

REGAN/MOMIS MINING POLICY TAKES AWAY BOUGAINVILLEAN CUSTOMARY RESOURCES AND THE FUTURE OF BOUGAINVILLE

The current ABG leadership and their foreign advisor are setting the stage to take ownership, control and all decision making away from the customary landowners of Bougainville. Their policy, if enacted into law, is designed to give them two years, enough time to deal off the resources of Bougainville before the next elections. However, their plans are likely to leave a 50 year mess.

The latest Mining Draft, which incorporates the advice they received from the former colonial masters and Kiaps in Canberra on their Feb 14th trip has just become available - and is a total top down approach. Emboldened by the encouragement they received from Canberra, their second draft policy bares its fangs. Nobody had seen it, even the Members, and yet the two-man show (Regan/Momis) intended to force it through the recent legislature. In fairness to the Members, they have probably been given only carefully selected information about the contents of the policy from the top down. And even if they had read the latest draft policy, it is so slyly drafted that they may not have seen the true intent lurking there. There is no doubt that the ordinary members and even the Bougainville Executive Council Members (BEC) would reject it out of hand if they had correct technical advice. For some reason Regan/Momis did not present it for a vote, and a lucky thing indeed for Bougainville that it was not passed into law.

On close reading the policy is modeled on Russia and Venezuela where the presidents have complete control over the development of resources: they choose their partners and do the deals on the terms that they set. That is why it is written that Putin, the President of Russia, is by far the richest man in the world.

Of course the ABG leaders were elected in a democratic process. But they also swore an oath to uphold the laws of PNG and Bougainville under the Constitution. Section 23 requires that the ownership is returned to the customary landowners, which would prevent the ABG from doing mining deals. They throw out Section 23, so what they are trying to do is UNCONSTITUTIONAL. They were elected to operate within the Constitution not outside the Constitution. They have no mandate to operate outside the laws of Bougainville. Their policy is an attempt to fool the Bougainville people and the majority of the Members. It treats Bougainvilleans, including the Members, and most of the Ministers, as unintelligent fools that have no business being involved about decisions that will affect the future of Bougainville. Section 23 stops their Russian model cold so they have to ignore it.

The Regan/Momis Policy

It decreases Section 10 Joint-ownership of minerals on Bougainville - Unconstitutional. This allows the ABG to get its name on the title of all minerals, which then allows them the naked power to take absolute control over all aspects of mining without any checks and balances. What is notable is that the policy cleverly handicaps the customary landowners from getting licences over their own lands and paves the way for the ABG and its selected foreign mining companies to take total control into the future. The problem is that the current political perpetrators will be gone leaving the future of Bougainville under a dark cloud of more crises to come.

The key Sections and what they do

For the benefit of Bougainvilleans and the Members who have not been given the correct technical advice, some of the key sections are addressed.

Even though the majority of Bougainvilleans fought for the return of their stolen mineral rights, which were to be recovered by implementing Section 23 of the Constitution, nowhere in the Regan/Momis policy is Section 23 referred to. Here is what it does contain:

Section 36 gives the ABG the right, as being on the title to ownership, to get into the mining business and enter into joint venture deals with selected partners - but not just any partners: their partners will be those that they "select" from the "competitive tender process" (auction). This auction process is spelled out in Section 40.

Let us comment on this: Governments throughout the democratic world stay away from doing business. Most governments have realized over time that most politicians and bureaucrats bad business people and are open to corruption. As an example, the USA government is not in any business deals and is the richest country in the world. In Communist countries and other Dictatorships, they certainly do control the resources, and enrich themselves and their friends at the direct expense of their citizens. Russia, as an example, is the richest resource country in the world with a very rich President and famous billionaire oligarchs that, with the Russian Government as partners, together they plunder the country's resources, while over 100 million Russians live near or below the poverty level.

What does the policy say about the Bougainville customary landowners who thought they were getting their resources back? After all Section 23. is the foundation for the ownership of resources on Bougainville; after all it is what the majority of Bougainvilleans fought and sacrificed for - the return of their stolen mineral Rights. What do they get?

Section 12 of the Regan/Momis policy signals to the customary landowners what they can expect to get out of mining - the right to be "consulted". To make sure that the landowners feel as though they are involved, the policy provides for a forum and mediation in the event that the landowners object to the ABG and its foreign partner showing up down their road to start exploration. But, even if the landowners object and can say no to the ABG/Foreign mining partners, there is a hammer decree in Section 26(2) which reads bluntly:

(2) The Autonomous Bougainville Government is by force of this section empowered to override the requirement for the consents

It couldn't be more clearly put - no matter what the landowners of Panguna say or the landowners of the other resources on Bougainville say, the Momis/Regan policy reserves the right to bring the hammer down on any opposition and to give the go ahead no matter what they say. What happened to the "Right to Say NO"?

Under the Regan/Momis plan it is easy to see what they have planned over the next two years until the next elections. They are under a time constraint and will take any shortcut they can. We set out some facts:

- BCL is Rio Tinto - Fact
- Rio Tinto's biggest shareholder is Chalco as to 12.93% - Chalco is a giant worldwide Chinese State owned Mining Company - Fact.
- MOU's exist between the President and China; their content is secret - Fact
- Regan/Momis have produced a mining policy to get BCL back on Bougainville and to allow the ABG to select joint-venture partners over all of the mineral resources of Bougainville - this could include Chalco or its affiliates - Fact

So it is not hard to imagine what the Regan/Momis team have in mind for RIO/BCL on the one hand and with other companies and players known to be lurking just out of sight that have "cordial" relations with the two-man team.

Only a scenario resembling the above can explain the Regan/Momis mining policy that savages the customary landowners of Bougainville and its people. It treats them and their last 24 years with contempt: so much so that in Section 19, before a Bougainville Landowner company can apply for a licence over its resources it is required to undertake preliminary social mapping and to submit it to the Secretary for the Bougainville Executive Council to consider it for approval. Regan/Momis, and every Papua New Guinean knows how long it takes to carry out social mapping. A legitimately formed company with the major clan and sub-clan chiefs as directors would be adequate to get a licence; the expensive and extensive Social Mapping studies could be done as positive exploration results flow. This arbitrary requirement is like cutting the leg off a runner before the race to make sure he can't win. It is designed to stop Bougainvilleans. With them having the last say on who can apply for exploration licences, it gives the Regan/Momis two-man team the two years it needs without any competition from customary landowners to auction and joint-venture off the minerals of Bougainville.

By the time the customary landowners present their Social Mapping and get it approved by the BEC, their resources will likely have been joint-ventured off - their resources will be owned by someone else. The current Government has two years left - just enough time to block the landowners, do their deals and leave town. And they will leave 50 years of crisis for the coming generations of Bougainvilleans. Under Section 23, none of the above plunder could take place.

Two boots to trample the late President Kabui's grave

There are other sections of the Regan/Momis policy that are amateurish and unworkable, and illustrate that the drafters have no experience or knowledge of real world mining exploration; but two particularly evil sections are strategically placed at the end in Sections 203 and 204 that we as Bougainvilleans should be aware of.

Section 203 repeals the BRDC Act and is reproduced here for all Bougainvilleans to see:

"The Bougainville Resources Development Corporation (AROB) Ltd (Kabui Model) Authorization Act 2008 is repealed."

This throws out the Kabui Model; a model that recognizes the rights of the customary landowners and the Government's limited role to ensure fair development and participation for all Bougainvilleans. The late President was very strong on this - he had a great unselfish vision for the people of Bougainville; and the people are only now fully realizing the bravery, wisdom and true love of Bougainville that the late President had, especially in the light of what they have seen since.

Section 204 grants all the mineral "rights" BCL had and ever dreamed of over Panguna and the surrounding areas, despite the fact that the Bougainville Constitution under section 23 for the resources returns them to the customary landowners. This is an intended illegal grant and is unconstitutional.

On one single page, and in consecutive sections 203 and 204, the Regan/Momis policy manages to place two boots on the late President's grave to trample and spoil it. The one boot 203 repeals the Kabui Model Act while the other boot, 204, welcomes back BCL to the President and his wife's hereditary lands and where his grave lies. Revenge, Bougainvilleans are saying!

Bougainvilleans should be aware that the Regan/Momis top-down policy has in store for them; the platform for a corrupt Bougainville and the robbing of Bougainville's future. Section 23 is bigger than mining. It is a bottom-up Melanesian culture approach where everyone shares. Section 23 restores the stolen mineral rights to where they have always been until the colonial masters appeared. Section 23 prevents corruption and guarantees a proud and brilliant future for Bougainville.

The world is watching and ready to cheer if Bougainville can break away from its old colonial past and adopt the new model that Section 23 stipulates. The Regan/Momis policy attempts to return to the past. It is old thinking and is unconstitutional.