.3 (2019): 281, https://doi.org/10.1080/00358533.2019.1618610.
[149] Kate Lyons, "Bougainville Referendum: Region Votes Overwhelmingly for Independence from Papua New Guinea," *The Guardian*, December 11, 2019, https://www.theguardian.com/world/2019/dec/11/bougainville-referendum-region-votes-overwhelmingly-for-independence-from-papua-new-guinea.

gain its official independence is the ratification of the result by the PNG parliament, along with

discussing the results with Bougainville to set out a plan for its future. James Marape the Prime

Minister of the PNG has indicated that he still wants Bougainville to work hard for their

economic autonomy, however Momis was reassuring that discussions with the PNG would be

over independence and nothing else.[150]

7. Conclusion

The two main phases of the peace process were very important to retrace and analyze in

order to understand the reasons behind the successful post-conflict environment of Bougainville.

What was illustrated from retracing the peace process was that a comprehensive agreement

would not have existed had it not first of all included a promised referendum and second of all,

had it not been postponed. Despite, the long reconciliation process that occurred in the pre-

negotiation stages headed by New Zealand, a deadlock in the peace process occurred due to the

issue of the referendum. Eventually, the PNG has shown a great costly signal by accepting a

promised referendum that put in question whether it will be losing a territory or not in the future.

However, Bougainville has also shown a costly signal by accepting its non-binding characteristic

and its postponement to a much longer period than what they expected. In order to appease the

Bougainville party, the BPA stipulated that the agreement along with its provisions must be

legalized by adopting it into PNG's constitution. This gives assurance to Bougainville that even

if the issue of their political status is not dealt with at the moment, it will still be a pertinent issue

to be dealt with even if it is long years after the conflict.

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[150] "Independence Inevitable, Says Bougainville President," *Radio New Zealand*, February 26, 2020, https://www.rnz.co.nz/international/pacific-news/410393/independence-inevitable-says-bougainville-president.

Since the provision of the provision for a postponed referendum in the BPA had a 'double entrenchment arrangement'[151] in which there were conditions and incentives for each side to follow, this increased the likelihood of a successful peace process and a peaceful post-conflict environment for over twenty years; "The architecture of sequenced, linked commitments described above deserves some of the credit for it holding so far."[152] It is this double entrenchment and 'linked commitments' that makes the BPA a 'well-designed' agreement. Because of its effective drafting it helped ameliorate the commitment and mistrust issues since there were concessions on both sides which formed a durable peace agreement. The autonomy arrangements and postponement of the referendum were other elements that helped enhance the 'well-designed' agreement.

The postponed referendum allowed both Bougainville and PNG not to make rash decisions. It allowed a breathing space for the Bougainville to continue its reconciliation processes in order to strengthen the unity and identity of the Bougainvilleans as well as allowed them some time to develop and enhance their governance institutions in order to prepare for their independence; "The Bougainville case suggests that autonomy arrangements and deferred referendums can help to achieve peace in the aftermath of violent self-determination disputes, if they are accompanied by efforts to reconcile differences and to create a common identity."[153] As for the PNG it allowed them to recuperate from the long years of war and from their fiscal crisis. Moreover, it provided an opportunity for the PNG to encourage the pro-secessionists to remain autonomous under the PNG. The result was that there was no recurrence of violence even five years after the conflict which is the main time frame that this thesis is concerned about.

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[151] Regan, "Bougainville, Papua New Guinea."
[152] Braithwaite et al., *Reconciliation and Architectures of Commitment*.
[153] Joanne Wallis, "Nation-Building, Autonomy Arrangements," 325.

The context and windows of opportunity also played a role in how the peace process and how it resulted in the BPA including a provision for a postponed independence referendum . One important ripe moment was the asymmetry in the power parity between the PNG the BRA. The BRA had more power and control, and had the upper-hand by the end of the conflict. The PNGDF finally realized that the rebels are an imminent power that can continue with destruction since they have the power to do so. Moreover, the PNGDF was war weary and what finally pushed them to opt for a peaceful manner of settlement was the Sandline affair discussed above. Another important context which allowed for the stipulation of the provision of the referendum in the BPA, is the changed foreign policy of Australia towards the PNG. Australia at the start has always supported the PNG and its territorial integrity. However, after Australia heading a monitoring group for several years in Bougainville, they realized the reality of the situation on the ground. The Australian Prime Minister Alexander Downer was the reason for breaking the deadlock that the peace process faced over the referendum issue. His double entrenchment proposal on the referendum issue was accepted by both parties and was fully adopted in the BPA.

Finally, what makes Bougainville a very unique successful case was that the third-party intervention was mostly regional with the UN having a very light presence in the peace process. However, the UN did have an important role in monitoring the disarmament process which without its approval of its success an autonomous Bougainville could not have been established. Nonetheless, it was the mediating intervention of New Zealand and Australia that played a great role in the formation of the BPA. It was the familiarity and knowledge of the regional multinational peacekeepers with the 'pacific way' of negotiations and meetings that contributed to Bougainville being one of the most successful cases of a peace process and a durable peace

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settlement that has maintained peace for over twenty years. It will be interesting see in future

studies whether the weight of the referendum and its legitimate result still carry the same power

and importance now that the referendum was held after 15 years of the signing of the agreement
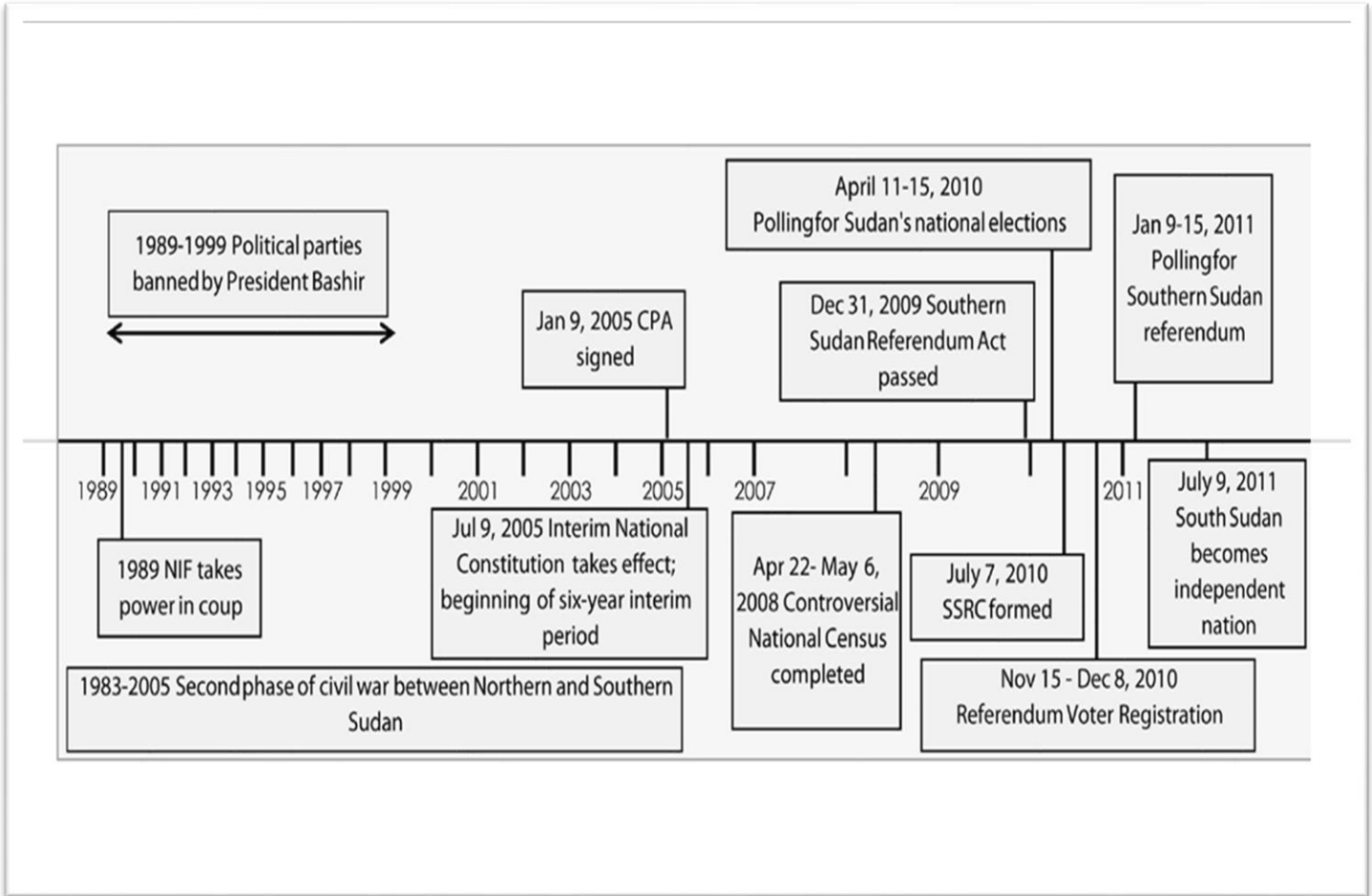
since the PNG still must make the decision whether they will accept the overwhelming result of

independence and whether there will be a new country in the international community.

Chapter 4- Sudan

The South Sudanese struggle for independence dates back to the 1950s right after the independence of Sudan from England and Egypt. It started with the agenda of being an autonomous region under the North after Sudan gained its independence however, this was refused by the national parliament immediately. Moreover, the Southerners were seen as second-class citizens being subject to slavery by the North. There was also the imposition of Islam and Arabic on the South which was majority Christian and its main language was English. This resulted in the country falling into a civil war that lasted around 50 years, which not only affected them but also destabilized the region. In the 1970s the civil war stopped for around 11 years after the signing of the Addis Ababa agreements which provided the South with certain controlled self-governing powers however, the agreement was nullified by the Sudanese president which reignited the war once again in the 1980s. Later on, an important agreement was formed known as the DoP by the IGAD in 1994, which advocated for the right of the Southerners to self-determination; however, this was refused by the North and the war continued until the early 2000s. Due to a series of internal and external factors as well as moments of ripeness a peace process was reinitiated in 2002 which led to the formation of the Machakos protocol which was the blueprint of the CPA. The CPA granted the South high autonomy arrangements for six years however with a major condition of cooperating with the North on the

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[154] "Observing the 2011 Referendum on the Self-Determination of Southern Sudan," The Carter Center, 2011, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/FinalReport-Sudan-2011-Self-Determination-Referendum.pdf.

unity of the country. During the interim period, although there were certain acts of violence, there was no recurrence of violence to the intensity and scale of the civil war. The independence referendum was eventually held in 2011 which resulted in 98.8 percent of Southerners voting for independence which led to their secession and was the 193rd state member of the UN.

1. Background

The struggle of South Sudan for self-determination originates to around fifty years prior to its independence in 2011. The southerners have sought independence ever since Sudan gained its independence from Egypt and the British.[155] The colonial legacy that the British have left Sudan with was the empowerment of the Sudanese Arab which enlarged the division between the North and the South. This empowerment of the North subjected the South to racism and slavery since the North saw them as inferior to them, hence there was resentment from the South towards the North ever since the colonial period. Another outcome of the colonial legacy was the great difference in identity and culture between the North and the South. English and Christianity were encouraged and concentrated in the South while the Arabic speakers and Muslims remained in the North.[156] There was even a demarcated line drawn by the British to separate the two administered regions, which gave an even stronger ground for the South to claim its own independence.

Even during the post-independence period, the South was subjected to exploitation and domination by the North. Right after independence, the South demanded that the new Sudan

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[155] Francesca Marzatico, "Southern Sudan Referendum on Self-Determination: Legal Challenges and Procedural Solutions," *Journal of African Elections* 10, no. 1 (January 2011): 1–32, https://doi.org/10.20940/jae/2011/v10i1a1.
[156] Edmund Arthur Brown, "Secession from Failed States: Ethical and Practical Issues with Current Approaches," PhD diss., (University of Leicester, 2018), https://lra.le.ac.uk/bitstream/2381/41076/1/2018BrownEAPhD.pdf.

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should adopt a federal system in which the South would be autonomous. The National Unionist

Party (NUP) held the majority of seats in parliament at that time and refused to adopt the federal

system[157] since they, "equated federation with secession, rather than as a way to maintain

national unity. Advocacy of even moderate federal demands by southerners was considered

tantamount to subversion and was treated as such."[158] This was not a surprising result from the

NUP since their agenda before the independence of Sudan was to have one united sovereign

nation with Egypt under the umbrella of the Nile Valley. Hence, their agenda is towards union

always in whatever situation they are in, and in this situation with the independence of Sudan, it

would go against their agenda if they would have accepted the federation system that the South

has suggested. The North forcefully subjected on the South the policy of Arabization and

Islamicisation.[159] The Southerners felt that they were being deprived of their own identity which

festered their hatred towards the North even more. The North even implemented policies in

which they divided Sudan according to ethnicities and religions in order to divide and control the

periphery regions.[160] There has also been unequal development and exploitation by the central

the country to the peripheries. The concentration was on the Northern Nile Valley and neglected

the rest of the peripheral regions especially the South.[161] Hence, one of the other main reasons

for the eruption of violence whether between the North and South or within the South is a fight

for scarce resources as well as land. There was also the issue of the 1970 Unregistered Land Act

that was imposed by the North which ultimately disregards any form of customary landowning in

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[157] Marzatico, "Southern Sudan Referendum on Self-Determination."
[158] Douglas H. Johnson, "Federalism in the History of South Sudanese Political Though," London: Rift Valley Institute, 2014, 13.
[159] Brown, "Secession from Failed States."
[160] Edward Thomas, "Against the Gathering Storm: Securing Sudan's Comprehensive Peace Agreement," (Chatham House: Royal Institute of International Affairs, 2009), 1-37, accessed December 12, 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/0941373F1AA782BB4925753900080168-Full_Report.pdf.
[161] Ibid.

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the South.[162] The North then would claim ownership of the lands and would lease them to large farms, or would use them as gift/rewards to their elite allies.

1.1 Civil Wars

1.1.1 First Civil War (1955-1972)

The North and South fought two dreadful civil wars. The first civil war was between 1955 and 1972, triggered by military mutiny in Torit (a city in South Sudan) after Khartoum refused the federal system that they have suggested. This insurgency later transformed into a movement known as the Southern Sudan Liberation Movement (SSLM) and then into the Sudan People's Liberation Movement (SPLM/A). By 1972, the conflict ended with the Addis Ababa Agreement which granted the South self-governing powers. Some of the important provisions in the agreement was the unification of the provinces of Equatoria, Bahr El Ghazal, and Upper Nile which will be known as the Southern Region. South Sudan is also allowed to use English as its principle language. The South would also have its own executive body known as the High Executive Council (HEC) where its president will be appointed by the President of Sudan with the recommendation of South Sudan's legislative body known as the People's Regional Assembly. The council is then formed and ministers will be appointed by the President of Sudan with the recommendation of candidates by the president of the HEC. The agreement clearly stipulates that the HEC and legislative body cannot exercise any powers on matters of 'national nature' with the agreement specifying some of these matters. Finally, there will be an attempt for the integration of southern soldiers to the national army of Sudan.

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[162] Gunnar M. Sørbø, "Local Violence and International Intervention in Sudan," *Review of African Political Economy* 37, no. 124 (2010): 173-86, https://doi.org/10.1080/03056244.2010.483890.

In a series of Lectures in Juba University in 2014 discussing the Addis Ababa agreement, Alfred Lokuji a professor in the university, as well as an undersecretary in the Ministry of Education in South Sudan, has stated that, "there was a high level of interference from Khartoum at that time, and having the … forces fully integrated in the national army left the South without any sort of military guarantee… when Nimeiri did not like the legislature, he dissolved it. Is that true autonomy?"[163] Other than the interference of Khartoum that is not stipulated in the agreement but imposed on South Sudan, the agreement itself illustrates that the South Sudanese do not have a great role in the formation of their own legislative and executive bodies. Furthermore, as Lokuji has mentioned, the integration of soldiers left the South in a vulnerable position with no guarantees. All of these mistakes taught the South Sudanese lessons to take with them when negotiating in the future the provisions of the CPA, which will be discussed further below. Nevertheless, this arrangement was adopted in the national constitution in 1973 and has lasted for around eleven years until it was unilaterally removed by then president Jaafar Nimeiri in 1983. Although this agreement was not durable and failed, it still was a very important stepping stone in Sudanese history since it was the first time the South was given autonomy and acknowledged the non-Islamic culture of the South.[164]

1.1.2 The Second Civil War (1983-2005)

The annulment of the agreement by the North sparked another military mutiny and another civil war in 1983 which lasted all the way to 2005. By 1989 the year of the Sudanese coup d'état,

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[163] "Addis Ababa Agreement (1972)." In Juba university lectures 2014- *We Have Lived Too Long to Be Deceived South Sudanese discuss the lessons of historic peace agreements,* Juba: Rift Valley Institute, 2014, http://riftvalley.net/sites/default/files/publication-documents/We Have Lived Too Long to Be Deceived - RVI 2014 Juba Lecture Series (2015).pdf, 11.
[164] Brown, "Secession from Failed States."

the casualties of the war along with the famine was estimated to be around 250,000.[165] Any serious first attempt to end the violence and achieve a peace agreement was at the start of the second civil war. However, any effort or progress ended when a military coup occurred and established the National Islamic Front headed by then General now President Omar Al Bashir.

This conflict was further escalated when divisions and conflicts were occurring amongst the Southerners themselves, other than their main issue against the Muslim-dominated North. The first conflict that broke out between the southerners was in 1991 between the SPLA and a breakaway faction. It was between longtime SPLM leader Dr. John Garang who was a Dinka and the breakaway group who were Nuer led by Riek Machar. The SPLM/A had a bad reputation amongst the Nuer due to the heavy taxation, human rights abuses, and forced conscriptions that they imposed. Furthermore, Garang's goal in the Sudan war was for a secular but united Sudan which a lot of the Southerners believed was unrealistic especially after the coup in 1989 that has put Bashir a fundamentalist Islamist in power and therefore were calling for a complete secession.[166] The conflict that erupted in 1991 amongst the Southerners was so devastating that the UN estimated that the population of South Sudan, "declined 1.9 percent in the year of 1993, and that the excess mortality in that year alone was 220,000."[167] The Government of Sudan (GoS) further exacerbated the situation in the South by funding and arming factions that were against the SPLM/A, and promised peace with those who broke out of the SPLM/A and went against Garang. The GoS even supported local leaders dividing the Nuer clans themselves

[165] Alan Cowell, "Military Coup In Sudan Ousts Civilian Regime," *The New York Times*. Accessed January 17, 2020, https://www.nytimes.com/1989/07/01/world/military-coup-in-sudan-ousts-civilian-regime.html.

[166] James Larry Taulbee, Ann Kelleher, and Peter C. Grosvenor, "Parallel Peace Processes in Achieving Sudan's CPA," in *Norway's Peace Policy Soft Power in a Turbulent World*, 1st ed., (Palgrave Macmillan US, 2014), 75–103.

[167] "Civilian Devastation: Abuses by All Parties in the War in Southern Sudan," Human Rights Watch. Accessed January 20, 2020. https://www.hrw.org/legacy/reports/1993/sudan/.

(Misseriya vs. Dinka) which was all part of the GoS's policy at the time to weaken the southern resistance, as well as allow them to explore the oil fields located in the southern region and control them.[168]

2. Peace Initiatives 1994-2005

The early 1990s saw the birth of another peace initiative, which was the first one ever since the Addis Ababa agreement in the 1970s with an important role played by regional states and organizations. This resulted in the DoP, which introduced the idea of a referendum on independence to be granted to the South. Although it was not accepted by the North, this was an important stride since it has officially put the idea of an independence referendum as a negotiation agenda which united the South. This initiative and its provisions are later adopted in the Machakos protocol which has come to be the main blueprint of the CPA which will be discussed further below. After the failure of the DoP of ending the civil war several external and internal factors resulted in a stalemate between the parties, that eventually led to negotiations that resulted in the Machakos Protocol, and eventually the CPA bringing an end to the Sudanese civil war.

2.1 Declaration of Principles

A peace initiative was initiated by the IGAD in the early 1990s. The IGAD was an organization of states of the Horn of Africa. IGAD was one of the early organizations that have attempted a Sudanese peace initiative in 1993 which was Kenyan-led. This was the longest-running peace initiative and was the one that has gained attention and support from international

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[168] Taulbee, James Larry et al., "Parallel Peace Processes in Achieving Sudan's CPA."

actors which eventually led to the formation of the CPA. The main purpose of the IGAD was to deal with issues of drought and desertification however in the early 1990s, due to the largely destabilizing conflict in Sudan it has decided to manage issues that are related to conflict prevention.

One of the main reasons why the IGAD adopted a conflict resolution agenda in the early 1990s, was due to the suffering of the neighboring countries who are also members of the IGAD, from the destabilization of the region due to the Sudan war. The neighboring countries such as Ethiopia pushed for peace since they could no longer aid Sudan and wanted to focus more on their internal affairs, with Eritrea attempting to secede from them. Furthermore, countries like Kenya and Uganda feared the expansionist ideas of the new Islamist power in Khartoum; "Thus, the regional dynamics of the civil war in Sudan were largely responsible for IGADD adopting a conflict resolution stature and activating a mediation agenda."[169]

The IGAD founded the Peace Committee with the then Kenyan President Arap Moi as a chair and included the heads of states of Uganda, Ethiopia, and Eritrea.[170] Only a year after the IGAD has taken over the peace process, there was a breakthrough in 1994 in Nairobi where the DoP was produced.[171] The IGAD drafted the DoP with the backdrop of the referendum held in Eritrea in 1993 which brought them their independence. Hence the main component of the DoP

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[169]Aleksi Ylönen, "Security Regionalism and Flaws of Externally Forged Peace in Sudan: The IGAD Peace Process and Its Aftermath," *African Journal on Conflict Resolution* 14, no. 2 (June 2014): 19, http://search.ebscohost.com.libproxy.aucegypt.edu:2048/login.aspx?direct=true&db=poh&AN=100422965&site=ehost-live.

[170] Ibid; Weller, "Settling Self-determination Conflicts."

[171] Ylönen, "Security Regionalism and Flaws"; Øystein H. Rolandsen, "A Quick Fix? A Retrospective Analysis of the Sudan Comprehensive Peace Agreement," *Review of African Political Economy* 38, no. 130 (December 2011): 551–64, https://doi.org/10.1080/03056244.2011.630869.

was either equal power and wealth sharing between the North and South and secularization or the South could have the right to self-determination through a referendum.[172]

This principle was agreed upon and accepted by the two SPLM/A factions (mainstream and united). The two factions saw that despite their differences, they had a common enemy i.e. the GoS. Furthermore, the DoP was emerging when the South was reaching great strides on reconciliation amongst each other which will be discussed further below. The power parity between the rebels and the GoS was at the extreme asymmetry level where the GoS had a favorable advantage militarily. Hence, they saw that they had bigger leverage on the southern rebels and therefore had little incentive to negotiate let alone concede to these principles laid out by the IGAD.[173] Moreover, conceding to the principles would undermine their ambitions of making Khartoum into a center of international Islamism. Hence, the war still continued until negotiations and progress towards peace started again in the early 2000s.

2.2 Ripeness

The IGAD resurfaced again as the main mediator by restarting serious negotiations in 2002 in Kenya. The ripeness of the moment was a very important factor for the initiation of the peace process that resulted in the CPA. First of all, both parties have reached a hurting stalemate which resulted in both of them committing to an internationally monitored ceasefire on November 2001. Due to several internal pressures that the North was facing such as the Darfur rebellion and unity of the South was starting to affect the North's war-weary soldiers; the North started realizing that they are spread too thinly between two wars (South and Darfur). As for the South, the states that initially were aiding them with weapons and allowing their grounds for

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[172] Thomas, "Against the Gathering Storm."
[173] Ylönen, "Security Regionalism and Flaws."

military bases were not willing to aid them anymore hence, the best solution is to opt for peace. Furthermore, several external factors have pushed both the sides to be willing to commence talks. The peace process started gaining international attention and pressure to end this conflict. This is because of the U.S.'s new adopted policy namely 'The War on Terror' post 9/11, hence the first ever U.S. special envoy was appointed to deal with the Sudanese conflict.[174] This resulted in having new mediators on the table with the appointment of General Sumbeiywo by President Moi as well as former U.S. senator John Danforth. These new mediators as well as the new dynamic of the world that changed post 9/11 has led to a new trajectory of the peace process.[175]

Although there were attempts from regional states to establish peace processes such as the Egyptian-Libyan Joint Initiative calling for unity, they were to no avail. Moreover, the Friends of IGAD (Canada, Italy, UK, Norway, U.S.) were realizing that the structure and process that the IGAD is pursuing will not lead to any result.[176] Although the Friends of IGAD were an important part of the process they showed little interest in engaging with the SPLA or the National Democratic alliance that formed to oppose Bashir's take of power. Evidently all of these different approaches and initiatives for a peace process have failed and no progress was made by the end of 2001. Hence, the Troika (U.S., Norway, U.K.) involved themselves even more especially with the new focus of the U.S. on the conflict, hence they pushed the IGAD to adopt a new peace process initiative.

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[174] Rolandsen, "A Quick Fix?"; Osman Antwi-Boateng, and Geraldine Maria Omahony, "A Framework for the Analysis of Peace Agreements and Lessons Learned: The Case of the Sudanese Comprehensive Peace Agreement," *Politics & Policy* 36, no. 1 (November 2008): 132–78, https://doi.org/10.1111/j.1747-1346.2007.00097.x; Weller, "Settling Self-determination Conflicts."

[175] Cirino Hiteng Ofuho, "Negotiating Peace: Restarting a Moribund Process," *Accord: Peace by Piece Addressing Sudan's Conflicts*, no. 18 (2006): 20–21.

[176] Taulbee, James Larry et al., "Parallel Peace Processes in Achieving Sudan's CPA."

2.2.1 External pressure

The appointment of Senator John Danforth, was the first time the U.S. has sent a special envoy to deal with the Sudanese conflict which increased international pressure on finding a solution to the conflict. U.S. increased involvement in the peace process was one of the main external factors that pushed the North to sit on the negotiating table. For the North it was the feared pressure from the U.S. from their new adopted policy War on terror mentioned above. It was within U.S.'s security interest to curb the Islamists in Sudan therefore, the U.S. sometimes threatened to use military power, and would support the SPLM/A against the National Congress Party (NCP) which was the ruling political party in the North. The NCP was also motivated to engage in the process now that the U.S. is a part of it in order to get rid of its pariah status after harboring terrorists like Osama Bin Laden in the 1990s as well as hosting al Qaeda training camps.[177] Furthermore, the U.S. congress had pressure on Khartoum in case it obstructs the peace process due to the Sudan Peace Act which imposes on them sanctions.

The external pressures on the SPLM/A were of a different character. The SPLM/A had both regional support/pressure from Kenya, Eritrea, Uganda, and Ethiopia as well as international support most importantly from the U.S. With Khartoum's support of the domestic opposition in the neighboring countries such as Ethiopia, Eritrea and Uganda it pushed them to support the SPLM/A and wanted to see an end to this conflict.[178] As for the U.S., the liberals sympathized with Garang's calls for secession and it is this sympathy that encouraged the SPLM/A to take part in the peace process since they have the attention of the biggest western country which could help pressurize the North and get more concessions from them; "Both the

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[177] Ibid; Thomas, "Against the Gathering Storm."
[178] Ylönen, "Security Regionalism and Flaws."

domestic balance of power and pattern of regional support therefore tilted in favour of the SPLM/A, increasing the likelihood that it could extract concessions from the NCP."[179]

2.2.2 Internal pressure

The external pressure, especially the U.S. War on Terror, came at a time where the Sudanese government – which was considered the most powerful actor in the conflict – was facing struggles to keep its power legitimate in the North while it was threatened by the Islamic hardliners as well as fighting and containing the rebellion in Darfur in the West. [180] There was also internal strife within the GoS between Omar al-Bashir and Hassan al-Turabi who was the leader of the Muslim Brotherhood in Sudan, which led to him being side-lined. The sidelining of al-Turabi led the way to pragmatists such as Ali Osman Taha, who eventually was the main representative of Sudan in the negotiating table with Garang which resulted in the CPA. [181]

Moreover, the Southerners have already dealt with their own differences through the People-to-People process. Had it not been for this process and conference, there would not have been peace amongst the South Sudanese and consequently no peace between the North and South without the pressure of their unity and power on the North.[182] It was a combination of regional and international countries and NGOs that have dedicated their financial and human capabilities to this particular reconciliation process. A series of conferences were organized by the Norwegian Church Aid and a few NGOs to help with reconciliations between the Southerners. The conferences usually gathered local people, fighters and commanders, elders,

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[179] Rolandsen, "A Quick Fix?", 553.
[180] Antwi-Boateng and Omahony, "A Framework for the Analysis of Peace Agreements."
[181] Johan Brosché and Allard Duursma, "Hurdles to peace: a level-of-analysis approach to resolving Sudan's civil wars," *Third World Quarterly* 39, no. 3 (2018): 560-576, https://doi.org/10.1080/01436597.2017.1333417.
[182] Taulbee, James Larry et al., "Parallel Peace Processes in Achieving Sudan's CPA."

pastors, and generally interested individuals in the issue. These conferences were recurring in a large number in most areas of South Sudan, which has allowed for all warring factions in the South to agree on a common agenda and statements on the future of the South which was mainly advocating the right of self-determination for the South as well as other marginalized areas; "According to a comprehensive New Sudan Council of Churches publication, 16 major conferences and 14 mini-conferences brought together thousands of people from 1997 to 2003."[183] Hence, Khartoum decided to participate in the peace process in order to survive from both internal and external pressures that they were facing, which broke the long-standing stalemate and initiated the relaunching of negotiations in May 2002.

This pressure from the unity of the SPLM/A was one of the main factors that encouraged the South to sit and take part in the peace process and this was evident ever since 1994 with the acceptance of the DoP discussed above. The National Democratic Alliance which the SPLM/A was leading, made them the official representatives of the whole South Sudan as well as of the three contested areas of the conflict namely, Abyei, the Nuba Mountains, and the Southern Blue Nile.[184] Another internal factor that encouraged the South to negotiate a settlement was when the SPLM/A lost their operational base in Ethiopia after Khartoum based rebels overthrew the Ethiopian Mengistu regime whom also provided financial and military support to the South. Garang realized that their heavy dependency on external support could not sustain an open-ended war after their loss of their main operational base.[185]

2.3 Reinitiating of Peace Process

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[183] Ibid, 96.
[184] Rolandsen, "A Quick Fix?".
[185] Antwi-Boateng and Omahony, "A Framework for the Analysis of Peace Agreements."

After the commitment of both parties to the ceasefire in 2001 mentioned above in the ripeness section, in April 2002 the Troika believed that both parties showed willingness and commitment to a peace process.[186] This combination of the three states was great since there were two global powers with global credibility (U.S. and U.K.) and Norway although considered to be a small country has a reputation for their role in the Oslo process between Israel and Palestine. The main approach that these three countries have decided on is to formally be a part of the negotiation process as observers in order to support the IGAD. Form early 2002 the Troika would provide financial and technical support as well as form joint political pressure on the parties in the negotiation. Furthermore, they would have the title of observers, and some of their roles as observers include, "… advise the work of Special Envoy Sumbeiywo, with the parties, serve as the main organizers of leverage, and coordinate international strategy."[187] The role of the observers is second in tier to the parties and the IGAD represented by General Sumbeiy.

General Sumbeiywo was the former chief of staff of the Kenyan Arm. He was not the expected person to give this role to especially since he was a military man and does not have professional background in diplomacy. However, he was considered to be a neutral and unbiased mediator since the GoS did not want to accept the U.S. as a mediator since Sudan is listed as a state that sponsors terrorism by the U.S. Furthermore, the South Sudanese did not trust the British as they were pushing for the unity of Sudan over the independence of South Sudan**.**[188] He was a strong mediator that did not care about angering any of the observer powerful countries at the negotiating table. Furthermore, he was a mediator that was not only familiar with the history

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[186] Ylönen, "Security Regionalism and Flaws."
[187] Ibid, 85.
[188] Antwi-Boateng and Omahony, "A Framework for the Analysis of Peace Agreements."

of the country but also is aware of the cultural values that he used for consensus building. He believed that the U.S. and British support was necessary for the negotiations however in the right time and context; "The newly organized mediators became major catalysts in producing the watershed Machakos Protocol at the end of July 2002." [189]

2.3.1 Machakos Protocol

The momentous Machakos Protocol, was signed on 20 July 2002, with the mediation by the IGAD chief mediator general Sumbeiyowo, which prepared the ground for the 9 January 2005 CPA.[190] The Machakos Protocol was seen as only the beginning of a long peace process; however, it was a very important start which led to five successful negotiations regarding security arrangements in the interim period, including issues of wealth and government power sharing; "The parties also accepted that Machakos…marked not the end of the process but the beginning of the serious, detailed negotiations."[191]

The Machakos Protocol was not majorly different than that of IGAD's DoP in 1994, however with the exception of the establishment of a secular Sudan. The balance that the Machakos Protocol provided was that the North will get to have Sharia as the basis for their law in return for the South to have a chance to gain self-determination through a referendum. It is made clear that the Sudanese national constitution is subject to amendments before the interim period in order to include the elements agreed on in the peace agreement. Another provision provided is the exemption of South Sudan from legislation based on the Sharia, and that the

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[189] Taulbee, James Larry et al., "Parallel Peace Processes in Achieving Sudan's CPA," 86.
[190] Ibid, 86; Weller, "Settling Self-determination Conflicts"; Ylönen, "Security Regionalism and Flaws"; Ofuho, "Negotiating Peace: Restarting a Moribund Process."
[191] Ofuho, "Negotiating Peace: Restarting a Moribund Process", 21.

constitution must take in to account the diversity in Sudan.[192] Hence, the Machakos protocol offers a quasi-confederal union between North and South by having an interim period for six years.[193] The protocol laid out provisions for the ending of the conflict with Sudan still united, however with more equal distribution of power-sharing, freedom of religion, and finally the most important provision, the referendum which is to be held in the South after a six- year interim period. By October 2002, another agreement was signed for the ceasing of hostilities which was supported and strengthened by another agreement in February 2003, which set out the formation of the Verification monitoring Team in order to supervise the ceasefire.[194]However, an attack by the SPLM/A on the Southern town of Torit a few months after the signing of the protocol has temporarily halted the peace process. Although there has been fighting during the peace process, this was different since it occurred after so much important progress has been already made.[195] This eventually led to the GoS to abandon the Machakos protocol and asked for a ceasefire until they were able to gain back Torit.

Eventually, negotiations were back on track this time discussing the three contested areas i.e. the Nuba Mountains, Abyei, and the Southern Blue Nile. At some point the mediators wanted to intensify the peace process and reach a settlement sooner. The U.S. even abandoned the piecemeal approach and instead presented a draft of a comprehensive agreement, known as the Nakuru document. However, this document was rejected by the GoS because of some of security arrangements that they did not agree with. Due to the Nakuru document which put the negotiations in a deadlock, high-level talks were necessary if any agreement was to be reached.

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[192] Weller, "Settling Self-determination Conflicts."
[193] Ibid.
[194] Ylönen, "Security Regionalism and Flaws."
[195] Rolandsen, "A Quick Fix?".

The mediation through the IGAD secretariat has been halted and instead the focus was on more direct negotiations between John Garang and the vice president of the NCP Ali Osman Taha.[196]

During the direct negotiations in 2003, they came to an understanding on security arrangements, wealth sharing, and quotas on power-sharing that will be discussed further in the next section below. The last part of the negotiations was to discuss the implementation schedule of the CPA and work on details of a cease-fire agreement. The last few negotiations have dragged long in 2004 due to several reasons. One of the main events that were blamed for this delay is that the North was too focused on its offensives in Darfur. There has also been the issue of dissent within the SPLM/A on the way they have handled the negotiations that caused a halt to the peace negotiations. Eventually, a UN Security Council (SC) meeting was held in November 2004 in Nairobi in which they gave both parties and ultimatum to reach an agreement by the end of the year on December 31, 2004 or face consequences from the international community.[197]

3. CPA

Finally, the CPA was signed on January 9, 2005. The CPA set out certain provisions and two of the most important issues tackled are: (1) territorial integrity of Sudan (2) Southern grievances of political, economic and social discrimination. The CPA emphasizes that the unity of Sudan should be a priority for all parties of the agreement as stipulated in chapter 1 part A 1.1 – namely, "[t]hat the unity of the Sudan, based on the free will of its people democratic

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[196] Ibid; Ylönen, "Security Regionalism and Flaws."
[197] Rolandsen, "A Quick Fix?".

governance, accountability, equality, respect, and justice for all citizens of the Sudan is and shall be the priority of the Parties."[198]

The main premise of the agreement is that the North should work on making the unity of Sudan attractive enough for the Southerners. Hence, the agreement also stipulates in chapter 2 part 2-2.5 the creation of the Government of National Unity (GoNU) which is a joint government unit between the SPLM/A and the NCP. The CPA stipulates that both parties should have equal power share in the government therefore allowing the South 80% of seats in the national legislature. The NCP is still slightly more power retaining a veto, has two-thirds share in the presidency, and 52% of the seats in the National Assembly; "The SPLM's share in national institutions is 28%, and the remaining 20% is divided between opposition parties." [199] This joint government will be following the Interim National Constitution which is a legalized version of the CPA.

Another important provision was the exemption of South Sudan from legislation based on Sharia law. The CPA also stipulates in chapter 2 part 3-3.2, the creation of the autonomous Government of Southern Sudan (GoSS) with its capital in Juba and led by John Garang who was also the first vice president of all of Sudan.[200] The GoSS would form its own committee to draft their own constitution that is based on their customary laws[201] As for the wealth-sharing provisions, what was agreed was that the income from the oil would be split in half with each of

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[198] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, http://peaceaccords.nd.edu/wp-content/accords/SudanCPA.pdf.

[199] Thomas, "Against the Gathering Storm," 14.

[200] Jon Temin and Lawrence Woocher, "Learning from Sudan's 2011 Referendum," (United States Institute of Peace, March 2012), page number, accessed January 10, 2020, https://www.usip.org/sites/default/files/resources/SR303_0.pdf.

[201] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, http://peaceaccords.nd.edu/wp-content/accords/SudanCPA.pdf.

them taking 50%.[202] However, the main important issues such as ownership of natural resources such as the Nile water was completely ignored and the issues of land ownership were postponed. Certain security arrangements and provisions were laid out as well and the most important was stipulated in chapter 5 number 6. As there is a joint government there will also be a joint arm force known as the Joint Integrated Units (JIUs) made up of SPLA and Sudan's Armed Force (SAF). This was a particularly important provision as well since the South has learnt from its mistake in the Addis Ababa arrangement where they were left with no armed force and instead were integrated into the national army. This new security arrangement in the CPA illustrates that both the North and South have joint sovereignty in the interim period.[203]

Finally, the most important provision to the South is the referendum provision that was to be held at the end of the interim period in 2011. This is stipulated in chapter 1 part A article 1.3, "That the people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status."[204] Chapter 1 part B article 2.5, specifically stipulates the subject of the referendum; "At the end of the six (6) year Interim Period there shall be an internationally monitored referendum…for the people of South Sudan to: confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession."[205] The threshold established for the referendum to be legitimate was that at least 60 percent of the registered voters had to cast their votes. The CPA set a specified timeline that Sudan had to follow to organize the referendum. It was stipulated that the South Sudan Referendum Act (SSRA) should be adopted at the end of the third year of

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[202] Ylönen, "Security Regionalism and Flaws"; Rolandsen, "A Quick Fix?".
[203] Thomas, "Against the Gathering Storm."
[204] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, http://peaceaccords.nd.edu/wp-content/accords/SudanCPA.pdf.
[205] Ibid.

the interim period. The CPA also stipulates the formation of the South Sudan Referendum

Commission (SSRC) which organizes anything that has to do with the referendum including

establishing rules, regulations and policies of conducting a referendum in Sudan and in other

countries with a high number of a South Sudan diaspora. The SSRC be established after the

enactment of the SSRA and the registration of voters should start at the beginning of the last year

of the interim period and should have ended three months before voting begins.[206]

One of the main criticisms regarding the CPA is that while it did discuss an array of issues

between the parties it did putt off very important issues such as the three contested areas: Nuba

Mountains, Abyei, and the Southern Blue Nile and what their futures are. Only the Abyei region

was discussed and it was agreed that they will also go through a referendum simultaneously with

the South Sudanese referendum. However, chapter 4 1.3 stipulates that the Abyei referendum is

to decide whether they are a part of the north or the South and not for secession; "Simultaneously

with the referendum for southern Sudan, the residents of Abyei will cast a separate ballot. The

proposition voted on…will present the residents of Abyei with the following choices…: a. That

Abyei retain its special administrative status in the north; b. That Abyei be part of Bahr el

Ghazal."[207]

3.1 Incentives

Most of the incentives for the NCP and the SPLM/A to come to an agreement and sign

the CPA are very similar to the main external reasons why they even sat on the table to negotiate.

The main incentive given to the GoS to accept all provisions of the CPA especially the provision

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[206] Marzatico, "Southern Sudan Referendum on Self-Determination."
[207] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, http://peaceaccords.nd.edu/wp-content/accords/SudanCPA.pdf.

on the referendum is the promise that the US-Sudan relation will strengthen and improve[208]. As for Garang, the U.S. was one of the main supporters of SPLM/A and wanted to maintain these close ties with the U.S. in order to have their backing in the negotiations and aid them in post-conflict reconstruction of the south.

Although the CPA did not recognize the secession of South Sudan, it did promise a referendum to be held after six years. The provision for a postponed referendum on independence is given to the South as a possible exit should the autonomy arrangements not satisfy them enough at the end of the interim period. This was also a way for the NCP to right their wrongs by sharing power and wealth fairly and equally in order to gain the Southerners' trust back and therefore convince them to opt for unity rather than independence.[209] Another reason for the referendum being a costly from the GoS, was the fear they had that the South Sudan example would entice other rebellious regions of Sudan pressuring it for secession, including Western Darfur. This was also considered a costly signal since the provision not only threatens their territorial integrity but goes against the main goal of the NCP, whose legitimacy is based on expanding and advancing Islamic principles.[210]

If it was not for the costly signal and concession of the GoS on the issue of the referendum, there would not be any peace agreement between the North and South; "Southern Sudan's self-determination referendum was the cornerstone and conclusion of the CPA, and probably the single non-negotiable component of the agreement for southerners."[211] The possibility of Southern independence serves as a 'double-edged sword' for the South as well. For

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[208] Ylönen, "Security Regionalism and Flaws."
[209] Ylönen, "Security Regionalism and Flaws."
[210] Ibid.
[211] Temin and Woocher, "Learning from Sudan's 2011 Referendum,"3.

the South, the Dinka SPLM/A could face rebellions from other southern tribes such as the Nuer and the Equatorian tribes that have traditionally been complaining about Dinka dominance.[212] However, the fear of the South of these rebellions faded away after the reconciliation process that they went through mentioned in the above sections.

The main costly signal on behalf of the South was having a political partnership with the NCP and Vice President Taha and committing themselves to working for the unity of Sudan.[213] Finally, for the South, the legalization of the CPA and its adoption into the constitution was also another important guarantee for them and a great costly signal on behalf of the NCP.[214] The referendum was also assessed against the, "… the Interim Constitution of Southern Sudan, the Southern Sudan Referendum Act (SSRA or Referendum Act) of 2010, and other national laws, as well as Sudan's international treaty obligations, including the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights (ICCPR)."[215]

4. Implementation History: 5 Years

After the signing of the CPA, there was an immediate move on drafting and amending the new constitution for Sudan in order to include the provisions agreed upon in the CPA. Although the CPA has done its job at halting the war and preventing it from recurring once again, it was still a suboptimal agreement. There was still great violence in the South, moreover the CPA was not implemented smoothly and its implementation was often halted.[216] Furthermore, the CPA

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[212] Antwi-Boateng and Omahony, "A Framework for the Analysis of Peace Agreements."
[213] Rolandsen, "A Quick Fix?".
[214] Thomas, "Against the Gathering Storm,"; "Observing the 2011 Referendum."
[215] "Observing the 2011 Referendum," 7.
[216] Øystein H. Rolandsen, "A Step on the Road to Independence: The 2011 South Sudan Referendum." in *Making Cooperation Attractive: Post-Referendum Relations between Egypt and the Sudan*, eds. J. Hoigilt and Ø.H.

was not implemented fully but only the provisions that each party prioritized were focused on. For the South it was the referendum which was non-negotiable. As for the North it was the 2010 elections especially after the indictment of Bashir by the ICC since the NCP wants him to have the image of being popularly elected in front of the international world.[217]

One of the main events that threatened the maintenance of peace in Sudan and the weakening of the CPA was the sudden death of Garang only three weeks after the signing of the CPA.[218] It is from that time where the drawback of the CPA's sole reliance on the goodwill of the leaders was apparent.[219] Furthermore, after his successor Salva Kiir came into power, the relations between the North and the South weakened especially since he did not care to work for the unity of Sudan as Garang did and focused more on uniting the South and prepare for secession. Hence, the power of the South in the national institutions of Sudan was weakening and there were also some issues of the NCP withholding oil revenue shares from the South, which resulted in the South refusing to participate in these institutions anymore in 2007. [220] This crisis caused an issue in the possible delay of the presidential elections that were to be held in 2009 however, this was not the only event/issue which threatened the timeline of the elections.

When it comes to the implementation of the CPA, every provision is linked to a highly interlinked process in order for it to succeed. In order for the presidential elections to have been held by July 2009 as stipulated in Chapter 2 part 1 paragraph 1.8.3 there were a number of

Rolandsen (Oslo: Peace Research Institute Oslo, 2011), 1-33. https://www.prio.org/utility/DownloadFile.ashx?id=397&type=publicationfile.

[217] Temin and Woocher, "Learning from Sudan's 2011 Referendum."
[218] Ibid; Ylönen, "Security Regionalism and Flaws"; Rolandsen, "A Quick Fix?"; Thomas, "Against the Gathering Storm."
[219] Ylönen, "Security Regionalism and Flaws."
[220] Ibid; Rolandsen, "A Quick Fix?"

conditions to be fulfilled in order to hold them: (1) border demarcation between North and South on July 2005, (2) formation and adoption of an electoral law that also guarantees freedom of expression early 2006 and creation of National Electoral commission, (3) census completed by July 2007.[221] However, by the time it was 2009 a census was still not done or finished. All of these conditions were pushed aside until 2008 with little to no progress. The electoral law and the NEC were both established by November 2008. Moreover, issues such as the demarcation of the borders was avoided for fear of the recurrence of violence since a small variation in it can affect revenue distribution between the North and the South. [222]

Despite all of these complications and putting off of important issues, the parliamentary and presidential elections were finally held in April 2010, in which the NCP and SPLM/A came to a mutual understanding that they would not challenge or oppose each other's positions in each of their regions. The presidential elections that were held fell short of the international standards since these elections were meant to include the rest of Sudan that were not part of the singing of the CPA. The elections resulted in further consolidating the NCP's power in the North and did not allow any chance for any opposition, "Nonetheless, the elections were considered a key benchmark in the CPA and allowed for the remaining provisions of the agreement to be implemented."[223] During the time when elections were being prepared for, the South was ready to even have an alliance with the NCP as long as they can guarantee that the referendum will not be postponed. They saw it irrelevant for them to be helping and setting up the center of the country i.e. the North when they should be planning for their independence.[224]

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[221] Thomas, "Against the Gathering Storm."
[222] Ibid.
[223] "Observing the 2011 Referendum," 9.
[224] Thomas, "Against the Gathering Storm."

4.1 Referendum

Although there was a stifling on the discussion of possible secession arrangements, Salva Kiir has worked on uniting all the separate ethnicities and groups in the South even when they are not a part of the SPLM/A in order to ensure independence when the referendum comes. Furthermore, it was believed that discussing secession defeats the whole purpose of the CPA in which the agreement emphasizes the promotion of unity and both sides of the parties are obliged to promote unity.[225] Only a year before the holding of the referendum were certain arrangements of secession discussed. This put the organizers of the referendum in a very difficult situation since they had to deal with so many technicalities with the organization of the referendum in such a short time. Although this frustrated the Southerners, they tolerated the delays and non-compliance of the North with the deadlines stipulated in the CPA since their goal (independence) was very near and did not want to cause further delays in order to hold the referendum on time.[226]

The CPA had a specified timeline that Sudan had to follow to organize the referendum. It was stipulated that the SSRA should be adopted at the end of the third year of the interim period. As for the SSRC it should have been established after the act and the registration of voters should have started at the beginning of the last year of the interim period. However, the act was enacted only at the end of 2009, while the SSRC was established at the end of June 2010 and was only operational by September. This gave the new commission only four months to organize the

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[225] Rolandsen, "A Step on the Road to Independence."
[226] Marzatico, "Southern Sudan Referendum on Self-Determination."

technicalities such as setting up referendum centers, training staff, registering voters, conduct voter education etc.[227]

Around the time of the referendum, both the NCP and SPLM/A had a common goal – which was to avoid the recurrence of war for different reasons. First of all, the NCP wanted to remain in power in the North especially after the indictment of Al Bashir by the ICC on his actions in Darfur. Second of all, if war reoccurs it could cause further isolation to Sudan from the international community which could further weaken its economy and military and eventually the NCP's hold of power. As for the SPLM/A, all they wanted is a peaceful and orderly secession from North Sudan.[228] In the year and few months that were leading up to the referendum, Sudan has experienced lower violence in 2010 than in 2009 and 2011[229], which goes to show how important and crucial the referendum was.

Bashir was even very vocal in his acceptance of whatever the result may be for the referendum, especially in his speech in Juba on January 4, 2011. The South even pushed themselves to restrain themselves from several provocations from the North where the SAF have sent several bombs along the north-south border only a few weeks before the referendum. The South decided not to retaliate militarily since the holding of the referendum is the most important event. The referendum was finally held on January 9, 2011 and voting closed on January 15. The final result was announced on February 7, 2011, "… Of the 3 851 994 who voted 3 792 518, representing 98.8 per cent of Southern Sudanese voters, opted for secession."[230]

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[227] Ibid.
[228] Temin and Woocher, "Learning from Sudan's 2011 Referendum."
[229] Ibid.
[230] Marzatico, "Southern Sudan Referendum on Self-Determination," 27.

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5. Regional and International Intervention

The regional intervention by the IGAD played a substantive role in the peace process since it was in the DoP where the first mention of a referendum was declared officially. From the Machakos protocol to the post-referendum period, the international community has also played a decisive role in the peace process and post-conflict development of Sudan. Most of the analysts of the time as well as the International Crisis Group have reported that external catalysts were the key to all of these progresses and that if it was left to the Sudanese there was little hope for success.[231] It was the direct and intimate involvement of the observers in the talks with the close support to the Kenyan Special Envoy in developing positions that has facilitated the great progress in forming a peace settlement.

The CPA itself has laid out several monitoring mechanisms and groups in order to monitor the implementation of the agreement. For peacekeeping, the United Nations Mission in Sudan (UNMIS) was held responsible. As for the overall monitoring of the implementation of the CPA commission named the International Assessment and Evaluation Commission was responsible. The commission included representatives from the NCP, SPLM/A, IGAD (Kenya and Ethiopia), along with the Friends of IGAD. At the beginning of its formation, the Norwegian representative was its chair.[232] The CPA also specifically stipulates in Chapter 1-The Right to Self-Determination For The People Of South Sudan 2.5 that, " …there shall be an internationally monitored referendum."[233] The U.S. and the other international mediators involved in the

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[231] Taulbee, James Larry et al., "Parallel Peace Processes in Achieving Sudan's CPA."
[232] Ibid.
[233] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, http://peaceaccords.nd.edu/wp-content/accords/SudanCPA.pdf.

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negotiation are the ones that have given an added legitimacy to the referendum.[234] This international presence helped encourage mutual trust and cooperation, especially since both parties would not want the international community at some point to criticize them or be blamed if they were going to break a promise or provision.[235]

The CPC was formed as a decision-making body that provides a forum for dialogue and settling disputes. It was inclusive of all relevant parties such as representatives from the SPLM/A and the Sudanese government. There was the inclusion of regional and international representatives as well such as IGAD and the UN Special Representative or his deputy. Another major intervention by the UN in the Sudanese conflict especially in the post-conflict period is the issuance of several resolutions that call on both parties to resolve the status of Abyei.[236] However, many analysts have mentioned that the Darfur crisis has strayed the attention of the international community away from the CPA and its implementation in the first few years after the signing; "The Darfur crisis has split the attention of many of the CPA's international supporters and this has limited the effectiveness of their diplomacy and contributed to a situation where some necessary but ambitious parts of the agreement are being delayed or avoided." [237] Another criticism, which is a common one amongst international peacebuilders is that they were too focused only on the macro-level political divide between the NCP and SPLM/A. Their main focus was only the implementation of the CPA, and any of the local conflicts that were occurring

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[234] Brown, " Secession from Failed States."
[235] Antwi-Boateng and Omahony, "A Framework for the Analysis of Peace Agreements."
[236] Brown, "Secession from Failed States."
[237] Thomas, "Against the Gathering Storm," 23.

in the South were ignored and were seen as an issue to be worked around and focus more on the holding of the elections as well as the referendum on secession.[238]

This is indeed what happened, in which the international community were focused again on the North and the South when it came to the implementation of the presidential elections and more importantly the referendum. During the period leading up to the holding of the referendum, Obama and Hillary Clinton have discussed and voiced their opinions on the sensitivity and importance of the referendum; "Warning within the U.S. government is mainly the province of the intelligence community, and warnings are thus rarely issued openly. In the case of Sudan, however, multiple senior U.S. government officials made public statements expressing concern about the risk of major violence around the referendum."[239] The former vice-president Joe Biden even had a meeting with Kirr in Nairobi discussing the kinds of standards and expectations that the U.S. has for the referendum process. As mentioned above it was only in 2010 where arrangements for the holding of the referendum started to occur. A small process of negotiation on post-CPA arrangements started with the facilitation of the U.S. and Ethiopia. After a high-level meeting in the UN which was organized by then Secretary general ban Ki-Moon was held on September 24, 2010 the international world encouraged and emphasized the importance of the holding of the referendum on time with no delays.[240]

With this great focus on the issue, none of the parties could even think of backing out or causing any harm to the process especially the NCP. It was also the incentives that the U.S. had presented to the North in September 2010 in the UN meeting on the normalization of political

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[238] Sørbø, "Local Violence."
[239] Temin and Woocher, "Learning from Sudan's 2011 Referendum," 4.
[240]Ibid; Rolandsen, "A Step on the Road to Independence."

relations between them as well as debt relief promises that have mainly encouraged the North to abide by the holding of the referendum on time and even accepting the results whatever they maybe. [241] In the Sudan case it was the great balance and power between the regional and international intervention that resulted in a peaceful and successful holding of the referendum;

> African problems have African solutions . . . when buttressed by international support…. The effectiveness of African leadership […] still depended on broader international support, especially from the major powers with the ability to bring pressures and incentives to bear. Had Africa leaned one way and much of the international community another way, the result could have been disastrous.[242]

6. Conclusion

Understanding the history of the grievance of the South as well as retracing the peace process illustrates the importance of the referendum provision to the making or breaking of the CPA and also peace between the North and the South. No matter what other provisions were halted or delayed the most important provision that could not have be ignored is the referendum. It has already, "… gathered too much historical and political momentum to be stalled by the peace agreement."[243] The idea of separation has been in the South Sudanese minds since the 1950s after the independence of Sudan from the British. This was further solidified with the two civil wars that they have gone through as well as witnessing the NCP delaying and halting the implementation of certain provisions of the CPA has made the idea of unity with the North unattractive during the interim period.

Furthermore, the sudden death of Garang has exposed the weaknesses of the CPA and of the commitment by both sides to its implementation. Another issue with the CPA is that was not

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[241] Temin and Woocher, "Learning from Sudan's 2011 Referendum."
[242] Ibid, 13.
[243] Rolandsen, "A Step on the Road to Independence," 8.

considered to be a 'well-designed' agreement. While it did discuss an array of issues between the parties it did putt off very important issues such as the Abyei area, oil transit fees, security arrangements on how to deal with the rebels along the borders of both Sudanese states etc.[244] However, it was due to the ripeness of the moments and the context that the CPA was being drafted in as well as the various incentives internally and externally mentioned above that pushed both parties to negotiate an agreement and abide by its most important provisions. Moreover, the various protocols that were formed the most prominent of them being the Machakos Protocol established the overall architecture of the CPA.

Finally, the great role that the regional and international actors played during the peace process and negotiations as well as post-conflict was the main reason why the referendum was able to be held on time and in a peaceful manner. It was the great effort of the international community on emphasizing the importance of the referendum and even participating in the preparations of the referendum by providing financial support and trainings to the staff.[245] The regional actors especially the IGAD with the leading mediator General Sumbeiyw also played a great role in changing the trajectory of the peace process in 2002. General Sumbeiyw was also able to balance out international intervention and trying his best in making the process and negotiations as African as possible especially with his familiarity and expertise on the culture and history of Sudan. With all of these factors mentioned, the referendum provision became the center of the whole peace process and CPA, since without its presence as a provision in the first place the Sudanese civil war could have been continuing to this day.

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[244] Taulbee, James Larry et al., "Parallel Peace Processes in Achieving Sudan's CPA."
[245] Marzatico, "Southern Sudan Referendum on Self-Determination."

Chapter 5- East Timor
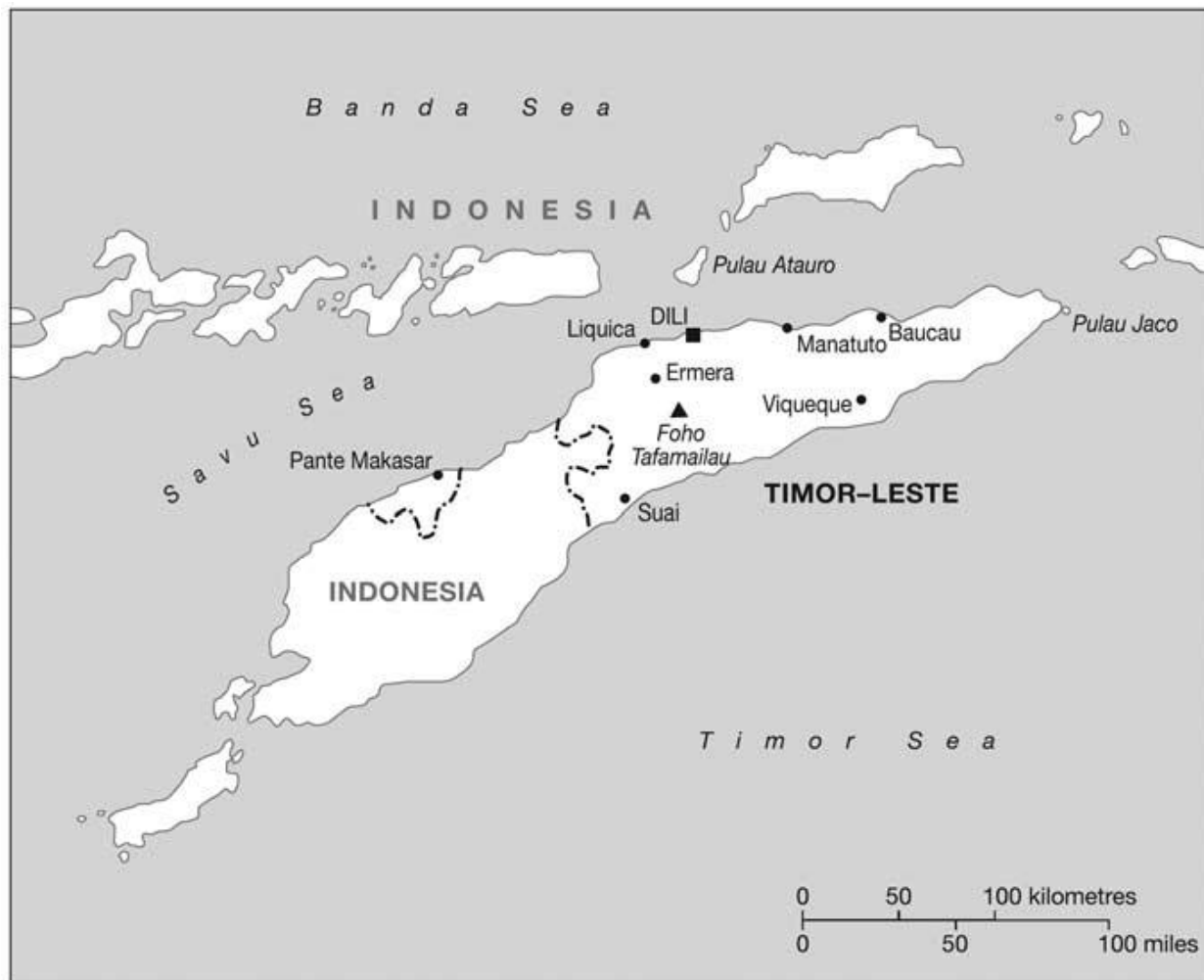
East Timor has been struggling for independence ever since the 1970s after Indonesia's occupation. What sets off the East Timor case in particular compared to the other two cases of the thesis is the timing of the holding of the referendum, as well as the extensive UN intervention that it had experienced. Another major difference in this case is that the provision of the referendum was not a result of negotiations or peace process but is due to the pressure of regional countries such as Australia and several western countries which led to President Habibie

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246 Norrie MacQueen, "A Model Intervention? The Birth of Timor Leste," in *Humanitarian Intervention and the United Nations* (Edinburgh: Edinburgh University Press, 2011), 177–206.

to make a unilateral announcement on the option of a referendum on independence. The context of the political environment was also an important factor that changed Indonesia's policy towards East Timor with the Asian financial crisis that they were facing. Moreover, with the fall of the USSR and communism, the western countries that were once on Indonesia's side during the Cold War era started to pressure and condemn the occupation of East Timor by Indonesia.

The peace agreement was only drafted and implemented in a few months, and scheduled the referendum on independence only after two months of the signing of the agreement. East Timor had caused the UN to experience and implement unprecedented mandates, the most important one being the United Nations Transitional Administration in East Timor (UNTAET) in which the de facto ruler of East Timor was a UN diplomat for two years. The UNTAET was given a short time to be able to build a stable country with enough capacity to rule itself with the deadline of only two years to East Timor's independence. The issue of timing and the experience of the UN will be discussed as well as the major incentives and costly signals at the time that resulted in the formation of a peace agreement that resulted in the eventual independence of East Timor.

1. Background

East Timor is a small tropical island that is part of the Indonesian archipelago of the Lesser Sunda Islands, which is located around 400 miles north of Australia. Timor is situated towards the eastern part of the Indonesian archipelago. At first, Portugal occupied the entire island of Timor, until the rival colonial power at the time, the Dutch, came to occupy the western part in 1895.[247] The Dutch withdrew from West Timor soon after World War II, which was integrated into Indonesia upon its independence in 1949 from the Dutch. East Timor's path to

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[247] MacQueen, "A Model Intervention?"

independence has been on the agenda of the UN ever since 1960 when it was declared a non-self-governing territory since it fell under the Geneal Assembly (GA) Resolution to Granting Independence to Colonial Countries and Peoples.[248] However, East Timor remained under Portuguese control until 1975.

1.1 Indonesian Occupation

After the military coup that occurred in Portugal in 1974 that overthrew Salazar's fascist regime, a rapid process of decolonization occurred.[249] Portugal wanted to form an interim government and popular assembly that could deal with the future status of East Timor. Hence, the question of East Timor's independence was brought to light, which resulted in the emergence of three major political groups in East Timor – each one with different agendas. The Democratic Union of Timorese (UDT) was formed by a group of administrative elites who have been benefiting from the colonization of Portugal, therefore their goal was for East Timor to be bound to a loose federation of former Portuguese colonies. The second party was the Popular Democratic Association of Timorese (APODETI) who favored integration with Indonesia. Finally, the Revolutionary Front for an Independent East Timor (Fretilin) called for the independence of East Timor. At some point, the UDT and the Fretilin formed a coalition to reach a compromise on the decolonization phase of East Timor. However, this coalition broke down and resulted in a three-week civil war between those two parties which was won by the Fretilin on August 1975.[250] The Portuguese had made it clear after this short outbreak that they will no

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[248] Sen, *Sovereignty Referendums in International and Constitutional Law*; Boris Kondoch, "The United Nations Administration of East Timor," *Journal of Conflict and Security Law* 6, no. 2 (2001): 245–65. https://heinonline org.libproxy.aucegypt.edu/HOL/Page?collection=journals&handle=hein.journals/jcsl6&id=25 &men_tab=srchresults.

[249] MacQueen, "A Model Intervention?"; Jonathan Steele, "Nation Building in East Timor," *World Policy Journal* 19, no. 2 (2002): 76–87, https://www.jstor.org/stable/40209807.

[250] Sheila Nair, "Human Rights, Sovereignty, and the East Timor "Question"", *Global Society* 14, no.1 (2000): 101-126. https://doi.org/10.1080/13600820050001149.

longer rule this colony and that they will withdraw, which made the Fretilin the *de facto* rulers of East Timor.

The UDT and Indonesia had attempted several incursions in October and November of 1975, on East Timor however on November 28, 1975 the Fretilin declared the independence of East Timor.[251] This was short lived since Indonesia occupied East Timor on December 7, 1975. In July 1976, East Timor was officially announced as the 27th province of Indonesia, which marked the beginning of the 24-year long guerilla war between the Fretilin and the Indonesia army. The official justification for Indonesia's invasion was to liberate the Timorese with the assistance of APODETI and UDT from the Fretilin.[252] On the other hand, the decision of Indonesia to occupy East Timor was based on security fears mostly especially from a regime that is obsessed with anti-communism.[253]

The Fretilin who were de facto rulers of East Timor after the withdrawal of Portugal were portrayed as a Marxist-inspired party[254] moreover, they were advocating for independence and even unilaterally announced their independence. The U.S. and Australia were aware of Indonesia's intentions of occupying East Timor. At the time, a powerful emerging power in Asia as well as an ally to them during the Cold War with the anti-communist regime ruling Indonesia was more important to them than issues of self-determination.[255] The U.S. did not want to see a new left-wing threat emerging in Southeast Asia when they already have Vietnam to deal with;

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[251] Ibid; Steele, "Nation Building in East Timor"; Dionisio Babo Soares, "Political developments leading to the referendum," in *Out of the Ashes: The Destruction and Reconstruction of East Timor*, ed. James J. Fox, and Dionisio Babo Soares (Canberra: ANU Press, 2003), 53-73.

[252] Nair, "Human Rights, Sovereignty, and the East Timor "Question"".

[253] Grayson J. Lloyd, "The diplomacy on East Timor: Indonesia, the United Nations and the international community," in *Out of the Ashes: The Destruction and Reconstruction of East Timor*, ed. James J. Fox, and Dionisio Babo Soares (Canberra: ANU Press, 2003), 74-98.

[254] Ibid.

[255] Ian Martin, "International Intervention in East Timor," in *Humanitarian Intervention and International Relations*, ed. Jennifer M. Welsh (Oxford: Oxford University Press, 2004), 142–62.

"… another Vietnam War in a neighbouring area was a nightmare for both Indonesia and Australia, as well as for a more distant United States."[256]

The annexation of East Timor was largely condemned by the international community, with the GA and the SC passing numerous resolutions from 1975 to 1982 calling on the withdrawal of Indonesia from East Timor, including United Nations Security Council Resolution (UNSCR) 384 and 389. What these resolutions fell short of was illustrating to Indonesia the consequences that they could face if they did not withdraw since there was no way to force them to leave East Timor.[257]

Although the question of East Timor has been on the agenda at the regional and international levels since the 1980s not much action has been taken. Most pressure from states was, mainly symbolic. Many of the human rights violations that Indonesia has committed such as torturing, killing, and imprisoning political opposition, "… did not elicit concrete international pressure on the Indonesian government to end them until very recently."[258]Although there have been several calls from the GA to the SC to consider taking some actions in 1982, the SC never saw the East Timorese issue as a threat to international peace. Furthermore, so long as the cold war continued, the Western countries would prevent any kind of pressure from the UN, since the Jakarta regime was headed by an anti-communist general.[259]

2. Ripeness

Despite the start of negotiations between Indonesia and Portugal under the auspices of the UN since 1983, there was very little progress even after the Timorese issue had regained

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[256] Kjell-Åke Nordquist, "Autonomy, Local Voices and Conflict Resolution: Lessons from East Timor," *International Journal on Minority and Group Rights* 20, no. 1 (2013): 109, https://doi.org/10.1163/15718115-02001007.
[257] MacQueen, "A Model Intervention?"; Kondoch, "The United Nations Administration of East Timor."
[258] Nair, "Human Rights, Sovereignty, and the East Timor "Question"", 103.
[259] MacQueen, "A Model Intervention?".

attention from the international community.[260] According to Alexander Downer – the Australian Minister of Foreign Affairs at the time, " In reality, there was nothing inevitable about any of this. The events that led the East Timorese on the path to independence involved a more complex and less clear-cut process than hindsight might suggest."[261] One of the key events that triggered a transformation in the politics of Indonesia is the 1997 Asian financial crisis that has resulted in the downfall of President Suharto. There was a wave of a call of new reforms a "New Order", and amongst them was the advocation of the formation of a federal structure and also at another extreme calling for the secession of some of the regions in the outer islands such as East Timor, Aceh, Irian etc.[262] President Suharto, was succeeded by President Bacharuddin Jusuf Habibie. When he first took office, he was very vocal that he will not accept any discussion on the independence of East Timor, however he did announce on June 1998 that he would grant them special autonomy.[263]

President Habibie's announcement signaled an important shift in Indonesia's policy towards East Timor. Since his popularity and power were weak in Indonesia at the time, he believed that this will strengthen his position for the next Presidency election, if he achieved a solution to this long-standing East Timorese issue.[264] Moreover, Indonesia was incapable of handling East Timor anymore since they invested a lot of human and financial resources to the territory. The Indonesian government no longer had a united opinion on the issue of East Timor, with some officials seeing that getting rid of East Timor could be a great economic burden taken off of

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[260] Martin, "International Intervention in East Timor."
[261] Alexander Downer, "East Timor—Looking Back on 1999," *Australian Journal of International Affairs* 54, no. 1 (2000): 5, https://doi.org/10.1080/00049910050006998.
[262] Kirsten E. Schulze, "The East Timor Referendum Crisis and Its Impact on Indonesian Politics," *Studies in Conflict and Terrorism* 24, no. 1 (2001): 77-82, doi: 10.1080/10576100119771.
[263]Qvortrup, *Referendums and Ethnic Conflict*; Downer, "East Timor—Looking Back on 1999"; MacQueen, "A Model Intervention?".
[264] Martin, "International Intervention in East Timor."

Indonesia.[265] Several Jakarta-based activists took the opportunity of the changing political climate in Indonesia and were more vocal on the need to resolve the issue of East Timor. There was a holding of a seminar in July 1998 to discuss ways for the peaceful resolution of the East Timor issue and the participants of this seminar included the East Timorese; "…a similar gathering and discussion would have been unheard of in Jakarta only a few months earlier."[266]

This announcement of autonomy was not only the result of the internal political and economic changes but Indonesia was also concerned by the determination and large scale of international support and attention that the East Timor crisis has gained. The Association of Southeast Asian Nations (ASEAN) which Indonesia is a member of, did not want to interfere into another countries "domestic" and internal political issues and therefore would like to respect their sovereignty.[267] However, a lot of scholars have concluded that the main reason why Habibie made this policy shift, was to win the favor of the international community and to ensure the continued flow of foreign aid from the IMF and World Bank especially with the economic crisis that Indonesia was going through.[268] Moreover, the political climate started changing in the 1990s internationally. The Cold War era was coming to an end with the continuous weakening and disintegration of the USSR. Hence, the main ideological reason for Indonesia's occupation of East Timor; which they claimed was to contain the communist Fretilin party, was no longer relevant.[269]

An event that illustrated the change in the political climate internationally was the massacre that was orchestrated by Indonesia against anti-Indonesian protestors in Dili in 1991, which

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[265] Lloyd, "The diplomacy on East Timor."
[266] Nair, "Human Rights, Sovereignty, and the East Timor "Question"", 123.
[267] Ibid.
[268] Schulze, "The East Timor Referendum Crisis."
[269] MacQueen, "A Model Intervention?".

resulted in the killing of more than 180 locals. This event garnered international attention as a human rights violation by Indonesia that was heavily criticized by the international community – something which was not imaginable during the Cold War era.[270] More attention was gained on the East Timor issue when Fretilin leader José Ramos-Horta and the Roman Catholic Bishop of Dili, Carlos Belo used the platform of gaining a joint Nobel Peace Prize in 1996 to criticize the actions and occupation of Indonesia on East Timor.[271]

3. <u>Tripartite Negotiations</u>

After President Habibie's announcement on autonomy, Secretary General Kofi Anan decided to revive the tripartite negotiations. These negotiations were organized and executed under the auspices of the UN. Portugal was a party in the agreement as the administering (*de jure*) power, whereas Indonesia was the occupying (*de facto*) power. This was a significant development in East Timorese history since they could not have imagined any of these events happening in the 15 years that preceded these talks. The negotiations were at first focused on the autonomy proposal. What Habibie offered was special autonomy rather than independence. On the other hand, Portugal wanted to consider that this special autonomy was merely a transition to East Timor gaining full independence. Several factors pressured Habibie to allow a provision on a referendum. One of the main factors was the effort made by Australia after they had a shift in their policy towards East Timor after Prime Minister John Howard came to power.

Australia was one of the first countries to accept the annexation of East Timor by Indonesia in 1975. In 1978 Australia recognized that Indonesia was the *de jure* ruler of East

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[270] Ibid.; Martin, "International Intervention in East Timor"; Soares, "Political developments leading to the referendum"; Lloyd, "The diplomacy on East Timor."

[271] Nordquist, "Autonomy, Local Voices and Conflict Resolution"; Nair, "Human Rights, Sovereignty, and the East Timor "Question"".

Timor since Australia was eager to come to an agreement on the seabed boundaries between it and East Timor.[272] However, Australia shifted its position under prime Minister John Howard, advocating for East Timor's self-determination instead. What the Australian government did was develop a survey to ask the East Timorese diaspora of their opinion on the situation.[273] The results were laid out in a letter sent from Howard to Habibie on December 1998, in which Howard emphasized that the East Timorese issue could only be solved if a referendum was on the table since most of the people that were surveyed insisted on independence. He suggested that the Matignon accords, that allowed the people of New Caledonia a referendum, could be used as a model to deal with the East Timorese crisis. This was suggested since the Matignon Accord stipulated that a referendum on the question of their independence from France would be held 10 years after the signing of the agreement. The suggested process was that the referendum would be held after East Timor is able to develop political institutions, restructure their infrastructure as well as form confidence building measures.[274]

On January 1999, President Habibie declared that he agrees on the holding of a referendum where if the East Timorese vote against autonomy then they would gain independence. This offer was then brought to New York to discuss with the UN and Portugal which resulted in the formation of the May 5 Agreement in 1999. The first issue in the negotiations was the word 'referendum' which Indonesia disliked. Hence, the parties decided to call the process a 'popular consultation'. There was also the issue of the timing of when to have this 'popular consultation' in which the UN and the rest of the Western countries were advocating to be held after a few years of autonomy. However, Habibie rejected that idea and

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[272] Martin, "International Intervention in East Timor."
[273] Ibid; Downer, "East Timor—Looking Back on 1999."
[274] Lloyd, "The diplomacy on East Timor"; Soares, "Political developments leading to the referendum"; Downer, "East Timor—Looking Back on 1999."

wanted the referendum to be held as soon as possible in which this issue would be resolved by 2000.[275] Although the UN and the western countries had an idea of the risk this could bring to the issue, they wanted to take the opportunity to ride the wave of this decision since this is the first time in twenty-four years that Indonesia ever mentioned or discussed the option of independence.[276]

Another issue that they were concerned about was that Indonesia was adamant about being the sole responsible force of security before and after the ballot and rejecting any sort of international peacekeeping presence during the May 5 agreement negotiations.[277] The only external presence that Indonesia could allow was a small UN civil police force that would advise Indonesian police, and allowed a smaller number of military liaison officers. The UN wanted to see the disarmament of pro-independence militias and a considerable reduction in the presence of the Indonesian army. However, all of these security requirements were not laid out but only vaguely mentioned in the security annex under the main agreement. This security arrangement was the concession that the UN and Portugal had to give in order for Indonesia to agree on the holding of the referendum. Indonesia clearly stated that they wanted the exclusive power to providing security if they were to accept the holding of a referendum.[278]

4. May 5 Agreement

These negotiations resulted in the New York Agreements signed by Portugal and Indonesia on May 1999. Hence, the legal framework of the East Timor referendum is the New

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[275] Lloyd, "The diplomacy on East Timor."
[276] Martin, "International Intervention in East Timor."
[277] Sen, *Sovereignty Referendums in International and Constitutional Law*; Schulze, "The East Timor Referendum Crisis"; Martin, "International Intervention in East Timor."
[278] Sen, *Sovereignty Referendums in International and Constitutional Law*.

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York Agreement which consists of three main parts in the framework (1) main agreement (2) modalities (3) security.[279]

The main agreement annex 1 article 2 stipulates that the Secretary General should be responsible in establishing a UN mission to organize the 'popular consultation'; "Request the Secretary-General to establish, immediately after the signing of this Agreement, an appropriate United Nations mission in East Timor to enable him to effectively carry out the popular consultation."[280] Moreover, annex 1 article 7 requests that the UN remain in East Timor after the consultation during its transitional period in order to implement whatever the result may be; "During the interim period between the conclusion of the popular consultation and the start of the implementation of either option, the parties request the Secretary-General to maintain an adequate United Nations presence in East Timor."[281]

The main agreement also includes an appendix where a constitutional framework for a special autonomy for East Timor was laid out, should the vote be in favor of autonomy. Indonesia would have established the Special Autonomous Region of East Timor (SARET). The SARET would have had control of their economic, political and social policies with the exception of foreign affairs, defense and fiscal policies.[282] The section also lays out the structure of the judicial, executive and legislative systems of SARET. However, article 6 in annex 1 does guarantee that should the result of the referendum be in favor independence, then Indonesia will take the necessary constitutional means to, "…. terminate its links with East Timor thus restoring

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[279] Ibid; Lloyd, "The diplomacy on East Timor"; Ian Martin, "The popular consultation and the United Nations mission in East Timor-first reflections," in *Out of the Ashes: The Destruction and Reconstruction of East Timor*, ed. James J. Fox, and Dionisio Babo Soares (Canberra: ANU Press, 2003), 126-140.

[280] "Home | Peace Accords Matrix," Home | Peace Accords Matrix, https://peaceaccords.nd.edu/accord/agreement-between-the-republic-of-indonesia-and-the-portuguese-republic-on-the-question-of-east-timor?2000.

[281] Ibid.

[282] Lloyd, "The diplomacy on East Timor."

under Indonesian law the status East Timor held prior to 17 July 1976…".[283] The article further clarifies that Indonesia will also take the necessary measures to arrange a, "…peaceful and orderly transfer of authority in East Timor to the United Nations."[284]

As for the modalities section (annex II), it stipulates the technicalities of organizing the 'popular consultation' process. Some of the issues under this section ranges from the date of consultation, voter registration and qualification, the question that will be asked in the ballot, timetable for the consultation process etc. Annex II A scheduled the popular consultation on, "…Sunday, 8 August 1999, both inside and outside East Timor."[285] Annex II section D sets out the schedule for the operational stages of the consultation process; "… Public information programme / voter education, 10 May – 5 August; Preparation and Registration, 13 June – 17 July…Political Campaign, 20 July – 5 August…"[286]

The security arrangements were briefly mentioned in annex II and more articles were set out in annex III on the security arrangements during the preparations of the 'popular consultation', as well as when the ballot is held and the period after that. Annex II G dictates that the Indonesian army will be responsible for guaranteeing, "…a secure environment for a free and fair popular consultation process and will be responsible for the security of United Nations personnel."[287] Moreover, it limits the amount of security personnel the UN is allowed to deploy on the territory, where there would only be UN civilian police deployed to provide advisory assistance to the Indonesian police[288]; "…A number of international civilian police will be available in East Timor to advise the Indonesian Police during the operational phases of the

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[283] Peace Accords Matrix, https://peaceaccords.nd.edu/accord/agreement-between-the-republic-of-indonesia-and-the-portuguese-republic-on-the-question-of-east-timor?2000.
[284] Ibid.
[285] Ibid.
[286] Ibid.
[287] Ibid.
[288] Sen, *Sovereignty Referendums in International and Constitutional Law.*

popular consultation…"[289] The most important provision in annex III is article 1 which stipulates a pre-requisite on the Indonesian army to ensure a peaceful and secure environment before the holding of the consultation; "A secure environment devoid of violence or other forms of intimidation is a prerequisite for the holding of a free and fair ballot in East Timor. Responsibility to ensure such an environment… rests with the appropriate Indonesian security authorities."[290]

4.1 *Incentives*

The main incentives that were pushing Indonesia to consider the independence of East Timor were mostly external factors, that were discussed above in the ripeness section. It was the great attention that the East Timor issue garnered in the international community that pressured Indonesia into conceding to the 'popular consultation' provision. Moreover, Habibie wanted to ensure that they are on the good side of the international community in order to continue gaining monetary aid from them.[291] The international community welcomed this proposal and believed it was a democratic gesture that illustrated that Habibie was moving away from Suharto's past wrongdoings. However, this proposal was met with mixed reaction in Indonesia. The proposal did not please the commander of the Indonesia armed forced General Wiranto. The same reaction came from the Muslim leaders in Indonesia – arguing that, because the majority of East Timorese are Catholics, their vote would go for independence, which could encourage other secessionist movements in Indonesia such as Aceh and Iriana Jaya.[292] Hence, this was considered

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[289] Peace Accords Matrix, https://peaceaccords.nd.edu/accord/agreement-between-the-republic-of-indonesia-and-the-portuguese-republic-on-the-question-of-east-timor?2000.

[290] United Nations Peacemaker, document retrieval, "Agreement between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor," S/1999/513, March 24, 2020, https://peacemaker.un.org/sites/peacemaker.un.org/files/ID%20TL_990505_AgreementOnEastTimor.pdf.

[291] Schulze, "The East Timor Referendum Crisis"; Martin, "International Intervention in East Timor."

[292] Soares, "Political developments leading to the referendum."

a great costly signal on behalf of Habibie since he was risking his already faltering power and popularity in Indonesia.

Moreover, the letters from Australia were not received positively by Habibie since they were suggesting to take the Matignon accords as a blueprint which Habibie felt was offensive since this was between New Caledonia and its colonial power France. Nonetheless, he did take the suggestion of a referendum to the People's Consultative Assembly of Indonesia to consider giving the East Timorese an option to gain independence and therefore revoke the July 1976 law which made East Timor Indonesia's 27th province.[293] This costly signal given by Habibie, was more than enough for Portugal and the UN in the negotiations to allow a costly signal on their behalf by allowing Indonesia the sole authority of security in East Timor. Any concession to allowing peace keepers at the time of the negotiations was seen as impossible. Hence, Australia and the U.S. were advising and calling on the UN to not endanger the whole agreement by pressuring Indonesia on security provisions and requirements[294]; "The judgement of the UN negotiators, Portugal and other key member states, was that any attempt to impose on Indonesia an international security presence would mean no agreement and no popular consultation."[295]

As for the great costly signal on behalf of the East Timorese is allowing the UN and Portugal to be speaking on their behalf with no East Timorese representatives. The East Timorese leader Horta had his reservations and doubts on whether Indonesia would follow through with their promise.[296] However, the announcement of Habibie was received positively as this was an unprecedented Indonesian policy in the twenty-four years of occupation. Moreover,

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[293] Martin, "International Intervention in East Timor."
[294] Ibid.
[295] Lloyd, "The diplomacy on East Timor," 128.
[296] Soares, "Political developments leading to the referendum."

the UN being one the main parties to the agreement as well as the guarantees of the UN mission in the agreements played a big role in the appeasement of the East Timorese since this is added pressure on Indonesia to comply with the agreement. The negotiations were rushed and the agreement was put together abruptly, however Portugal and the Timorese National Resistance Council (CNRT) believed that they should take the opportunity to pursue independence as fast as they can after Habibie's offer of a referendum.[297]

5. <u>Implementation History: 5 Years</u>

<u>5.1 UNAMET</u>

The signing of the agreement did not decrease the scale of the violence in East Timor. The pro-integrationists were angered and threatened by the referendum announcement by Habibie, and received aid from the Indonesian army which set up the second wave of militias adding to the already existing militias. Although there was no explicit opposition from general Wiranto who was angered by the announcement continued to arm the pro-unity militias, as well keeping combat troops on the grounds of East Timor despite Jakarta formally announcing their withdrawal.[298] One of the main goals of the militias and Indonesian army for causing all of this violence was to firstly provoke a response from the Falntin, armed wing of the CNRT , and illustrate that the conflict in East Timor is an internal conflict. Secondly, they wanted to form a crisis in which the Indonesian armed forces can use the excuse, that their intervention is needed to protect the East Timorese therefore pushing the proposal for international presence away.

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[297] Schulze, "The East Timor Referendum Crisis."
[298] Ibid.

Finally, they wanted to display to the world that East Timor is an area of conflict hence the international supervised referendum is doomed to fail.[299]

On July 1999 the SC passed resolution 1246, "…to establish until 31 August 1999 the United Nations Mission in East Timor (UNAMET) to organize and conduct a popular consultation, scheduled for 8 August 1999…"[300] The SC outlined their political, electoral and informational responsibilities[301]; "… (a) a political component responsible for monitoring the fairness of the political environment… (b) an electoral component responsible for all activities related to registration and voting… (c) an information component responsible for explaining to the East Timorese people… the process and procedure of the vote and for explaining the implications of a vote in favour or against the proposal."[302] At first their mandate was only until August 30, however Kofi Anan proposed to extend it until September 30. Later on, the secretary general requested the extension of the UNAMET's mandate once again to November 1999.[303]

The UNAMET could start voter registration only when the secretary general is certain that the security environment was peaceful enough to allow for the holding of the referendum. The agreement scheduled the opening of registration on June 22; however, this was not possible since by mid-June it was clear that the security environment in the territory is nowhere near ready.[304] The registration was postponed especially when the UNAEMT personnel were starting to be directly attacked. However, the registration of voters was initiated on July 16 despite the

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[299] Soares, "Political developments leading to the referendum,"; Ian, "The popular consultation."
[300] United Nations Security Council, "Resolution 1246: Adopted by the Security Council at its 4013th meeting, on 11 June 1999," S/RES/1246, March 24, 2020. http://unscr.com/en/resolutions/doc/1246.
[301] Sen, *Sovereignty Referendums in International and Constitutional Law*.
[302] United Nations Security Council, "Resolution 1246," 2.
[303] Lloyd, "The diplomacy on East Timor."
[304] Ian, "The popular consultation."

escalating violence in the territory in order to hold the referendum by the end of August.[305] However, the secretary general emphasized that the opening of registration was not because the UN was satisfied with the security environment. What made the UN hopeful about this registration was the unexpected great number of people who came to register.[306] A total of 450,000 East Timorese in the territory registered[307] with around 433,576 East Timorese diaspora in Indonesia, Portugal, Australia etc.[308] The violence was only increasing when it was getting closer to the time of the holding of the referendum however, "…the people of East Timor bravely went to the polls to cast their votes in the referendum."[309] There have been several attempts at sabotaging the polling day in which pro-Indonesian hardliners were accusing the UNAMET of malpractice and therefore denying the legitimacy of this referendum and the result. Despite any expectations at the time, the poll was finally successfully held on August 30.

There was a 98.6 percent turnout with no major clashes or violence during voting. The result was a landslide vote for independence, with 78.5 percent votes for independence and only 21.5 percent for autonomy.[310] After the announcement of the results on September 4, 1999, the eruption of violence that occurred was known as the 'Black September'.[311] The violence that erupted after the referendum was orchestrated by the pro-integrationist militias, which resulted in the death of 14,000 and the displacement of approximately 103,000 people.[312] There was clear evidence and papers that disclosed the arming and training, and even commanding of the militias

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[305] Ibid; Soares, "Political developments leading to the referendum."
[306] Martin, "International Intervention in East Timor."
[307] Sen, *Sovereignty Referendums in International and Constitutional Law*
[308] Ian, "The popular consultation."
[309] Douglas Anton Kammen, *Three Centuries of Conflict in East Timor* (New Brunswick: Rutgers University Press, 2015), 149, https://muse.jhu.edu/book/40975.
[310] Kondoch, "The United Nations Administration of East Timor"; Downer, "East Timor—Looking Back on 1999"; MacQueen, "A Model Intervention?"; Sen, *Sovereignty Referendums in International and Constitutional Law*.
[311] Soares, "Political developments leading to the referendum."
[312] Qvortrup, *Referendums and Ethnic Conflict.*

by the Indonesian army. The purposeful violence that was orchestrated post-referendum was known to be Wiranto's message to any region or island that is looking to gain independence.[313] These clear violations of human rights were frustrating to the UNAMET since they do not have the mandate to carry arms or take responsibility. They had to abide to the agreement that gives Indonesia the responsibility of upholding law and order in the territory. Moreover, there were no provisions stipulated in the agreement to prevent such disasters or even to reprimand Indonesia for their clear violation of not maintain peace and security to the territory.

Soon after this eruption of violence, Kofi Annan made clear to Indonesia that if they are unable to take control of the situation in the territory then there must be international intervention. However, the countries although willing to aid and intervene wanted to receive Indonesia's consent first and not make an unauthorized intervention as they did in Kosovo. An SC delegation was sent to the territory to see the situation for themselves and discussed with government in Jakarta on the future actions to be taken.[314] The U.S., U.K. Ireland, Brazil, Portugal and some of Indonesia's regional allies were pressuring Jakarta to suppress militia activities. At first Indonesia was reassuring their commitment to the agreement emphasizing that there is no international intervention needed. However, after several failed attempts at curbing the violence, as well as the increased external pressure Habibie finally conceded to allowing an international force in the territory.

5.2 INTERFET

Deploying a UN peace keeping force, following UN procedures of mandating and assembling such a troop would have taken months. Hence, it was believed that a multinational

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[313] Schulze, "The East Timor Referendum Crisis"; Martin, "International Intervention in East Timor."
[314] MacQueen, "A Model Intervention?".

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coalition of the willing states to help intervene in East Timor could be assembled under SC mandate but outside UN procedures.[315] By September 15, 1999 resolution 1264 was adopted, laying out the mandate of the International Force in East Timor (INTERFET) that was to, " restore peace and security in East Timor, to protect and support UNAMET in carrying out its tasks and, within force capabilities, to facilitate humanitarian assistance operations, and *authorizes* the States participating in the multinational force to take all necessary measures to fulfil this mandate."[316] However, it was emphasized that Indonesia is still responsible for security in East Timor and that the multinational force would have to work with close coordination with Indonesia; " Underlines the Government of Indonesia's continuing responsibility under the Agreements of 5 May 1999…"[317]

The INTERFET was officially deployed only eight days after the eruption of violence after the announcement of the ballot results. This was an unprecedented speed of intervention in UN history. This new force was under the command of Australian Major-general Peter Cosgrove.[318] In the course of weeks and months INTERFET was growing in number in which there were around 9000 troops which consisted of soldiers from 16 different countries. The force included forces from countries such as Bangladesh, France, Ireland, Kenya, Brazil, and South Korea. The U.S. and Britain sent them transport and logistical support. Surprisingly there were troops from four member of ASEAN, Singapore, Philippines, Thailand, and Malaysia, however Thailand's role was bigger since they provided the deputy force commander.[319] The presence of

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[315] Martin, "International Intervention in East Timor."
[316] United Nations Security Council, "Resolution 1264: Adopted by the Security Council at its 4045th meeting, on 15 September 1999," S/RES/1264, http://unscr.com/en/resolutions/doc/1264.
[317] Ibid.
[318] Lloyd, "The diplomacy on East Timor"; Schulze, "The East Timor Referendum Crisis"; Downer, "East Timor—Looking Back on 1999"; Kondoch, "The United Nations Administration of East Timor"; MacQueen, "A Model Intervention?"; Martin, "International Intervention in East Timor."
[319] Martin, "International Intervention in East Timor"; MacQueen, "A Model Intervention?".

ASEAN members was very important politically since this gave Indonesia a sense of having some degree of influence on this multinational force.

The militia's resources and capacities were too small to take on the INTERFET, which led to most of the militias to seek refuge in West Timor. The INTERFET were successful where they were able to manage the violence to the point that it never reached the same level of intensity as it was in the period before their presence.[320] On October 19, 1999 the Indonesian People's Consultative Assembly officially ratified the results of the ballot, thereby revoking the 1978 decree of integrating East Timor. [321] A letter from the new Indonesian president Abdurrahman Wahid was sent to the secretary general declaring that Indonesia has officially ended its governance over East Timor. The INTERFET saw that East Timor does not have a functioning administration and all essential services and infrastructure was destroyed. This led to the establishment of the UNTAET by the SC.

5.3 UNTAET

On October 25, 1999 the SC issued Resolution 1272 that established the UNTAET, "… which will be endowed with overall responsibility for the administration of East Timor and will be empowered to exercise all legislative and executive authority, including the administration of justice…"[322] The UNTAET was given a very short time frame to form institutions, infrastructure and train personnel who will be prepared to take over when East Timor becomes independent. Kofi Annan appointed the Brazilian UN diplomat Sergio Vieira da Mello as de facto governor of East Timor who was heading the mission in Kosovo at that time as well.[323] De Mello had an

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[320] MacQueen, "A Model Intervention?".
[321] Sen, *Sovereignty Referendums in International and Constitutional Law*; Lloyd, "The diplomacy on East Timor."
[322] United Nations Security Council, "Resolution 1272: Adopted by the Security Council at its 4057th meeting, on 25 October 1999," S/RES/1272, http://unscr.com/en/resolutions/doc/1272.
[323] Steele, "Nation Building in East Timor"; Soares, "Political developments leading to the referendum."

unprecedented role of a UN official in a UN mission since he not only has legislative and policy authority but also had the power to form international treaties with others on behalf of East Timor[324]; as a result, as Kondoch noted, "[f]or the very first time in United Nations history the organization attempted to build and manage an entire state. The main achievement of UNTAET is that it created a stable and secure environment for a nation which has not lived in peace for decades."[325]

De Mello convinced the UN to allow the UN personnel and soldiers to use arms when necessary. Indonesia was also working in coordination with the UNTAET in getting rid of the militias in West Timor, and helped bring the refugees back to their homes; "By independence day, over 80 percent of the 250,000 refugees were home."[326] The UNTAET provided security aid until the East Timor Defense Force was able to develop their own capacity to take sole responsibility of the security of East Timor. On the administration aspect, the UNTAET came to establish the National Consultative Council (NCC) made of 11 East Timorese and four UNTAET members.[327] The NCC's responsibility was to supervise the decision-making process taking place during the transitory period of East Timor that will eventually lead to independence. Several Timorese leaders have voiced their disappointment on the issue of not having real power or voice in this council. They felt that they were not consulted on so many decisions and that they had to agree to most decisions put forward in order to ensure financial aid.[328]

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[324] MacQueen, "A Model Intervention?".
[325] Kondoch, "The United Nations Administration of East Timor," 265.
[326] Steele, "Nation Building in East Timor," 78.
[327] Ibid; Sen, *Sovereignty Referendums in International and Constitutional Law*; MacQueen, "A Model Intervention?".
[328] Steele, "Nation Building in East Timor."

What was asked of the mission was to prepare administration and institutions fast enough and efficiently hence, they did not focus on preparing the locals themselves to take over these responsibilities. However, the UNTAET did attempt to form a legislative body for East Timor when it is independent by transforming the NCC to a National Council (NC) in October 2000. The NC comprised of 36 East Timorese members from the civil society, political parties and businesses, therefore attempting to include more aspects of the population in the decision making.[329] A mixed cabinet was also formed which comprised of four Timorese ministers who were in charge of economic and social affairs, and internal administration and infrastructure.[330] The SC extended the mandate of the UNTAET through Resolution 1338 on January 31 2001 until January 31 2002; "…extend the current mandate of UNTAET until 31 January 2002, bearing in mind the possible need for adjustments related to the independence timetable…"[331]

After setting up the council and cabinet, elections for the constituent assembly, were held on August 31, 2001 marking the second-year anniversary of the referendum. The Constituent Assembly is made of 88-members whose purpose is to draft the first constitution and help make the final transition into full independence.[332] The Fretilin managed to gain 55 out of the 88 seats in the assembly.[333] By February 2002 a national constitution was fully drafted, approved and adopted which leaves the elections for the first president of East Timor the final step to be taken before full independence. These elections took place in April 2002, which resulted in a landslide win for Xanana Gusmao receiving over 82 percent of the vote.[334] This caused an issue at the start

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[329] Ibid.
[330] Steele, "Nation Building in East Timor."
[331] United Nations Security Council, "Resolution 1338: Adopted by the Security Council at its 4268th meeting, on 31 January 2001," S/RES/1338, http://unscr.com/en/resolutions/doc/1338.
[332] Kondoch, "The United Nations Administration of East Timor"; MacQueen, "A Model Intervention?".
[333] Steele, "Nation Building in East Timor."
[334] MacQueen, "A Model Intervention?".

of an independent East Timor since Gusmao has had issues with the Fretelin who were the majority of the constituent assembly in the past. However, Gusmao was able to put these issues aside and formed a good relationship with Mari Alkitiri Fretilin's prime minister.

On May 17, 2002 the SC adopted resolution 1410, establishing the United Nations Mission of Support in East Timor (UNMISET), "To provide assistance to core administrative structures critical to the viability and political stability of East Timor."[335] UNMISET was to focus on the border security issues that still remained after East Timor's independence despite the enhancement of their relation with Indonesia. Nonetheless, the scale of violence on the borders never reached the scale that was witnessed before and after the ballot. The most important difference between UNMISET and previous security missions in East Timor was the localization of the troops in order to increase Timorese responsibilities of their own country.[336] East Timor finally gained full independence becoming the independent state of Timor Leste on May 20, 2002 and the 191st member of the UN on September 27, 2002. The UNMISET was later replaced by the United Nations Office in East Timor (UNOTIL) in May 2005. This mission was time limited to one year and their mandate was to aid the development of the capacity of the function of the East Timor state.

5.3.1 *Issue of Timing*

The UNTAET faced many issues when governing East Timor due to the rushed manner of the whole peace process and independence process as well. That is why even after East Timor's independence there was a need for the assistance of the UN once again; "Indeed, the continuing need in East Timor for public administration, law and order, and external security, led

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[335] United Nations Security Council, "Resolution 1410: Adopted by the Security Council at its 4534th meeting, on 17 May 2002," S/RES/1410, http://unscr.com/files/2002/01410.pdf.
[336] MacQueen, "A Model Intervention?".

the UN to create a post-independence UN Mission of Support in East Timor (UNMISET)."[337] This was due to the very short time between the agreement and the holding of the referendum as well as the short time East Timor had between the holding of the referendum and their independence which was only two years. East Timor required a lot of work of starting from scratch to build a country that is able to run itself from infrastructure, human resources, governance issues and institutions etc.

The UNTAET was established in an environment where the priority at that moment was humanitarian relief; "The extensive destruction that followed the referendum created immediate demands for relief and reconstruction… there was tremendous political pressure to demonstrate that the UN could act quickly and effectively."[338] A multi-purpose mission like the UNTAET usually requires at least six months of preparation. However, with the circumstances and reality of the situation and eruption of violence after the holding of the referendum so soon there was a rush in order to take control of the chaotic situation as soon as possible.[339] The planning of the UNTAET was completed in only one month. Prior preparations were not possible since they could have appeared as already assuming/expecting or prejudging the referendum outcome. They were devoting their resources and time with basic food relief, health care and providing shelter for the thousands that are internally displaced as well as for the returning refugees. The UNTAET was established in order to help East Timor prepare for their independence however,

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[337] Paulo Gorjao, "The Legacy and Lessons of the United Nations Transitional Administration in East Timor," *Contemporary Southeast Asia* 24, no. 2 (August 2002): 323, https://www.jstor.org/stable/25798599.
[338] Astri Suhrke, "Peacekeepers as nation-builders: Dilemmas of the UN in East Timor," *International Peacekeeping* 8, no. 4 (2001): 14, https://doi.org/10.1080/13533310108413917.
[339] Ibid.

"Understandably, in the first months, less than 20 per cent of UNTAETs efforts was orientated towards preparing the territory for independence."[340]

Another issue East Timor and the UNTAET were facing was the power vacuum that Indonesia left behind.[341] Had East Timor had more time to form their own civil society and political parties in, maybe this would have helped the UN to work together with the East Timorese. Had the East Timorese had time to develop and organize a decent civil society there could have been better harmony between the UN and the political parties of East Timor. After the referendum the only political party that was there was the CNRT however, the UN had some reservation in their recognition since they feared that this shows political favoritism especially when the UN praises itself about their neutrality.[342] Moreover, the CNRT was a coalition of different political parties with no common ideological background and this was evident when they split and broke down in 2001.

The preparation for independence were so rushed and tight that they had to draft a constitution in only 2 years just in time for East Timor to gain its independence in 2002. There was not enough time to build better domestic political institutions to deal with governance and socioeconomic issues in the country. The main issue with the UNTAET and UN intervention in East Timor was that the UN was attempting to help East Timor with democratization and local capacity building while at the same time East Timor was in the process of status determination and independence.[343] Moreover, the issue with the UNTAET was their mentality which was that

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[340] Gorjao, "The Legacy and Lessons," 318.
[341] Aurel Croissant, "The Perils and Promises of Democratization through United Nations Transitional Authority – Lessons from Cambodia and East Timor," *Democratisation* 15, no. 3 (2008): 649-668, https://doi.org/10.1080/13510340801972403.
[342] Gorjao, "The Legacy and Lessons."
[343] Marine Kirakosyan, "Challenges of Democratization under International Supervision: The Case of Kosovo and East Timor," *Democracy and Security* 15, no.3 (2019): 230-247, https://doi.org/10.1080/17419166.2018.1507823.

they were mandated to act for the people but not with them. They did not put in enough time to train and include East Timorese in the development of their own institutions. This left the East Timorese still lost and unqualified to run their own country.

Another issue was that there was not enough time for reconciliation. The UN did try to apply the South African Truth and Reconciliation plan by forming the East Timorese Commission for Reception, Truth and Reconciliation (CRTR). This was only starting to take form a year before the independence of East Timor. Therefore, East Timor was entering into independence with a lot of issues and animosity still left; "Moreover, after the unequivocal victory of the independence supporters in the 1999 popular consultation, the domestic balance of power that later emerged left little space for compromise concerning those responsible for serious crimes."[344] Moreover, East Timor had to deal with the return of the large numbers of refugees returning from West Timor since the UNTAET was only given two years to deal with this task. There was also little progress in their economic development, since they were not able to attract foreign direct investments as any other developing country, "owing to the failure in solving the lack of land and property records, destroyed during the riots in September 1999."[345] The investors could not guarantee whether the area or land that they wanted to build on was available for leasing or not. This issue was not resolved in time before East Timorese independence which again added to more pressure and agenda on the new East Timorese government which is still lacking in expertise and capacity to deal with such issues. However, this is not to disregard the amount of pressure that the UNTAET had on their plate with such

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[344] Gorjao, "The Legacy and Lessons," 324.
[345] Ibid, 326.

little time in which they managed form a legislative body which at least made East Timor prepare a constitution for their independence.

6. Conclusion

The conflict in East Timor was both inter- and intra-state. The dispute was between East Timor and its occupier Indonesia, as well as the pro-Indonesian militias in East Timor. The struggle for independence has been going on ever since 1975. It was only after the political climate started changing in the 1990s internationally and in Indonesia was there a change in the trajectory of dealing with the East Timorese issue. Furthermore, there was a plethora of new emerging countries after the fall of the USSR and breaking down of Yugoslavia. This put self-determination as one of the main issues on the international communities' agenda; "The construction of the East Timor question and its resolution have thus entailed multiple discourses and mediations involving international/regional/ local human rights groups, individual activists, the United Nations and states."[346] This is why East Timor's issue gained unprecedented attention from the international community which is one of the main reasons that led Habibie to announce the promise of a referendum. President Habibie was also a very important factor in the shift of Indonesian policy on the East Timorese issue, since without his announcement on allowing autonomy at first, there would not have been any discussion on East Timor's independence. This was a particularly a risky announcement from Habibie given the little support that Habibie had in Indonesia. This resulted in the formation of the May 5 agreement in a hasty manner, in order to take advantage of this 'window of opportunity' which could be lost if/when Habibie loses power Which could lead to his successor stopping East Timor from holding the referendum.[347]

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[346] Nair, "Human Rights, Sovereignty, and the East Timor "Question"," 124.
[347] Ian, "International Intervention in East Timor."

Due to the hasty manner of the agreements, the referendum was rashly organized, however the result was surprising with a 98 percent of the registered voters making it to the ballot and the landslide result in favor of independence. Unfortunately, this great success, was overshadowed with the eruption of violence after the announcement of the result. The biggest criticism on the East Timorese issue is that the holding of referendum was rushed and too hasty, since East Timor has faced issues of violence ever since the occupation up until the signing of the agreement and after. Although the UN was in the territory, its mandate was limited by the agreements since it gave the responsibility of security to Indonesia, which proved to be a mistake since Indonesian army was not complying to the agreement and was actually orchestrating the increased violence in East Timor. However, the security arrangement was a major concession that had to be given in order to not risk the major steps already taken in the negotiations and to provide a signed agreement; in fact, as Ian argued, "[w]hat is remarkable is not that the Agreements could not include better security guarantees, but that they were ever reached at all…"[348]

Nonetheless, at some point there was great UN intervention with several missions deployed one for the organization of the ballot (UNAMET), one for securing and maintaining peace (INTERFET), and finally the mission that took over executive, legislative and judicial powers as a transitory government for East Timor gain independence (UNTAET). Because this was a new kind of mission in UN history in which a UN diplomat was in charge of a whole country, it did come with a few issues and flaws; "A greater degree of administrative localisation would clearly have been desirable. But it would have been costly, time-consuming and, potentially, would have compromised the effectiveness of public administration at the point of

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[348] Ian, "The popular consultation," 139.

independence."[349] Another issue with the UNTAET is their unfamiliarity with the culture of East Timor as well as the short time and kind of chaotic environment they had to deal with. Despite troubles in the handing over of powers from the UN to East Timor, the UN's essential role in East Timor was applauded for their swift decisions and executions given their mistakes in their belated responses in the Rwanda and Kosovo cases.

Although the referendum was held only after a few months of the signing of the agreement, that was the main provision that was executed successfully compared to the rest of the articles and provisions in the agreement. Habibie's announcement of giving the chance of the choice of independence which was a major costly signal was very important to the rejuvenation of the negotiations that have started since the 1980s. Moreover, it was the referendum and its importance that led to the East Timorese who were in hiding most of the time away from violence, to be present with a great turnout in order to voice their choice on the future of their territory.

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[349] MacQueen, "A Model Intervention?" 194.

Chapter 6- Conclusion

Each case has been examined thoroughly through the retracing of their peace process succeeded by assessing the implementation of the referendum provision in each of their negotiated settlements. These cases will help answer the main question posed in the introduction along with the sub questions that relate to it. The main question was, (1) what effect does the inclusion of the provision of a referendum have on the likelihood of a lasting peace after a settlement in conflicts over territory? The sub questions were: (1.1) Does a referendum serve as a costly signal of intent? (1.2) What is the role of timing in the implementation of a referendum?

1. Answer of question 1 & 1.1

One can conclude from the three case studies considered in the thesis, that the answer of the main question, is that the inclusion of the provision of a referendum increases the likelihood of a lasting peace after a settlement in conflicts over territory. This confirms the hypothesis of the thesis that one of the main reasons for this positive effect is the weight of the costly signal that it carries. The offering of the referendum in all cases have been a major concession on behalf of the parent state. First of all, the idea of the referendum is seen as a threat to their territorial sovereignty which is why this is considered to be a great concession. Second of all, in all cases, they had internal issues of other regions seeking autonomy or independence. In Bougainville there was the Paupua Besenas who were also seeking independence ever since Papua New Guinea gained its independence from Australia. As for Sudan, it was spread thin since they were fighting on the western front in Darfur since they also had secession claims, as well as many other regions in the country. Finally, in East Timor Indonesia was also facing secession threats from Aceh and West Irian. Due to all of these internal independence movements, accepting the possible independence of a territory is a great costly signal on behalf of the parent state. With

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this costly signal at play, it helped appease the seceding parties to accept negotiations and ameliorated the fear and mistrust of the opposite party and pushed the peace process forward in each of the cases to result in a comprehensive negotiated settlement.

There were additional requirements attached to the referendum that dealt with the commitment issue, and assured the seceding parties that the parent states would implement the provision of the referendum. One main incentive to gaining their trust was that the agreements and all their provisions would be constitutionally guaranteed and legalized. While this guarantee was not available in the East Timor case, it was balanced out by the greater international attention and involvement of the UN that guaranteed the eventual holding of the referendum. Moreover, the only constitutional guarantee in the May 5 Agreement was that should the result of the ballot be in favor of autonomy, then Indonesia will take the necessary constitutional measures to dissolve the 1978 law that integrated East Timor to Indonesia making it the 27th province of the country.

Other than the positive effect it has on the peace process, in two of the three cases there was no recurrence of violence in the 5 years after the signing of the agreement, with the exception of the East Timor case. However, this was due to the timing of the implementation of the referendum which will be discussed further below. The provision of a referendum on independence in a peace agreement, especially in a secession context, becomes the center of the whole agreement. As in the cases of Sudan and East Timor, any other provision could have been compromised but for both cases the postponement in the implementation of the referendum was out of the question for fear for recurrence of violence. In East Timor, although violence occurred both before and after the referendum, a further postponement of holding the ballot was not an option, since Habibie's announcement was an unprecedented Indonesian policy towards East

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Timor. Moreover, Habibie was not popular or powerful, hence the international community as well as the East Timorese feared that the referendum could be ignored or manipulated when a new president comes to scene since he was just an interim president. The result of the ballot in Indonesia came as a shock to Indonesia and their proxy militias which resulted in the violence after the ballot. However, had the ballot not been held, Indonesia would have not been able to record the actual opinion of the East Timorese, and allow them independence. As for the Sudan case, as seen in the chapter in the few months leading up to the referendum in 2010, there was lower violence. The NCP was aware of how grave the situation would be if the referendum was postponed or not even held. Hence, Bashir was vocal of his acceptance of whatever the result may be since he could not afford a recurrence of violence. Despite some provocations from the North the South resisted reacting with violence since they did not want any obstacles or excuses to not holding the referendum.

In Bougainville, the referendum was delayed for 10-15 years; however, just the promise of the referendum and its inclusion in the constitution led to a peaceful post-conflict environment. There were also conditions that the agreement has set before the holding of the referendum such as beginning the countdown of years leading up to the referendum only after the first ABG elections. However, the ABG elections can be held only after the total disarmament of Bougainville factions, and illustrating good governance in order to establish the autonomous government of Bougainville. In order for the Bougainvilleans to start the countdown of years to reaching their main goal they were encouraged to avoid violence and comply with the disarmament conditions which lead to a peaceful Bougainville for the past 15 years.

In this section, one can see that the costly signal aspect of the referendum is a great confidence building measure and does help ameliorate the commitment and trust issues which

essentially works effectively during the peace process. However, when it comes to the deliberative democratic theory and value deliberation concepts, they relate more to the effect that the referendum has as an important content and provision in a peace agreement. The deliberative democratic theory illustrates how the referendum as a content in a peace agreement, brings with it the weight of legitimacy to the peace agreement as well as to the claims of secession themselves. This is because the referendum is essentially the true opinion and vote of people of concern on the future of their own territory. As for the value deliberation aspect of the referendum; the provision is a result of great contention and obstacles in the peace process. As seen in the cases, even when there are many other provisions agreed upon the main provision that was a catalyst to the eventual signing of peace agreements as well as to the development of these territories, is the referendum. As will be discussed further below, the referendum had a great value content wise, in which without it, these cases would still be in the middle of continued civil war. These two main aspects of the referendum as a confidence building tool as well as its important effect as a major provision/content in the peace agreement result in the legitimacy of the process as well as in the referendum itself. Hence, with the weight of its legitimacy that is a result of all of these components, it increases the likelihood of durable peace in the post-conflict period.

2. Answer to sub question 1.2

These long years of postponement lead us to answering the last sub question of the thesis that inquires about the role of timing of the implementation of the referendum on the peace in the territory. Hence, other than the referendum's importance during the peace process with its costly signal weight, it also has an important positive affect in encouraging peace in the post-conflict environment. More importantly the factor of its postponement to a later stage was another major

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factor for increasing the likelihood of a durable peace. In the cases of Bougainville and Sudan, the referendum was held only after an interim/autonomy period, which for Sudan was 6 years while for Bougainville it lasted 15 years. This arrangement has allowed a breathing space in which the parties within the territories that were fighting amongst each other can work on building trust once again. Moreover, the autonomy arrangement for these years would allow them to gain experience in taking control of their own territory and allows them to develop their own political processes and institutions. Additionally, the postponement of the referendum was a great incentive for the parent states to comply with the peace agreement. The governments saw that this was a way for them to convince the seceding territory to not opt for independence when the time of the vote comes. This was one of the main conditions that was clearly stipulated in the CPA where the unity of Sudan should be the priority of both parties during the interim period therefore there was the formation of a joint government unit the GoNU. Likewise, the PNG saw the provision for a postponed referendum as an opportunity to work on bettering their relation with Bougainville through their resource and power sharing arrangements which they hoped would convince Bougainville to vote for autonomy.

2.1 Importance of postponement and interim periods

The East Timor case is the perfect example of the importance of the role of timing, and how the postponement of the referendum leads to a peaceful post-conflict environment. With the East Timor case, the agreement was negotiated and written only in a few months, as well as scheduled the referendum only 3-4 months after the signing of the agreement. The East Timorese did not have enough time like Sudan or Bougainville to reconcile with the militias or Indonesia, which is why violence was still occurring before the ballot as well as lead to the eruption of violence after the announcement of the result. A reconciliation process was set up in East Timor

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only a year before their independence, therefore there was not enough time for the pro-Indonesian militias and pro-independence East Timorese to build trust within each other. Moreover, there was no reconciliation process before the signing of the agreement which was drafted only in a hasty manner scheduling the referendum only two months after the signing of the agreement. However, in the case of Bougainville they not only had an extensive reconciliation process before the signing of the agreement but even worked more on reconciliations during their interim period; "The ABG's achievements also include… facilitated extensive (and expensive) post-conflict reconciliation across Bougainville[350]… Importantly, some overdue reconciliations occurred between Bougainville and the PNG Government in early 2014."[351] Sudan also had the same experience in which there was great effort made during the peace process to achieve reconciliation amongst the Southerners. Even after the signing of the CPA, Salva Kiir was focused on the issues of politics within the SPLM/A and had worked hard on hashing them out. Kiir managed to have the Juba declaration in 2006 in which he integrated other opposing militia factions that were opposed to the CPA and Garang to come under the umbrella of the SPLM/A.

Moreover, East Timor did not have an interim period where they would at least practice some sort of autonomy to prepare them for their eventual independence. Due to their inexperience in governing themselves there was great UN intervention to the point where the UNTAET was established to actually govern the whole territory. Moreover, one must keep in mind that the UNTAET was established in East Timor when it was still in a militarized phase in which they focused in the first few months of their deployment on basic humanitarian relief

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[350] Woodbury, "The Bougainville Independence Referendum."
[351] Ibid, 10.

before managing to establish or prepare East Timor for their independence. Had there been an autonomous/interim period, the intensive UN intervention in East Timorese might not have been needed. On the other hand, Bougainville had 15 years to establish a constitution and make the necessary amendments throughout the years through practice, while East Timor only had one year before their independence. Bougainville and South Sudan even managed to form ministries as well as legislative bodies that helped draft their constitutions. Moreover, Bougainville went through three different elections which allowed them to practice organizing, securing and holding them. Bougainville even found their own way of governance which was a combination of official politics and customary law and traditions; "Beyond the state, there are other actors and institutions, customary ways and means of maintaining peace, controlling violence, and resolving conflicts… pursues positive mutual accommodation with introduced Western institutions and indigenous local institutions."[352]

Although it is true that East Timor did form some ministerial offices as well as an assembly to draft their constitution however, there was a lack of 'Timorization' in this process. The issue with the UNTAET being the governing authority, was that they did not integrate the East Timorese in the process of building their institutional governance capacities. This was due to two main things, first of all the UN mentality and experience was always usually to work for the people but not with them. Second of all, illiteracy was very high in East Timor therefore to train the East Timorese needed a lot more time as well as funding which the UNTAET did not have. Therefore, East Timor was not prepared enough when it came to their independence and required even more UN intervention with the establishment of UNIMEST and UNOTIL.

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[352] Boege, "Peacebuilding and State Formation."

Moreover, Bougainville and South Sudan had time to build their infrastructures. Some important developments in infrastructure in South Sudan was the building of roads connecting rural areas to the big cities which provided access to markets and increased trade as well as made the communities in the South more connected. By developing their infrastructure, they were also working on attracting foreign direct investments (FDI) in order to develop their economy. It was very difficult for East Timor to attract FDIs since there was still great unrest in the territory as well as their lack of infrastructure and capacity to accommodate them. Bougainville was working on the development of their human resources and educating their people. A UNDP report in 2009 states that the Bougainville literacy rate was higher than the average of the PNG.[353]

Had East Timor worked on their own education and illiteracy rates they could have had the human resources and capacity to form institutions with people who can function in them. However, the most common result in all cases is that their economic development was very slow and difficult to progress due to the disastrous civil wars that each of the cases went through. Despite the interim periods that Sudan and Bougainville went through to prepare themselves, they were not the perfect and complete nations according to international standards to carry themselves in their independence. Hence, this brings us to the point of East Timor which was not given any kind of time to even build its building blocks of a country and therefore had to be saved by the UN on several different occasions.

3. Ripeness and Windows of opportunity

Although the emergence of the referendum debate on the negotiating table is a very important factor for reaching a peace settlement, one does have to take into consideration the

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[353] Joanne Wallis, "Ten Years of Peace: Assessing Bougainville's Progress and Prospects," *The Round Table* 101, no.1 (February 2012): 29-40, https://doi.org/10.1080/00358533.2012.656028.

ripeness and window of opportunities in each case that led to the change in the trajectory of the conflict to a negotiated settlement. This change in the trajectory of the conflict is what led to the emergence of the referendum debate in the peace process. The common factor or ripeness between all cases is that both parties felt a mutually hurting stalemate. The parent state reaches a point where they do not have the capacity anymore to be fighting the rebels in the contested territory. The power parity levels in both Bougainville and Sudan were on the rebel superiority level. For the Bougainville case, the PNG at its best capacity was able to deploy 500 soldiers from the PNGDF. Moreover, due to the Bougainvilleans forming a united front against the PNG after their own reconciliation process, the PNG was unable to fight them anymore especially with their war-weary soldiers. Even though the Bougainvilleans had the upper hand, most of the chiefs in the island believed that the best way to go about this is a solution away from the use of force since they already experienced a lot of suffering from the 10-year long war.

For Sudan, the GoS was spread thinly fighting on two fronts with Darfur in the west as well as the SPLM/A in the South. As for the South, the regional countries that used to aid them with weapons as well as provide their countries as bases from the SPLM/A were unwilling to help anymore in order to focus on their own internal political issues. This, with other internal and external factors that will be discussed below led to the Sudanese government and the Southerners to sit on the negotiating table. However, with East Timor there was no mutually hurting stalemate, but it was more other windows of opportunities as well as the changing political environment in the world, that will be discussed below that led to the formation of peace agreement.

With all of the cases discussed in the thesis, when on the negotiating table there was a recognition that in no way other than by eventually promising independence through a

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referendum could the parent states have appeased the seceding parties. In all three cases, there have been attempts to reconcile the conflicts for many years; however, no real progress was made until the discussion of a referendum was on the table or at least the stalemate on the issue was broken. In the case of Bougainville, although the negotiations were proceeding well, they did reach a deadlock since the PNG authorities always avoided discussing the matter of the referendum. It was not until Alexander Downer's proposal on a conditional postponed referendum that the deadlock was broken, leading to the signing of the BPA. As for the case of Sudan, the Machakos protocol was the first important main step in the negotiations; in it, a number of issues were discussed, including power-sharing and security but also, most importantly, the promise of holding a referendum after a 6-year interim period. Finally, in East Timor's case Kofi Annan has attempted negotiations since 1982; however, it was not until Habibie's announcement of allowing the East Timorese the choice of independence was there real progress in the peace process, which eventually led to the signing of the May 5 Agreement.

3.1 Internal and External Factors

Another common circumstance that all cases share is that both internal and external pressures were at play. However, their impact varies from case to case. For instance, in Bougainville, the impact of the internal pressures was far greater than external pressure. The main internal pressure was the intra-Bougainvillian reconciliation negotiations that led to a united Bougainville focused on one main enemy which was the PNG. Moreover, the Sandline affair – related to the hiring by the Prime Minster of PNG of mercenaries – angered the PNGDF which made them realize that this issue cannot be resolved with the use of military anymore.

Similar to the Bougainville case when the Southerners became a united front after their own reconciliation process, they were able to focus all their powers on the North. Furthermore,

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the GoS at that time was weak due to the internal strife between al Bashir and Hassan al Turabi. However, unlike Bougainville, the international community has had a great impact in pressuring the GoS to take part of the peace process. It was the Troika (U.S., U.K., Norway) who were also part of the Friends of IGAD that helped increase the pressure on the North. Moreover, had it not been for the pressure and economic threats of sanctions it was receiving from the U.S. they would not have accepted the referendum arrangement. Sudan also wanted to improve its status internationally as well as to normalize their relation with the U.S. since Sudan was one of the main targets of the new American policy 'war on terror' after 9/11 due to their history of harboring terrorists and providing their territory for training.

Improving its international standing was also an important factor for Indonesia, since they had a long history of human rights violations against the East Timorese, as well as facing condemnation for its occupation of the island ever since 1975. Just like the economic threats that Sudan received, Indonesia also received pressure from the U.S. and Europe that led to Habibie's announcement of the ballot. As for the internal factor that led to the emergence of the referendum was the new democratic reform phase that Indonesia went through after the fall of Suharto's regime, and therefore wanted to find a quick solution to the East Timorese issue.

4. External/regional intervention

This leads us to an important factor that, although it was not one of the main questions of the thesis, has emerged from the analysis of the case studies as a factor that has a major impact both during peace processes and the implementation of comprehensive agreements – namely, the role of regional and/or external intervention in being a catalyst to the peace process or the implementation of the referendum. These external/regional players were usually either mediators, peacekeeper, implementers or a combination of either two of these roles and in the

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case of East Timor all of them. This all depended on the context and circumstances that the external/regional players were exposed to, which shaped the form of diplomacy and approaches that they took. The most common one in all cases was coercive diplomacy with varying degrees. Coercive diplomacy is best defined as, "threats, persuasion, positive inducements, and accommodation were integrated into a crisis bargaining strategy… It is a strategy that combines threats of force, and, if necessary, the limited and selective use of force in discrete and controlled increments…"[354] The most important thing in coercive diplomacy is that the coercer must have the leverage and legitimacy in order to be able to persuade and push the state into retreating or halting their actions. The one being coerced must feel and understand the high cost of punishment that they could face if they did not listen to the coercer[355]; "Sources of leverage include the remunerative, normative, and coercive bases of power, which need to be packaged in a way that makes continued fighting painful and settlement rewarding."[356]

As already mentioned, Sudan and East Timor had the biggest external influence and pressure that was key to convincing the parent states to agree on adding a referendum provision to the peace agreements. The external players in Sudan played the role of mediators during the peace process. Coercive diplomacy was the main method that was used to bring the GoS on the negotiating table. In the case of Sudan, the U.S. had the biggest leverage to coerce the GoS since the U.S. used all three leverages mentioned in the previous quote namely remunerative, normative and coercive. The U.S's remunerative threat and leverage was economic sanctions

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[354] Jack S. Levy, "Deterrence and Coercive Diplomacy: The Contributions of Alexander George," *Political Psychology* 29, no. 4 (2008): 5, https://onlinelibrary-wiley com.libproxy.aucegypt.edu/doi/epdf/10.1111/j.1467-9221.2008.00648.x.

[355] Krista E. Wiegand, "Territorial Disputes as Bargaining Leverage," in *Enduring Territorial Disputes: Strategies of Bargaining, Coercive Diplomacy, and Settlement*, (Athens: University of Georgia Press, 2011), 41–68, https://ebookcentral.proquest.com/lib/aucegypt/reader.action?docID=3039033&ppg=87.

[356] Stephen John Stedman, "International Actors and Internal Conflicts," Rockefeller Brothers Fund,https://www.rbf.org/sites/default/files/attachments/international_actors_and_internal_conflicts.pdf, 1999, 16.

which Sudan has already experienced before from the U.S. hence they were well aware of the great losses that they were expecting if that happened once again. As for the normative leverage, was the promise of normalizing relations with Sudan. Finally, the coercive threat, was the war on terror diplomacy that the U.S. was applying in their foreign policy. Likewise, Habibie was faced with all three types of threats from varying players. The main external players were the U.N. which played the role of mediator, peacekeeper, as well as implementer. There was also a great amount of pressure from interested western countries. Habibie was threatened by the western parties that they would stop supplying Indonesia with foreign direct investments if the East Timorese were not allowed a referendum on independence. As for the normative leverage was the evident and deep history of humanitarian violations that Indonesia committed in East Timor. The final and main one, was the coercive threat from Kofi Annan and other interested western countries of either bringing security back to East Timor or facing international intervention. Habibie seeing the inevitability of international intervention as well as feeling the pressure of all the international attention that the East Timor has gained, he finally allowed the INTERFET to be deployed in East Timor.

For Bougainville, there was very little to no external intervention with the regional intervention playing a bigger. Moreover, coercive diplomacy was unnecessary in Bougainville's case. In fact, regional powers played a major role in all of the cases with little to no coercive diplomacy used. Australia was a major player in both Bougainville and East Timor. New Zealand was also an important regional player in the Bougainville case. New Zealand had reinitiated the peace process that was halted for almost a year by hosting a number of pre-negotiation roundtables for the reconciliation of the Bougainville factions the 'pacific way' as discussed in the Bougainville chapter. After being successful and uniting the Bougainvilleans,

they also mediated negotiations between Bougainville and the PNG. New Zealand also headed a monitoring group from 1997-1998 named the New Zealand-led Truce Monitoring group. As for Australia, had it not been for Australia's then Foreign Minister Alexander Downer's referendum proposal no negotiated settlement could have been reached. The peace process was in a deadlock due to several issues on the referendum provision. However, his proposal allowed some compromises and incentives for both parties which eventually was adopted in the BPA. The proposal suggested the adoption of the referendum provision in the constitution as well as extending the postponement period from 6 years to 10-15 years. Australia also led a monitoring group in Bougainville from 1998-2003.

As for the regional body that Indonesia belonged to the ASEAN all included regional countries that had a foreign policy of non-intervention. None of East Timor's regional neighbors were a part of the negotiation process directly. However, the then Prime Minister of Australia John Howard aided in convincing Habibie to consider going beyond his autonomy announcement to allowing a referendum on a possible independence. Australia created a poll to ask the East Timorese in the territory and the diaspora on their opinion of a referendum and shared these results with President Habibie. Moreover, due to Australia's and New Zealand's preparedness for the escalating violence in East Timor, a multinational force (INTERFET) was created with the leadership of Australia swiftly in a matter of days in order to secure peace. INTERFET was successful in securing peace and security after the resumption of violence post-ballot, and was headed by Australian General Cosgrove.

In Sudan's case, the IGAD played a great role in initiating a peace process early on even if it did not gain momentum back then. However, a serious development in the peace process occurred when the IGAD restarted negotiations headed by General Sumbeiywo. It was due to

their initial efforts in the early 90s that resulted in the DoP. This document was a great step in Sudanese history even if it did not succeed in ending the conflict since it was the first official statement that called for the right of the South to seek self-determination through a referendum. The Machakos protocol which was the blueprint of the CPA was inspired by the DoP. However, there was great international intervention during the negotiating process as well. It was the Troika that provided financial and technical support to the IGAD. Furthermore, they had the role of observers which was the second tier to the conflicting parties and the IGAD. Moreover, the U.S. sent a special envoy to deal with the Sudanese conflict.

All cases have also had some sort of UN intervention or presence with varying degrees of involvement. There is criticism over the UN mediating in civil wars, "Since it must always derive leverage from member-states, many of whom have different interests in and ideas about a particular settlement, the United Nations will never be able to make and deliver credible threats and promises."[357] However, in the East Timorese case the UN had enough leverage and even held to their promises on all the roles that were expected of them. The two cases that had the UN as merely monitoring bodies were Bougainville and Sudan. For Bougainville even the monitoring groups consisted of mostly regional personnel with only around six UN personnel. However, Bougainville needed the approval from the UN that they have indeed met all the conditions of disarmament before establishing the ABG which is considered to be an important role. In Sudan, the UN did not play an important role during the peace process however there was external help during the reconciliation process in the South. It was several NGOs mostly Norwegian based as well as the Norwegian Church aid who organized the People-to People process that was held from 1997-2003. Had there been no reconciliation between the Southerners

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[357] Stedman, "International Actors and Internal Conflicts," 17.

and a united front, then an agreement with the North would not have existed. The one important role the UN played before the signing of the CPA was the holding of a Security Council meeting pressuring both parties by giving an ultimatum of reaching an agreement by the end of 2004, which was the only form of coercive diplomacy that the UN used in the whole process. The UN has also played its usual role in most conflict-ridden countries which is peacekeeping with the establishment of UNMIS. Moreover, there were several GA resolutions passed after the singing of the CPA calling for the resolving of the Abyei region issue. However, when it came to the organization and implementation of the referendum the authority belonged to the Sudanese themselves in particular the SSRC.

For the East Timor case, the UN was a mediator, peacekeeper as well as implementer. The UN has played a role from the beginning, starting with the various resolutions passed condemning the occupation of East Timor by Indonesia. Although the UN has had a more symbolic role in the beginning, the then Secretary General Kofi Annan did attempt to initiate a peace process and negotiations in the 1980s. Although to no avail, it was the pressure of the UN, the international community as well as changing political climate discussed above that led to the development of the peace process. East Timor is a distinctive case since the UN was actually one of the main parties and signatories to the May 5 Agreement in which the UN and Portugal were advocating for the independence of the East Timorese on behalf of them. Moreover, it was the UN that held the responsibility of organizing and holding the referendum. Later on, the INTERFET was deployed although not under UN procedures was mandated under the auspices of the Security Council. There was further intervention which was an unprecedented arrangement to UN history which was the UNTAET. The UNTAET was responsible for the administration of East Timor until they gain their independence. UN diplomat de Mello was

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considered to be the de facto governor of East Timor, and this was the first time a UN diplomat took this role. Another UN mission was established after East Timor's independence in 2002.

5. Role of Individuals

Another factor that should also be taken into consideration when discussing the factors that lead to peace is the role of individuals. For instance, the Bougainville peace process was in deadlock due to the referendum issue but it was broken when Alexander Downer released his proposal on the referendum which was adopted into the agreement. For Sudan, it was the emergence of a new IGAD representative General Sumbeiywo, who helped with the negotiations due to his knowledge of the history and culture. This knowledge aided him in forming truce and reconciliation meetings amongst the Northerners and Southerners. Moreover, his personality was strong enough to stand up to the Troika so that they would not take over the whole process in order to make it a regional effort. Garang the leader of the SPLMA, was also a very important figure in the peace process since the attitude of the South has changed after his sudden death. Garang was genuinely working with the North towards unity. It was Garang's personal relationship with Taha that helped advocate the unity of Sudan as well as gained the Southerners several institutional powers in the GoS. However, after Kiir took over power the South was preparing for its eventual independence. In the East Timor case, the individual factor is even more important to consider. It was President Habibie's unilateral announcement of granting autonomy that initiated serious developments in the East Timorese issues. The referendum provision was not an outcome of official negotiations but once again the unilateral announcement Habibie. Had it not been for the fall of the Suharto regime and the emergence of Habibie's power, Indonesia's policies towards East Timor would not have changed whatsoever.

6. Limitations of Research

There are several criticism and limitations that are paired with the case study methodology. One of the most frequent criticism is how can case studies and their contexts help explain general theories and phenomena. Whatever works for a certain case study could be due to the certain contexts and factors that are at play therefore, it is difficult to make casual links to general conclusions. Another limitation is the issue of biased case selection which is the bias of the researcher in choosing case studies to fit their own hypothesis. It is difficult in political science to generalize certain methods or theories and case studies adds to this issue even more. Some would say that there is a great limitation in the cases where there are other secession cases are not considered here. Moreover, another limitation is not including cases that do not have any referendums at all in order to further illustrate the importance of a referendum. However, as mentioned in the introduction the sole focus of the thesis is the positive effect that the referendum has on the three cases that are very distinctive from each other.

Another limitation in my research is the sole use of secondary sources. However, there were several secondary sources that were written by mediators that were present as well as country leaders. There is also the issue on the definition of peace which is quite difficult to have a universal definition that can applied to everything. The point of peace in thesis is not that referendums brings absolute peace but one can suggest that it is good for relations between warring parties. Nonetheless, what I hope this research does is that maybe future projects can try to apply some of the successful factors and methods that were illustrated and apply them to other cases in order to add more cases that explain general theories on instruments that lead to peaceful post-conflict environments. Moreover, I hope my research could add more information in the conflict resolution studies which are the most important due to the increasing number of conflicts around the world every year.

7. Concluding remarks

When it comes to conflict resolution all that can be done is to reflect on past cases and learn from them. One cannot generalize that what has worked for Bougainville, for example, can work for other contexts. However, if the best parts of each case can be taken and applied depending on the context, then peacekeeping missions or mediators would be coming close to a perfect plan for peace. As seen in these conflicts concerning territory, the provision of the referendum was seen as the center of not only the peace process but also the agreement and the post-conflict period. Moreover, it was the provision that could not be ignored that everybody complied to and implemented with no major delays. Despite the violence that erupted after the referendum, East Timor succeeded in becoming independent and even being legitimate by becoming a UN member state. The missing equation in the East Timorese case that could have possibly made it more peaceful after the signing of the agreement was allowing a few years of autonomy and the postponement of the referendum for a later stage. However, at the end all cases did eventually gain their independence. Although there were issues of violence in varying degrees after the signing of the agreements it eventually was peaceful and never reached the scale it was before the signing of the agreement. Finally, the referendum gave them the added legitimacy to their claims and goals of independence which lead to the addition of South Sudan and East Timor as UN member states, and Bougainville on its way after the landslide vote for independence at the end of 2019.

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