

Chapter 1

Approaching Indigenous autonomy¹

Page 1 of the *Torres News* of 5-11 September 2003 carried the following headline:

Autonomy ‘now’

The accompanying article, which covered a meeting of Torres Strait Islanders at Masig (Yorke Island) in Torres Strait, quoted a prominent Torres Strait Islander leader, Mr George Mye, who attended as the Chairman of a Greater Autonomy Steering Committee, as saying:

We are looking for a Territory that will not be precisely the same as Norfolk Island, Northern Territory or the A.C.T., but something in the middle that will be the creation of the Torres Strait...As greater Autonomy is the will of the people of the Torres Strait, it is about time we called a spade a spade. This is it. We must work together to finalise the plan for Greater Autonomy (*Torres News* 5-11 September 2003).

Father Bon, a Torres Strait Islander minister of religion also spoke at the meeting, adding:

We want Territorial status immediately as all the Torres Strait is looking now for greater responsibility in the areas of land, native titles and sea rights. They need to make stand now as the true owners from when time began. Our forefathers inherited this place, given to them by God (*Torres News* 5-11 September 2003) (sic.).

In September 2004, just prior to Australian Federal elections the *Torres News* carried the headline:

Greater Autonomy by 2005: Labor

In the accompanying article the Australian Labor party berated the incumbent National-Liberal Party Coalition Government for failing to provide greater autonomy for Torres Strait, promising, of course, to do more in this regard if elected to government themselves (*Torres News* 15-21 September 2004).

¹ Much of this chapter was presented at a seminar at the Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University (ANU) and was later published as a CAEPR Discussion Paper in 2001 (Arthur 2001a).

Items dealing with the same and associated topics were also to be found in the national press. For example page 9 of the *Weekend Australian* of July 6-7: 'The divided voice of island autonomy'. Although this article dealt with what could be termed some of the more negative aspects of autonomy it (and others of the period) nonetheless shows that the matter had national as well as local interest.

In Australia, government policies and legislation for Indigenous people from the 1970s to the present have included self-management and self-determination, the implementation of various land rights regimes and, most recently, Native Title. These policies and the legislation of the last thirty years have led to the formation of a range of non-government organisations and land councils, as well as to the former and statutory Aboriginal and Torres Strait Islander Commission (ATSIC) and arguably have increased the political status of Indigenous people.² In their final report the Council for Aboriginal Reconciliation (CAR) proposed a bill to advance the process of reconciliation. In this it was suggested that an unresolved issue for reconciliation was 'Aboriginal and Torres Strait Islander self-government and regional autonomy' (Council for Aboriginal Reconciliation 2000: 177). Similarly, in their 2000 report the Human Rights and Equal Opportunity Commission (HREOC) argued that '[t]he development of governance structures and regional autonomy provides the potential for a successful meeting place to integrate the various strands of reconciliation' (Jonas 2000: 85).

References over the years to autonomy for Australian Indigenous people are found primarily in academic works (see for example Coombs 1993; Tonkinson and Howard 1990). The term appears to have originated at a policy level with respect to Torres Strait Islanders when Fisk, commenting on community government in the Strait in 1974 said:

The Torres Strait Islander Act of Queensland, in the isolation of the island environment has produced a system of government entirely different from that to which most mainland Australians, including

² For the period from 1989 until 2004 there existed in Australia the Aboriginal and Torres Strait Islander Commission (ATSIC). This was established under Commonwealth Government legislation and was the peak national administrative and representative Indigenous body. At the time of submitting this thesis, the incumbent Commonwealth Government had abolished ATSIC and so it is referred to here as the 'former ATSIC'.

Queenslanders, are accustomed. And one in which a quite remarkable level of autonomy has been achieved (Fisk 1974: 3).

The newspaper headlines cited at the beginning of this chapter followed a House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA) inquiry (henceforth the Inquiry) held between 1996 and 1997 and a subsequent report entitled *Torres Strait Islanders: A New Deal* (henceforth: *New Deal*) (HORSCATSIA 1997). This Inquiry and events surrounding it have been the subject of several pieces of research (see Altman, Arthur and Sanders 1996; Sanders 2000; Sanders and Arthur 2001). In addition to this, ATSIC had explored how the notion of autonomy might apply to Indigenous people on the mainland of Australia (see ATSIC 1993; 1995; 1998; 1999; Djerrkura, Bedford and Williams 2000). However, though autonomy has at times been equated with the notion of self-determination (see ATSIC 1995: 24-5; HORSCATSIA 1997: 34) it has not achieved the status of a policy, nor has it been subject to a great deal of analysis in this context, and its meaning has remained unclear (Arthur 2001a; Coombs 1993; Tonkinson and Howard 1990). Written submissions to the Inquiry appeared to have a variety of things in mind (HORSCATSIA 1997: 350). The headline of the Weekend Australian of 10-11 November 2001 was 'United Straits divides its people'. In this article a Torres Strait Islander taxi driver stated that:

A lot of people have different views on autonomy...I took an island chairman around last year – they had a meeting about autonomy...He said...what is autonomy? (Weekend Australian 10-11 November 2001).

And, in that same year even the then Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron) said on a visit to Torres Strait that he was unsure what everyone meant by autonomy.

Following WWII a significant degree of decolonisation occurred in India, Africa, the Pacific, and South-East Asia. More recently we have seen the disintegration of some nation states and the emergence of new sovereign entities, for example the break up of the Union of Soviet Socialist Republics (USSR) into Russia and its satellites, and the formation of new states. Separatist movements have also been active in this period. For instance, the Basques have sought independence from Spain, the Bougainvillians from Papua New Guinea (PNG), the Muslims of Mindanao from the Philippines, and the

Tamils from Sri Lanka. Powers have also been devolved within nation states. For example, Scotland and Wales have successfully obtained increased autonomy from Westminster while remaining part of the United Kingdom. These developments highlight that nation states are not necessarily fixed and unitary entities that we sometimes imagine them to be. And, it has been suggested that the developments raise the possibility of autonomy or self-government for some Indigenous people within nation states (Stavenhagen 1994: 23; Elkins 1995: 6, 25). Some of those that have already achieved this status include for example the Sami in Scandinavia (see Craig and Freeland 1999).

However, Australia is a rather different case to those noted above. Australia is what is sometimes termed a 'settler state'. Here, I am taking the term 'settler state' to indicate a nation state that has come into existence in the not too distant past through the process of European colonisation; where the previous colonisers are the majority of the population; have superimposed their laws and method of government on the Indigenous people and who no longer consider themselves as colonisers. States that fall into this category include the United States of America, Canada, New Zealand, and Australia.

Australia's Indigenous people are some 2 per cent of the total population, made up of the two broad groups: Aboriginal people and Torres Strait Islander people (see Chapters 2, and 5). The 1996 Census estimated there were a total of 30,082 Torres Strait Islanders in Australia, making them about 9 per cent of all Australian Indigenous people, or around just 0.2 per cent of the total Australian population.³ However, the Torres Strait Islander population resident in Torres Strait at the time of the Inquiry was only some 6,000 people⁴, a mere 0.037 per cent of the total Australian population. In addition, Torres Strait is a very small island and reef strewn stretch of water lying between the tip of Australia's Cape York and Papua New Guinea's Western Province. At first glance then, it seems noteworthy that such a small population, in real and proportional terms, has been able to enter an apparently serious discourse on autonomy with the government of a

³ As explained below, in the 1996 Census, Indigenous people had the opportunity to identify in three ways: as Aboriginal, as Torres Strait Islander and as both Aboriginal and Torres Strait Islander. For the purposes of these statistics, those who identified as both have been allocated to the Aboriginal and the Torres Strait Islander populations on a pro rata basis (see Appendix B).

settler state. This is especially so as the other and larger Indigenous population that is not Torres Strait Islander (the Aboriginal population) has not.

The foregoing provides the general line of questioning for this thesis, namely: how has the issue of autonomy got onto the agenda for such a small Indigenous population (and geographic area); has this agenda any future and if so what shape might autonomy take; and what implications might autonomy for Torres Strait Islanders have for Aboriginal people in Australia?

Approaches to autonomy

Despite the fact that the United Nations has used it since 1945, the concept of autonomy has no standing in international law (Hannum and Lillich 1988: 215, 249). It has no reliable theoretical base and commentators claim that international and regional examples tell us little about its content and structure (Ghai 2000: 3, 4, 21). Possibly for these reasons it has remained a broad and problematic term which has come to mean different things to different people, a concept with many conceptions (Dworkin 1988: 5–6, 9; Ghai 2000: 1) or, a concept that is variably realised in different times, places and situations (Tonkinson and Howard 1990: 68). On the one hand these characteristics can be advantageous as they allow for some political manoeuvring and for a variety of political structures, but on the other hand they can make autonomy a difficult concept to pin down and to negotiate about (Hannum and Lillich 1988: 253).

Although some have argued that autonomy can imply sovereignty and political independence (Fleras 1999: 224) there seems more general acceptance that it implies a continuing political and economic connection with a larger state (Hannum and Lillich 1988: 216–18, 249; Sohn 1988: 5). While not representing total independence, autonomy is generally associated with power relationships and is concerned with who controls what (Fleras 1999: 189); though it is usually about degrees rather than any fixed or pre-defined level of control (Hannum and Lillich 1988: 249). Thus, autonomy is not an absolute

⁴ As will be explained below, more people identifying as Torres Strait Islanders reside outside Torres

status (Stavenhagen 1994: 27; Tonkinson and Howard 1990: 68) and opens up the possibility of power-sharing and of ‘internal self-government’ of groups within a state (Ghai 2000: 1–2; Hannum and Lillich 1988).

Negotiation and legitimation

It is possible to view autonomy as a right (Watts 2000: 37).⁵ In Australia the former ATSIC referred to ‘autonomy rights’ as the right of Indigenous peoples to determine the way in which they live and control their social, economic and political development (ATSIC 1995: 24) and a rights approach was a central aspect of ATSIC’s 2001 corporate plan (ATSIC 2001: 2).⁶ In the case of Indigenous people who have been colonised, this could represent the return of a status that they had lost during the process of colonisation (Nettheim 1994: 52; HORSCATSIA 1997: 41). The colonisation referred to here however, is where Indigenous people have been displaced and marginalised by a colonising power that intends to stay; that is to say the settler states. However, no matter how morally valid such a rights approach might be, it does not necessarily make the concept much clearer or lead to strategies and practical outcomes.

Others take an alternative view, namely that autonomy cannot necessarily be considered as a right but rather as something which has to be negotiated with the state (Fleras 1999: 195; Australia Law Reform Commission 1986; Kymlicka 1995).⁷ For instance, although autonomy for Indigenous Canadians is part of government policy, the Inuit had to negotiate with the Canadian Government over each of the powers that made up the self-government of Nunavut (Fleras and Elliott 1992: 48) (see Chapter 3). In addition, the possibility of groups and or regions becoming too autonomous must threaten the integrity and unity of the state (Fleras 1999: 190, 203, 223). In the case of Indigenous people in post-colonial settler-states, this challenge to the state’s legitimacy has been characterised

Strait. See also Appendix B.

⁵ In a similar way, Articles 3 and 31 of the UN’s Draft Declaration on the Rights of Indigenous Peoples 1995–56 give self-determination and self-government as rights.

⁶ The Corporate Plan gave ATSIC’s vision as: ‘Aboriginal and Torres Strait Islander people freely exercising our legal economic, social, cultural and political rights’ (ATSIC 2001: 5).

⁷ Fleras actually makes this point with respect to self-determination (see Fleras 1999: 195). I note below that some commentators consider self-determination to be a certain form of autonomy.

as a kind of ‘ethno-politics’ (Fleras 1999: 195, 225). The state will not be keen to give up any powers that are in opposition to its vested interests such as its security or economic resources (Fleras 1999: 203). It would seem therefore that if autonomy is about negotiating levels of power and control, then each of the parties concerned, for example the state and Indigenous people, will be required to legitimise their negotiating position (Fleras 1999: 190). Taking this approach, each of the major parties which have vested interests will need to make a case for either gaining or for retaining power and it is likely that their ability to do this will depend on their circumstances (Australia Institute 2000: v; Ghai and Regan 2000: 242).

Following this, the approach taken to autonomy in this thesis is to consider it in relation to whom it might apply, what might be included within its ambit and what means and strategies the principal parties can, and do, operationalise to legitimise their position (see Fleras 1999: 190). Thus, to arrive at a position to clarify what the various parties might mean by ‘autonomy’.

To whom might autonomy apply?

It is necessary to consider to whom autonomy might apply, as this will influence what it might include (see Sanders and Arthur 2001). For instance, if it is to apply only to Indigenous Australians at an economic level then it may only involve those programs and funds specifically earmarked for them. If, on the other hand, it is to apply to all people in a region, then it would be likely to include rather more elements and resources.

Although autonomy was originally a concept applying to individuals, it is now often used with reference to groups (Dworkin 1988: 164; Hannum and Lillich 1988: 248). Indigenous people can be considered as one group or ‘one people’.⁸ They do however also form smaller groupings according to criteria such as language, community of residence, or kinship and family (see Chapters 4 and 6). Though they may seek autonomy at these various levels, there can be considerable tension amongst them over who should

⁸ This is not to deny the importance of the issues of identity and of intermarriage between Indigenous and non-Indigenous people in Australia (see Taylor 1997a).

control what (Martin 2001; Martin and Finlayson 1996). I will now consider autonomy as it might apply to a whole people, and to regions.

Corporate autonomy (for a people)

Autonomy that might apply to a specific group nationally, that is to say, across a whole country, has been described as autonomy for a people, or as ‘corporate autonomy’ (Ghai 2000: 8, 9, 12; Hannum and Lillich 1988: 253; Sanders and Arthur 2001; Watts 2000: 40). Corporate autonomy may apply when a group can show that they have special needs nationally, with respect to the provision of certain services such as health or housing.

This kind of autonomy already applies to an extent in Australia. For example there are Aboriginal medical services, legal services and housing co-operatives. Indeed, ATSIC itself can be said to have represented this form of autonomy as it received and administered funds for national Indigenous-specific programs. These included programs for business development, land and Native Title, law and justice, women’s issues, home ownership, and housing and infrastructure. To have increased this form of autonomy, ATSIC would have had to negotiate with the Commonwealth Government for more control of these funds, or for control of a wider range of Indigenous-specific services. This would have run counter to a trend which had seen the Federal Liberal and Country Party Coalition Government reduce ATSIC’s autonomy by, for example, transferring responsibility for health from ATSIC to the Commonwealth Department for Health and Family Services.

Although ATSIC can be considered to have been a manifestation of corporate autonomy, another might be greater or special political representation. It has been suggested that this could be achieved through reserved seats in parliament, possibly following the New Zealand example with respect to Maori (see Chapter 3). ATSIC had proposed that: ‘The Commonwealth Government should investigate the possibility of reserved seats in the

Australian Parliament by commissioning a report on how this can be achieved' (ATSIC 1995: 50).⁹

However, such a proposal would also need to clarify the scope of this form of representation. For instance, would the role of such representatives be to discuss all of the affairs of parliament, or only those relating specifically to Indigenous people? ATSIC had proposed that (as an interim stage towards reserved representation) the ATSIC chairperson should have had observer status in parliament with the ability to 'speak to either house on Bills affecting *Indigenous interests*' (ATSIC 1995: 51, emphasis added). This suggests that a form of corporate autonomy based on reserved representation might only apply to Indigenous-specific issues.

Another possible device for furthering Indigenous corporate autonomy might be for a body of Indigenous representatives to sit alongside, and work in parallel with, mainstream governments. Examples of this are the Sami parliaments of Norway, Sweden and Finland (Craig and Freeland 1999). However, the powers of these Indigenous parliaments are largely limited to providing *advice* to their national parliaments on issues and finances applying specifically to the Sami (see Craig and Freeland 1999).

Another form of the above might be a bicameral system where Indigenous representatives make up a separate house or chamber located within the national parliament.¹⁰ Such a system might be described as 'cultural bicameralism' in as much as it would be a dual system of representation, one part of which was restricted to a specific cultural group such as elders or traditional land owners (see Chapter 3).¹¹ Forms of cultural bicameralism can be found in the South Pacific, for example in the Cook Islands, Vanuatu and Fiji. An issue would be whether these representatives are democratically

⁹ The same document also proposed that there should be reserved seats in State parliaments in Australia (see ATSIC 1995: 49).

¹⁰ Peter Sutton first discussed the notion of Indigenous bicameralism at a regional level in 1985 (see Sutton 1985).

¹¹ It is possible to also classify this as functional bicameralism since the separate house or chamber's powers may be confined to certain functions such as those relating to land and cultural matters.

elected or selected in some way. It is unclear what proportion of Indigenous people might favour giving power to groups with a culturally-based status (see Chapters 3 and 6).

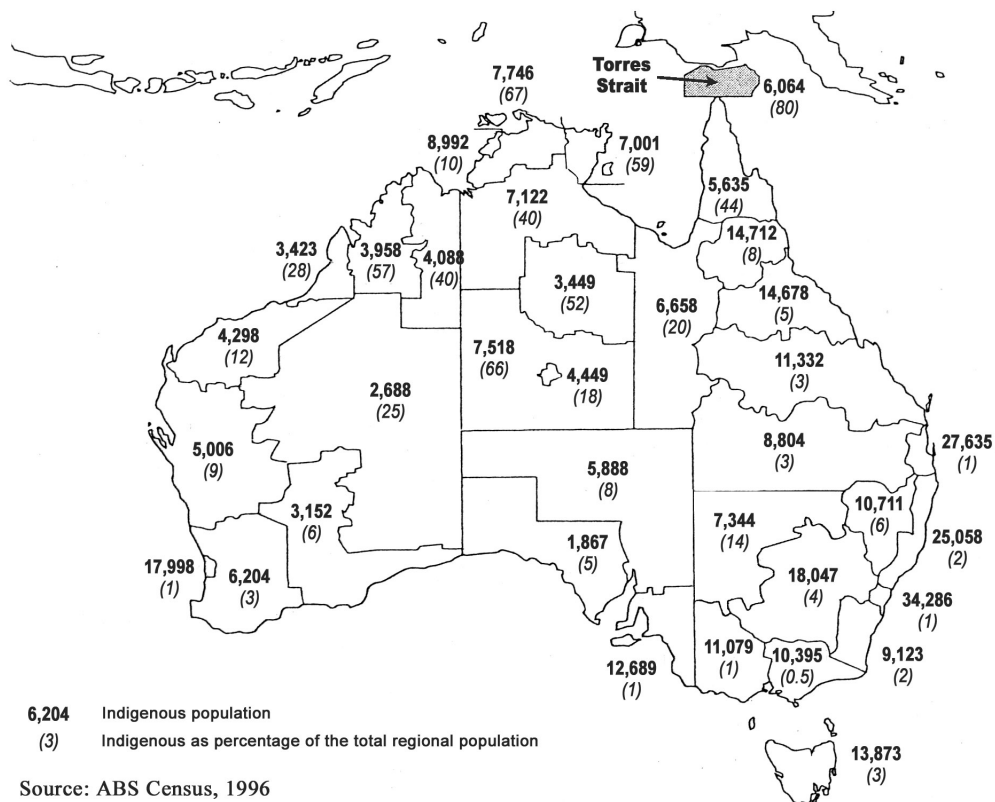
Indigenous people also access services from mainstream public providers. If we equate autonomy with control of these services, Indigenous autonomy could be increased by moving the relevant resources from the mainstream to an Indigenous-specific stream. However, studies have shown that it is very difficult to separately identify what these resources might be (see Arthur 1991a; Smith 1992). Also, this would be a difficult principle to apply in urban centres where Indigenous people are a small percentage of the whole population (see Map. 1.1). For example, those Torres Strait Islanders living on mainland Australia have found it impossible to legitimise to State governments their claims for special attention, because they form small, dispersed and largely invisible urban populations (Arthur 1998a, see Chapter 7).

Corporate autonomy, or autonomy for a people, may be based on the premise that these people have particular cultural traits that should be accommodated in certain decision-making processes. In this way 'culture' is the device that legitimises people's claim to some control over particular aspects of their lives (Ghai 2000: 8). Being based as it is on cultural difference or distinctiveness; it seems evident that this kind of autonomy can only apply to the group expressing a cultural difference, in this case Indigenous people, and to matters specifically pertaining to them.

Corporate autonomy may also apply between Indigenous peoples. This has been the case in Australia between Aboriginal people and Torres Strait Islanders (see Sanders and Arthur 2001). Torres Strait Islanders have argued for their own legislation and to be separate from the former ATSIC (see Chapter 6 and 7).¹² The arguments for this autonomy, which have been legitimised largely by cultural difference, have been successful in Torres Strait but not outside it (Arthur 1998a; Sanders and Arthur 2001). This matter is discussed further in Chapters 5, 6 and 7.

¹² In 1897, on the advice of Douglas, the Protector for Torres Strait, the Queensland Government legislated separately for Torres Strait Islanders (see Chapter 4).

Map 1-1. The Indigenous population by ATSI region, 1996.



Regional autonomy (for a place)

A more commonly discussed notion of autonomy is regional autonomy, that is, autonomy for a place rather than for a people. There are at least two possible forms of regional autonomy, one applying to only the Indigenous residents of a region and another applying to all of the residents. Which of these might apply will hinge on a number of factors, such as demography (Fleras 1999: 198) (see Chapter 3). Any form of regional autonomy will depend on the delineation and legitimisation of a region and some regions are easier to delineate than others.¹³ Regions can be formed geographically, as in the case of islands, straits, river valleys, and capes, or around particular industries: the goldfields of Western Australia and the Hunter and Barossa Valleys are all examples of this.¹⁴ However, the formation of regional space will also be contingent upon social and political factors (Jones, Natter and Schatzki 1993). For instance, geopolitical factors, such as an international border, can also help describe a region (see Arthur 2001b and Chapter 5).

As regional autonomy is largely about the control of regional matters, another of its defining factors will be the ability of those in a region to form a political body to effectively administer this control (Hannum and Lillich 1988). This requires the regional population to recognise a ‘community of interest’ from which they are willing to elect or choose representatives to operate on their behalf in the regional body. It has been suggested that Indigenous people in Australia have a tendency to localism, individualism and factionalism, rather than to regionalism and that this reduces the likelihood of them forming regional bodies (see Edmunds 1999). Nonetheless, such bodies do exist—for example as land councils, resources agencies and as the former ATSIC Regional Councils (RC).

It has been suggested that it is easier to legitimise regionalism and regional control when there is already a federal system in place, such as is the case in Australia and in Canada,

¹³ For a discussion of definitions of ‘regions’ as these apply to regional agreements under the *Native Title Act 1993*, see Arthur (1999a), Edmunds (1999: 22), and Martin (1997).

if for no other reason than that federalism is itself a system in which some powers have already been devolved from the centre (Beran 1994: 9; Ghai 2000: 7; Hannum and Lillich 1988: 251). Norfolk and Christmas Islands are sometimes given as examples of this form of regional autonomy within the Australian federal system (Saunders 2000: 268; Fletcher 1992: 19–21) (see Chapter 3). The foregoing discussion suggests that regional autonomy requires the definition and legitimisation of both a region and regional body.

Regional autonomy applying to Indigenous people

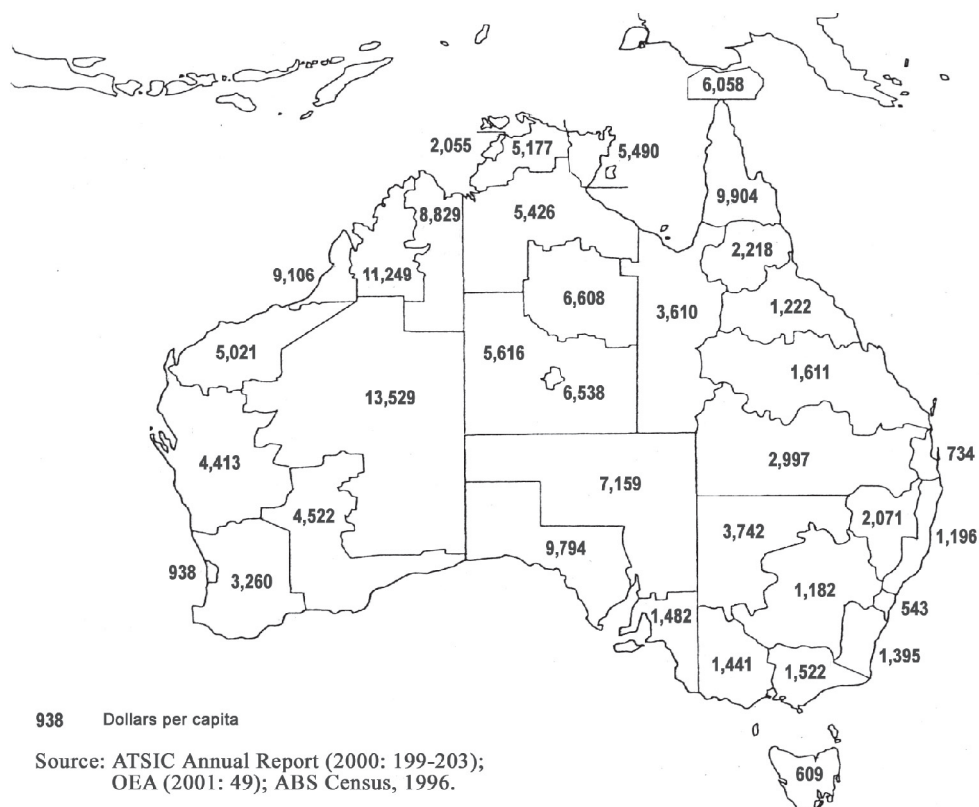
A form of regional autonomy might be one which applies only to the Indigenous people and Indigenous affairs within a region. This could be termed Indigenous-specific regional autonomy. Again, it can be argued that ATSIC represented this form of autonomy: the country was divided into 36 ATSIC regions, each with an elected Regional Council which had responsibility for certain Indigenous-specific matters, finances and resources within its region.¹⁵ That is to say, the RCs had a degree of autonomy over their regional expenditures and matters. Because Indigenous-specific regional autonomy applies only to Indigenous people, it is independent of Indigenous/non-Indigenous demography. ATSIC RCs existed in all areas, even those where Indigenous people are a fraction of the total population.

However, the degree of this form of autonomy was probably highly variable due to Indigenous demography and circumstances. For instance, a large proportion of Indigenous people live in regions on the eastern seaboard (see Map. 1.1) which, compared to the less populated areas, have a high standard of services, and so had correspondingly small ATSIC budgets.¹⁶ For example, per capita program expenditures varied from a low of \$734 in the Sydney region to a high of \$13,529 in Warburton, Western Australia (see Map. 1.2). Generally we can see that where Indigenous populations are high—in cities and along the eastern seaboard—expenditures were low.

¹⁴ Martin indicates for example that despite its internal divisions, Cape York can be classified as a region (Martin 1997: 2).

¹⁵ There were 35 regions on the mainland and one over Torres Strait.

Map 1-2. ATSIC program resources, dollars per capita by ATSIC Region, 1999-2000.



Conversely where populations are low—in the centre and the north—expenditures were high. Therefore, if we equate the level of autonomy in a region with the level of Indigenous-specific resources under the control of RCs, then we can see that this form of autonomy is likely to have been more significant for RCs in the north and centre, where expenditures were highest, than for RCs in the east and south.

In addition, although each RC had its own budget, control over a large proportion of regional funds was held by ATSIC's national office so that RCs only had discretionary powers over around 14 per cent of their funding (Djerrkura, Bedford and Williams 2000). Increasing Indigenous-specific regional autonomy in this case might have included increasing this proportion. Such a change would have been largely an internal matter for the ATSIC system requiring negotiation between RCs and the ATSIC national office and Board of Commissioners. Such negotiations were indeed taking place in 2000 (see Djerrkura, Bedford and Williams 2000 and Chapter 8).

ATSIC was Indigenous-specific at both a national and regional level. Other forms of Indigenous-specific representation also exist, for example in Indigenous land councils. An issue in such forms of elected representation is whether they are open to all Indigenous people in a region, or to a special class of Indigenous person, such as a traditional owner, or 'elder', however such classes might be defined. As discussed earlier, a form of bicameralism within the Indigenous domain might provide a way of accommodating more than one class of voter (see Sutton 1985).¹⁷

Regional autonomy applying to all of the people in a region

The other major form of regional autonomy would be one which applied to matters affecting all of the residents of that region, not just Indigenous residents. This would probably include the regional control of a large number of matters, and would tend to

¹⁶ A significant aspect of ATSIC expenditure related to housing and infrastructure for discrete Indigenous communities, as the Commonwealth typically provides or assists the States to provide such services. The majority of these communities are in the less populated regions.

¹⁷ The notion of domain when applied to a distinction between Indigenous and non-Indigenous people has been explored most fully by Trigger (1992).

equate most closely with the notion of regional self-government. As noted at the beginning of this chapter, the lack of specificity as to what might be included in regional autonomy is itself a feature of the concept. However, several authors have suggested what the constituent parts of this form of autonomy might be (see Fleras 1999; Hannum and Lillich 1988; Poynton 1996). These are shown below, grouped by their political, cultural and economic characteristics.

Political:

- a representative body elected by *all* residents;
- a level of authority to make some laws (legislative power);
- possibly a local judiciary and police;
- the possible control or provision of social services such as health, education and welfare;
- possibly a degree of ‘international personality’, but usually excluding matters of defence, foreign relations and international border control.

Cultural:

- the official recognition of some cultural practices.

Economic:

- local decision making about centrally provided expenditures;
- some control over a share of the region’s natural resources (the most autonomous regions often being associated with the greatest control of resources);
- the ability to collect taxes and to generate income from fees and charges.

Political considerations

If we assume that the rationale behind political autonomy is to give Indigenous people (vis-à-vis others) some greater control over a region and if, as argued earlier, this has to be negotiated, then it would seem necessary for Indigenous people to legitimise, especially to governments, why they should have this control. To do this Indigenous people would need to establish an identifiable territorial base and, usually, to be the majority of the population (Fleras 1999: 188, 200, 220) (see Chapter 3). It is notable for example that the Inuit, who control the self-government of Nunavut in Canada’s north,

account for 75 per cent of the regional population (Brownlie 1992: 49; Ghai 2000: 8–10, 40; Watts 2000: 40) (see Chapter 3).

Under the system of local government elections, Indigenous people could notionally gain control of a region if they were the majority of the population, and if they voted in a block. However, taking the former ATSIC regions as an example, we see that Indigenous people form the majority in only a few of these though they are a significant proportion in several others—mostly in the north and centre (Map. 1.1).

Other devices for legitimising regions as Indigenous territories may be of a more symbolic nature. Indigenous people can legitimise strong links with regions if these form culturally distinct blocks (Hannum and Lillich 1988: 216–18, 249). This device helped the Inuit legitimise the Indigenous self-government of Nunavut in Canada (see Watts 2000: 37). Torres Strait Islanders are also well placed in this regard as they claim a common culture for all of Torres Strait—*Ailan Kastom*—so forming what amounts to a cultural region (Arthur 2001a; 2001b and see Chapter 5). In addition, having the same name as the officially gazetted Torres Strait provides Islanders with a type of symbolic link with the region that is not available to many other Indigenous groups. Possibly the Tiwi Islanders and the Pitjantjatjara are the only two other groups in Australia which common usage associates with a distinct cultural region and territory (see Arthur 2001a; 2001b and Chapter 5).

Indigenous people might also be able to legitimise to the state and to other residents the right to hold control over regions when they own, or have made claims to, large parts of its land or seas, or if they are significant players in local industries, such as pastoralism, fishing or tourism. The foregoing could apply to many parts of the Northern Territory, and Western Australia as well as to Torres Strait (see Chapter 2 and 6). As noted above, geopolitical factors, such as an international border, can help also describe a region. People can then claim a special identity as residents of a borderland; this has been the case in Torres Strait (see Arthur 2001b and Chapter 5). On the other hand, from a security

point of view the state may be reluctant to relinquish its control over border areas (see Chapters 5 and 6).

It would seem self-evident that groups will be better able to legitimise the notion of a territory, and their right to control it, if they can articulate more than one form of linkage with a region. Where regional control does pass to Indigenous people, an issue will be how to deal with the interests of the non-Indigenous minority (Ghai 2000: 22). Again, this issue might be dealt with through a system of cultural bicameralism. However, as I will show the issue of Indigenous versus non-Indigenous regional interests is significant and remains largely unresolved in Torres Strait (see Chapters 3, 6 and 8).

Cultural considerations

Forms of cultural autonomy might include an official system of bilingualism, as in the case of Quebec in Canada, or the Aland Islands of Finland (Hannum and Lillich 1988: 247).¹⁸ It could also include Indigenous radio or television stations or programs, as in the case of the Torres Strait Islander Media Association in Torres Strait, or the Central Aboriginal Media Association and Imparja television in the Northern Territory.

Cultural autonomy might also include the use of Indigenous legal systems. In the 1980s the Australian Law Reform Commission (ALRC) was commissioned to inquire into the possibility of recognising and including Indigenous customary law in the country (Australian Law Reform Commission 1986). The Commission was unable to propose any overall or national system for this but suggested that a case by case approach might be appropriate (Rowse 2002a). There is some indication that this principle has been adopted, albeit in a relatively ad hoc and quasi-official way. For example, in some parts of the country, Indigenous ‘law-men’ may deal out traditional penalties to offenders, with the knowledge, if not always the sanction, of the local mainstream police. In addition, and

¹⁸ Under Romanian law, ethnic groups may institute their language over a region if they achieve more than 20 per cent of the population there. Hungarians are approaching this figure in Transylvania causing concern amongst Rumanians (BBC news on ABC radio 28 March 2002) (see also Chapter 3).

under Queensland State legislation, Indigenous communities in Torres Strait may employ their own police, hold community courts and make community by-laws. The application of customary law might be manifested through the cultural bicameralism discussed earlier, where a council of elders could advise an elected body on how to take account of cultural matters in decision making. However, as is discussed elsewhere in this thesis (Chapters 5 and 6) it may also be the case that culture can be used as a way of legitimising other aspects of autonomy.

Economic considerations

Some analysts have considered the possible relationships between the economic and political aspects of autonomy (see Altman, Arthur and Sanders 1996; Jackson 1990). One view of this relationship is that forms of political autonomy may lead to economic advancement (Australia Institute 2000: vii; Courchene 1993). However, the evidence for this correlation is mixed. For example in Canada, the granting of self-government over Nunavut to the Inuit does not seem to have led to any appreciable economic development (Fleras and Elliot 1992: 46, 47), nor has political autonomy per se led to the economic advancement of many post-colonial states (Jackson 1990). On the other hand, the Harvard Project on American Indian Economic Development suggests that there is a link between sovereignty and economic development (Cornell 1994; Cornell and Kalt 1995; Jorgensen and Taylor 2000). This project, which has been studying American Indian reserves for some 12 years, has marshalled data from 60-70 case studies. This has led the researchers to propose that there is a positive correlation between economic development and other political and social factors. They say that for economic development to occur a group must have: (1) de facto political sovereignty, (2) a match between their economic decision-making systems and that of their cultural systems, and (3) people and systems capable of making rational business-like decisions (Cornell 1994). Groups that have these three conditions appear to economically outperform those that do not. However, these conditions are in fact more like necessary than sufficient conditions. That is to say, if these three conditions apply and the group has no resources to exploit, or is far from markets, then the conditions will not be sufficient for economic development.

Alternatively, it has been suggested that a certain economic status could be a precondition for granting political autonomy (Fleras 1999: 20). For instance, in the early 1990s, the then Prime Minister indicated that greater political autonomy for Torres Strait would depend on some regional economic improvements, a position adopted by the 1997 Inquiry (HORSCATSIA 1997) (see Chapter 6). It can be said that this approach is tantamount to Indigenous people being required to provide economic legitimisation of their political autonomy. Suggesting that political autonomy be dependent on economic status mirrors the stand taken by the colonial powers during the early period of post-war decolonisation including that characterised by Australia's approach to Papua New Guinean and Nauruan independence in the 1960s (see Parker 1971 and Chapter 3). However, this general stance was later invalidated by UN Resolution 1514 of 1960 (Lemon 1993) and seems less sustainable today. For instance, it was not finally applied to PNG nor is it a condition or requirement placed on any of Australia's External Territories (see Chapter 3). Returning to the Harvard project noted above, Cornell says that the project shows that '...this line of reasoning is mistaken. It's backwards. Sovereignty doesn't follow economic development; it's the other way around. Economic development follows sovereignty' (Cornell 1994: 2).

Though a goal of central governments in granting political autonomy can be a reduction in the level of regional dependency on government funding (Fleras and Elliot 1992: 46, 47, 49), this may be a hard goal to achieve. For example, raising revenue through taxes and charges (such as housing rents) can be difficult as Indigenous incomes are often low, and fees such as land rates often do not apply on Indigenous land.¹⁹ Even the control of regional resources (as discussed below) may not raise much income as this depends on the value of the resource base and this varies considerably from region to region (see Chapters 3 and 6). In fact, as will be noted in Chapter 3 it has been suggested that those regions seeking autonomy often have a very poor resource base, and that therefore Indigenous people may want to maintain their (dependent) relationship with central

¹⁹ Larmour (1985a: 363) notes that the government of independent Papua New Guinea has difficulty extracting land rates from traditional landowners.

government rather than becoming too autonomous (Beran 1994; Fleras 1999: 221, 224; Hannum and Lillich 1988: 253). This implies a form of autonomy which includes continuing dependency. Does such a status have any credibility? The concepts of negative and positive autonomy maybe useful in addressing this question.

Negative and positive autonomy

Dependency, autonomy, self-determination and similar concepts are often given as absolutes and as one-dimensional: one is either dependent or not; or when one is economically dependent this rules out the notion that one might realise other forms of independence (Jackson 1990: 29). The work of the philosopher Isaiah Berlin allows for a wider view. Berlin proposed for example that the concept of liberty should be considered in two forms, namely the negative and the positive (Berlin 1969). Negative liberty is a situation where people have the power to stop others, such as the government, interfering in their affairs and actions (Crocker 1980: 1; Galipeau 1994: 88-92; Skinner 2002). Such a concept can apply to individuals, but also to a social whole (Berlin 1969: 132). Negative liberty is therefore about being autonomous from the intrusion or the interference of others. Positive liberty meanwhile is defined more by what people can actually do for themselves (Crocker 1980: 2). It is about having the power and the capacity to take actions and to be pro-active (Galipeau 1994: 88, 104; Jackson 1990: 29). Therefore, positive liberty is about having the power *to* do something, to generate and take actions, rather than just being autonomous *from* the interference of others.

Berlin's distinction between negative and positive liberty has been adapted by Robert Jackson to explain the political and economic situation of post-colonial states (Jackson 1990: 11). Jackson argues that in former times states tended to have both negative and positive autonomy and were relatively independent in most senses of the word.²⁰ He finds that this is not the case for new states created during post-war decolonisation. These new states gained political independence, but almost without exception, they became dependent on international economic aid for their existence (Jackson 1990: 112). This is

largely because although the international community could enfranchise former colonies and give them political autonomy, they were unable to give them economic power (Jackson 1990: 21). This in turn is because economic power depends on resources and access to markets rather than on political or moral will (Jackson 1990: 30). The upshot of this is that while many post-colonial states are relatively free from outside political interference, they remain economically dependent on outside aid. Referring to Berlin's thesis, Jackson proposes that these new states usually have negative autonomy (autonomy *from* interference) but rarely have positive autonomy (autonomy to be pro-active in their affairs).²¹ If the new post-colonial states had the economic power to be free of international aid and to be in control of their economic destiny then they would have both negative and positive autonomy. Put another way, Jackson is utilising Berlin's thesis to equate negative autonomy with political autonomy and positive autonomy with economic power or autonomy (something Berlin did not specifically do). While the goal of reducing economic dependency is worthwhile, the distinction between negative and positive autonomy provides a way of breaking any implied determinism between the economic and political aspects of autonomy. For, although Jackson is critical of the dependence of new states on economic aid, his analysis does indicate that, at an international level, forms of political independence and economic dependence can and do exist side by side. That is to say, political (negative) autonomy need not be predicated on economic (positive) autonomy. The broad pairing of political/negative autonomy and that of economic/positive autonomy will be used in this thesis.

Whereas Jackson identified negative autonomy in countries dependent on international aid, the concept may be applicable to situations within nation states where groups are dependent on the welfare system for incomes and services. In these situations, negative autonomy has been characterised as a form of welfare autonomy (Arthur 2001a; 2001c) (see Chapters 4 and 6). An alternative view however, is that a significant degree of welfare dependence legitimates and increases government involvement in and control of

²⁰ Berlin and other commentators use autonomy and liberty somewhat interchangeably (Dworkin 1988; Galipeau 1994: 105).

Indigenous people's lives to the extent that the result can be characterised as 'welfare colonialism'. Indeed, welfare colonialism has been proposed as the dominant political and economic mode for Torres Strait (see Beckett 1987). The distinction between these two notions of autonomy will be discussed more fully in Chapter 6 and as part of my conclusion in Chapter 8.

The discussion so far suggests at least three principal types of autonomy for Indigenous people in settler-states:

- corporate autonomy applying only to Indigenous-specific issues;
- regional autonomy applying only to Indigenous-specific issues; and
- regional autonomy applying to all people and issues in a region and where that region is under some form of Indigenous control.

Intersecting all of these are the notions of negative and positive autonomy which provide a useful way of considering the relationship between the political and economic aspects of autonomy. The conditions under which these various forms of autonomy might prevail are likely to be quite different.

The foregoing conceptual outline is summarised as a matrix in Table 1.1 and represents a model of the general analytical framework used in the thesis.

Table 1.1 Analytical framework

People and place	Factors		
	<i>Political</i>	<i>Economic</i>	<i>Cultural</i>
A corporate autonomy (for an Indigenous people)			
A regional autonomy (for a place)			
For Indigenous people in the region			
For all people in the region			

²¹ Some commentators have argued that self-determination represents a kind of negative autonomy (Beran 1994: 3; Jackson 1990: 6, 27).

Methodology and terminology

The data for the thesis are drawn from the published literature and from my own work in Torres Strait since the late 1980s and throughout the period of the Inquiry.

The data surrounding the Inquiry are taken from several sources. These include a submission to the Inquiry made by myself, Professor Jon Altman and Dr Will Sanders of the Australian National University (HORSCATSIA Sub 20 Altman, Arthur and Sanders) and from several papers prepared by Dr Sanders and Professor Altman and myself around the issue of autonomy (see Sanders and Arthur 1997; 2001; Altman, Arthur and Sanders 1996). I also analysed all of the submissions made to the Inquiry by Islanders, industry and Queensland and Commonwealth Government agencies. These are cited as 'HORSCATSIA Sub No.' in the text and the references. The Inquiry's subsequent report entitled *Torres Strait Islanders: A New Deal* is referenced in the text as (HORSCATSIA 1997). I also analysed transcripts of the public hearings held by the Inquiry (some of which I attended) as recorded by Hansard. These are cited in the text and referenced as 'Hansard Hearing, with place and date'. I attended several public meetings that Torres Strait Islanders and other residents of Torres Strait held to discuss the issue of autonomy, and my notes from these are referenced with the date and place of the meeting. I have also drawn data from more informal discussions I had with many Torres Strait Islanders during the period of the Inquiry and subsequently. These included conversations with the mayor of Torres Shire Council and various shire councillors. The foregoing includes data relating to Torres Strait Islander living outside Torres Strait. In addition, I attended several national workshops held around the time of the Inquiry at which Mainlanders expressed their views.

I also draw from my own research and consultancy work carried out with Torres Strait Islanders. This includes research associated with economic development and fisheries (Arthur 1990; Arthur 1991b; 1998b; 2004, Altman Arthur and Bek 1994); on the Torres Strait Islander population (Taylor and Arthur 1993); on the socio-economic status of Torres Strait Islanders (Arthur 1992a; 1997a; 1998a; 1999b; 2000; Taylor and Arthur

1994; Arthur and David-Petero 2000); on issues associated with the border between Australia and PNG (Arthur 1992b; 1997b; 1998c; 2004); on the general issue of economic autonomy (Arthur 2001a; 2001b; 2001c); and on the position of Torres Strait Islanders residing outside Torres Strait (Arthur 1998a).

I am a member of the Torres Strait Scientific Advisory Committee and data has been taken from the Committee's meetings and deliberations as well as from discussions with the relevant agencies of the Queensland and Commonwealth Governments.

A glossary of the terms and abbreviations used is in Appendix A. Unless otherwise noted, the majority of those people referred to in the thesis as Indigenous are Torres Strait Islanders. In the interests of readability Torres Strait Islanders are mostly referred to in the text as Islanders. These are not to be confused with South Sea Islanders, many of whom live on mainland Australia (Mullins et al. n.d.). When necessary, a distinction is made between Islanders and Aboriginal people and between Islanders and Kaurareg people. As noted throughout the thesis, the most southerly of the islands in the Torres Strait are something of a cultural and territorial 'watershed' between Aboriginal Australia and Torres Strait Islander Torres Strait. The Kaurareg are the people who traditionally identify with these southern islands. People who are not Indigenous are referred to as non-Indigenous people, or as other Australians.

Here, Indigenous people are taken to mean those who include the descendants of the original inhabitants of a country: who have become encapsulated in their lands by a numerically and politically dominant invasive society; who retain a cultural difference from that society; and who self identify as Indigenous (Taylor 2003).

As will be discussed during the thesis, one division of the Torres Strait Islander population pertinent to considerations of autonomy is that between those living inside Torres Strait and those living in other parts of Australia. From comments and statements made by Torres Strait Islanders themselves during the Inquiry, these two populations

have been characterised here as 'Homelanders' and 'Mainlanders' respectively. These terms are used throughout the thesis.

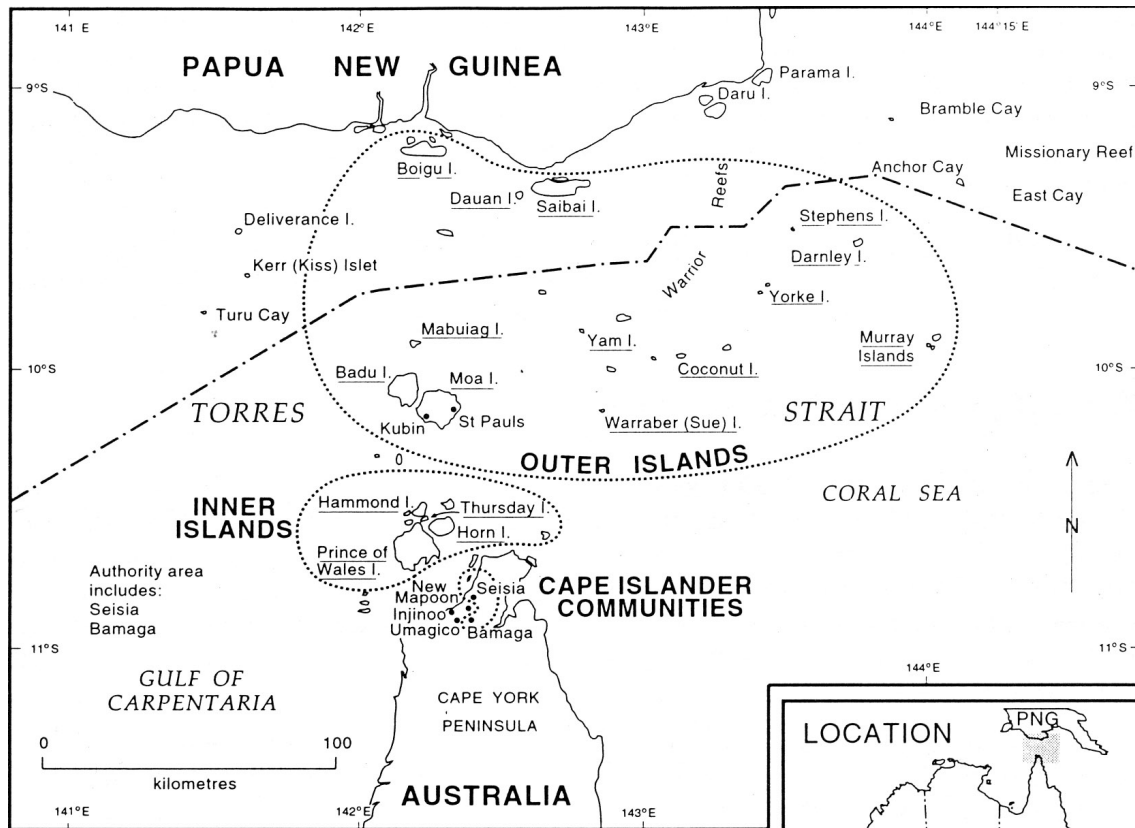
It is possible to refer to the government of Australia as the Federal Government or the Commonwealth Government. The latter term has been used here.

The remaining content of the thesis chapters will be as follows.

Chapter 2 will present a political and economic profile of Torres Strait and Torres Strait Islanders. In Chapter 3 I discuss the period of decolonisation and the formation of island states. In this Chapter I also present some of the forms and models of autonomy that have evolved in other parts of the world. I give most attention to Pacific Island states on the basis that these present the most relevant comparisons for Torres Strait. Chapter 4 discusses the history of Torres Strait and Torres Strait Islanders from the perspective of the changes in their political and economic autonomy over time. This Chapter covers the period from contact with other Australians until just prior to the Inquiry. Chapter 5 presents a discussion of the international border and Australia's treaty with Papua New Guinea arguing its significance and relevance for autonomy in Torres Strait. In Chapter 6, using data from the Inquiry and subsequent developments, I discuss the concept of autonomy as it might apply to those Torres Strait Islanders who reside in Torres Strait (Homelanders). Chapter 7 follows the same pattern as Chapter 6 but from the point of view of those Islanders who reside outside Torres Strait (Mainlanders).²² Chapter 8 presents the conclusions.

²² Chapters 6 and 7 utilise data from the 1996 Census as this was the census closest to the period of the Inquiry. An analysis of the 2001 Census data does not provide a substantially different picture, including with respect to the comparison between Indigenous and non-Indigenous socio-economic status (see Arthur 2003).

Map 2-1. Torres Strait region.



--- Seabed jurisdiction line

Note: The TSRA area only extends to Australian territorial waters around islands and cays north of the seabed jurisdiction line: International waters north of this line belong to PNG. Underlining refers to Australian populated islands.

Chapter 2

Torres Strait: the setting

As background to the remainder of the thesis, this Chapter presents a profile of Torres Strait and its residents particularly as this applies to autonomy. The region's geography and the physical attributes are discussed. Following this, attention is given to its principal social, political and economic features.

The physical environment

The Torres Strait is some 100 km (north-south) by 255 km (east-west) (Poiner and Harris 1988: 3) and lies between Australia's Cape York and Papua New Guinea's Western Province (see Map 2.1). The region is an archipelago of around 150 islands (Kehoe-Forutan 1988: 1) some 18 of which are permanently inhabited. Several other islands are used on a temporary basis by Islanders for picnicking and fishing and there is a manned lighthouse on Booby Island. It is largely the availability of fresh water that limits habitation.

Located between approximately 9 and 11 degrees south of the Equator, the region is in the tropics and its climate is dominated by two seasons named, from the prevailing winds, the north-west season (December to February) and the south-east season (May to October) (Poiner and Harris 1988: 3). The north-west is wet and hot and includes periods when the sea is relatively calm. The south-east is dry and cooler, but the sea is often quite rough for long periods making commercial fishing difficult or impossible. These climatic conditions, together with the seasonal fishing have a significant effect on almost all aspects of the regional economy. They particularly affect fishing, tourism, construction, and the associated provision of services.

Geologically, the islands of Torres Strait form four groups.

- 1) Those between Cape York and Duan near the Papua New Guinea (PNG) coast line and as far east as Yam Island are the geological extension of the Australian mainland. This extension runs as far as a hill at Madaduan on the PNG coast and was the land bridge between what is now PNG and Australia during the last ice age (Moore 1972). These islands are relatively hilly, of weathered granite and light forest and are surrounded by mangroves and reefs.
- 2) A few kilometres from (and within sight of) the PNG coast are two low lying and swampy islands, Saibai and Boigu, formed from the alluvial mud of the PNG rivers. These are surrounded by very dense mangroves and muddy reefs.
- 3) To the east, generally between Bet Reef and 143.5 degrees east, the islands are small, sparsely vegetated coral atolls surrounded by reefs, but without stands of mangrove. Included here are the islands of Warraber, Coconut and Yorke.
- 4) The islands between 143.5 degrees east and the Great Barrier Reef are hilly and composed of organically rich volcanic soil. These are also surrounded by coral reefs but without mangroves. Included here are the Islands of (Stephen), Erub (Darnley) and Mer (Murray).

The groupings have slightly different ecosystems which, pre-contact, gave them different economies. A third and relevant feature of the natural environment is that the islands and the species of marine life are not distributed evenly over the region and so some islands have better access to certain species than others, affecting their ability to perform economically. These issues are discussed in Chapters 4 and 6.

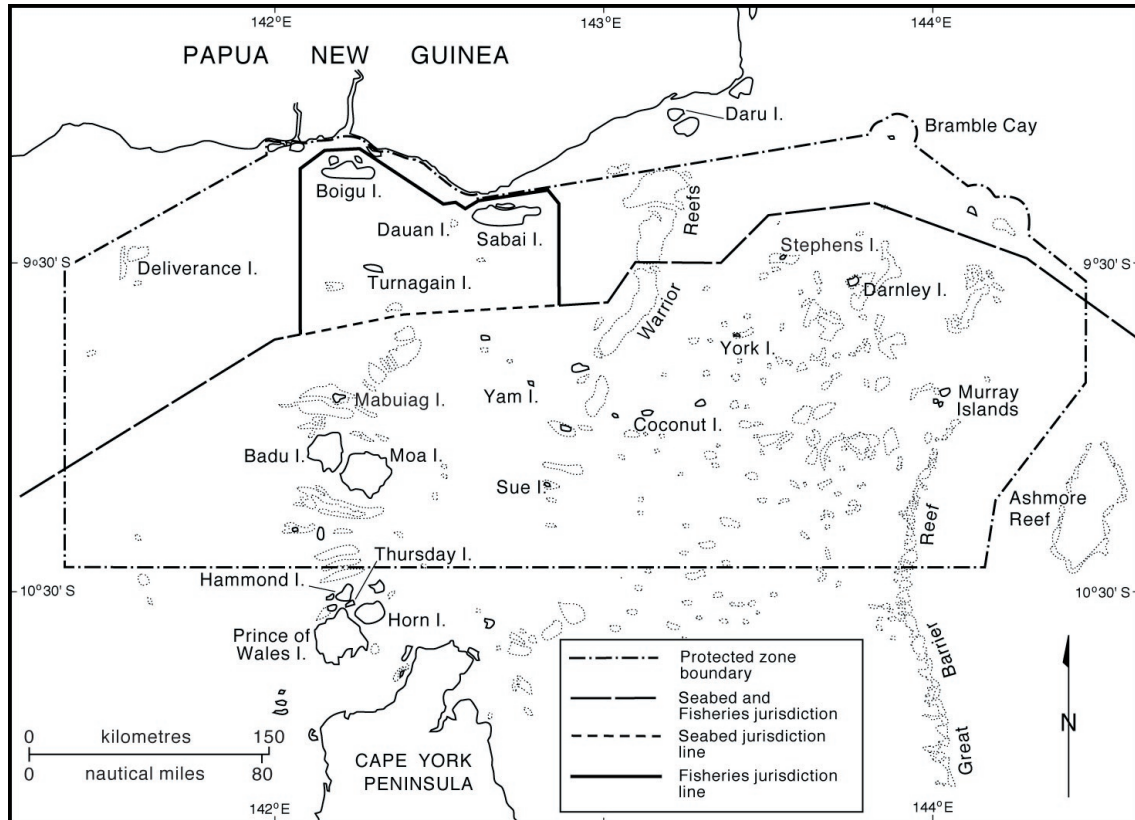
The region's other significant features include its reefs which, from an economic point of view are as important as the islands as much of the region's wealth comes from these ecosystems (Arthur 1990: 6). The total reef area is approximately 178,000 ha while that of the islands is only 80,000 ha.

The major reef systems are:

- 1) Those that run north from Cape York through Prince of Wales Island (POW), Waiben (Thursday Island), Moa Island, Badu Island, and Mabuiag Island;
- 2) the Bet, Warrior, Wapa, Dagagota Reefs commonly known as the Warrior Reef system which run north-east for 110 km from Warraber Island, almost bisecting the Strait (Poiner and Harris 1988: 3). Approximately half of this system lies in the waters of Papua New Guinea.
- 3) the reefs and cays between Warrior Reef and Murray Islands and the edge of the Great Barrier reef; and,
- 4) other reefs systems historically important to Islanders include parts of the Great Barrier Reef.

Although these reefs are dangerous for shipping, they provide shelter for the movement of small boats through the border region between Australia and PNG (Arthur 1992b: 19).

Map 2-2. Lines of jurisdiction agreed under the Torres Strait Treaty.



The archipelago, contained as it is within a strait, is relatively easily identified as a discrete geographic region (Chapter 5). However, it also has a number of political and social sub-regions. These and their populations are important for an understanding of people's approaches to autonomy and are discussed below and in Chapters 4 and 6.

The territorial situation

Torres Strait forms part of the State of Queensland within the Commonwealth of Australia. One of its most significant contemporary political features is that it straddles the international border between Australia and Papua New Guinea (Map 2.1) (Chapter 5). About half of the area of the Torres Strait (that part above 10 degrees) was excluded from the colony of Queensland when this was created in 1859 (Burmester 1990: 302). In 1872 Queensland annexed all islands within 60 miles of coast, and in 1879 it obtained the remaining islands up to the PNG coast under the *Queensland Coast Islands Act 1879*. The Treaty between Australia and PNG (hereafter the Treaty), an international agreement signed in 1978, established seabed and fisheries jurisdiction lines and confirmed which country has sovereignty over certain islands and waters (Chapter 5). The Treaty also established the Protected Zone a feature of which is an area called the Top Hat (see Map 2.2) within which PNG has seabed jurisdiction and Australia has fisheries jurisdiction.

South of the seabed jurisdiction line

Regarding the land and the seabed south of the seabed jurisdiction line, Queensland has jurisdiction to 3nm beyond low water mark, and there is joint Commonwealth-Queensland management under Commonwealth legislation beyond that point. Regarding coastal waters south of the line, Queensland's jurisdiction extends to 3nm beyond low water mark, and the Commonwealth's legislation extends to 12nm. Generally Queensland legislation would apply in these waters, but this can be overridden by Commonwealth legislation if the two are inconsistent.

North of the seabed jurisdiction line

North of the seabed jurisdiction line, the situation is slightly different. Here, Australia has sovereignty over several islands. Around the islands (and leaving aside the Top

Hat) Australia has a 3nm territorial sea, and Queensland and Commonwealth legislation applies to the water and the seabed. The waters and seabed beyond the 3nm are covered by Papua New Guinean law and could not be the subject of considerations of autonomy without renegotiating the Treaty. Inside the Top Hat, PNG has jurisdiction over the seabed beyond Australia's 3nm territorial waters but Australia has rights over the waters regarding the swimming species of fish. There are three Australian inhabited islands in the Top Hat: Boigu, Dauan and Saibai and each has a 3nm territorial sea under Queensland and Commonwealth legislation.

Society

The earliest known pre-historic sites in Torres Strait range from between 2,540 before the present to around 600 years before the present (Morwood 1997). However, there has been relatively little archaeological work carried out in the Strait and consequently the issue of early settlement is not clear. Despite this, it is believed that the islands were first populated from what is now Papua New Guinea (Moore 1972: 232; Beckett 1987: 25). Early relations between Islanders and people to the north and south varied from hostile to friendly. Raids on the northern islands by Papua New Guineans were common and there were conflicts up to the late 1800s (see Chapters 4 and 5). Each island is something of a sub-unit of the Strait and these often express their own identity and autonomy (see Chapter 6). There are also larger sub-regions, based on broader political, economic and social features, these are the Inner Islands, the Outer Islands and the Cape Islander Communities. Their general features are as follows.

The Inner Islands

The Inner Islands lie just north of Cape York and include the major urban and service centre of Thursday Island (Map 2.1 and Table 2.1). As well as being the administrative and retail centre, the Inner Islands include the port, the airport, a secondary school and a regional hospital. Indigenous people (2158) make up 66 per

cent of the total population of the Inner Islands (see Table 2.1) (Sanders 1994).¹ The population of the Inner Islands has a higher proportion of non-Indigenous people than either the Outer Islands or the Cape Communities. The Inner Islands are serviced by the Torres Shire Council which is a local government council incorporated under the *Queensland Local Government Act 1936*.

A small former reserve called Tamwoy and Islander suburbs at Rose Hill, Aplin and at a former quarantine station all on the northern side of Thursday Island compose a community council named TRAWQ (Tamwoy, Rosehill, Aplin, Waiben, Quarantine). TRAWQ is eligible to receive government funding including the Community Development Employment Projects (CDEP) funds. CDEP is a Commonwealth Government scheme broadly equivalent to a 'work-for-the-dole' scheme. In this scheme those unemployed residents who are eligible for unemployment benefits can elect to forego these benefits and instead receive a similar amount by carrying out work for and at the behest of their community council.² The geographic location of the TRAWQ and the predominance of the CDEP scheme there has somewhat cemented a division within Thursday Island started in the early colonial days. In this division, the back side of the Island was the Islander domain, while the front side of the island with its offices and shops as well as government residences, was the non-Islander and government domain; with government having prime residential blocks on the (breeze-catching) hillside overlooking the harbour. The front side of Thursday Island is referred to as Port Kennedy (see Chapter 4).

The Inner Islands are not the traditional lands of people identifying only as Torres Strait Islanders but are recognised as the lands of the Kaurareg (Arthur 1990; Sharp 1992). The size of the Kaurareg population is unclear. There are an estimated 200 in the Inner Islands where they form some four per cent of the population (Arthur 1999a: 64). Unlike most Indigenous people in Torres Strait, in colonial times the Kaurareg were dislocated from their home islands and moved to other islands in the Strait, principally to Moa Island (see Chapter 4). They are now resettled on Horne

¹ Population figures are derived from the five-yearly census estimates – which in this case is the census of 1996. There is some doubt about the accuracy of these counts for Islanders, especially outside the Torres Strait region. This is explained more fully in Appendix B.

² CDEP is one of the largest Indigenous programs throughout Australia.

Island. They have also never been formed or incorporated as a registered Island Council.

Table 2.1. Population of Torres Strait, 1996^(a)

Common Island name	Islander name (b)	Indigenous population	Total population
Inner Islands			
Thursday Island* (c)	Waiben	1657	2472
Horn Island	Ngurapai	274	476
Prince of Wales Island	Muralug	35	99
Hammond Island*	Keriri	192	201
Inner Islands sub-total		2158	3248
Outer Islands			
<i>Top Western</i>			
Boigu Island*	Boigu	227	243
Dauan Island*	Dauan	120	126
Saibai Island*	Saibai	243	272
<i>Central Western</i>			
Badu Island*	Badu	527	562
Moa Island*	Moa	399	443
Mabuiag Island*	Mabuiag	174	180
<i>Central</i>			
Yorke Island*	Masig	250	283
Sue Island* and Coconut Island*	Warraber and Poruma	348	391
Yam Island*	Lama	150	150
<i>Eastern</i>			
Murray Islands*	Mer	405	414
Darnley Island*	Erub	204	225
Stephen Island	Ugar	86	92
Outer Islands sub-total		3133	3381
Bamaga Island Council Community*	Bamaga	609	754
Seisia Island Council Community*	Seisia	117	184
Cape Island Communities sub-total		726	938
Total		6017	7567

Source: Derived from Sanders (1999).

Notes:

(a) Data from the census held at the same time as the Inquiry.

(b) Official gazetteers may now give both the common and the Islander name.

(c) *Denotes communities with CDEP. On Thursday Island this applies to TRAWQ only.

Because of this dislocation, the Kaurareg have been largely ignored as a group in regional affairs and were, until recently, not included in the major regional Indigenous political bodies, described below. The degree to which the Kaurareg join with Torres Strait Islanders in a view of Torres Strait as one region is discussed more fully in Chapter 6.

The Outer Islands

There are 13 inhabited Outer Islands which are overwhelmingly an Islander domain; of the total population of 3381, 3133 or 93 per cent, is Indigenous (Table 2.1). Residents live primarily in small Indigenous communities, though they also visit and camp on other parts of their islands. Usually, there is one community/village on each Island. The exception is Moa which has two villages, Kubin and St Pauls. Services on Outer Islands such as housing, water, power and sewerage have improved in recent years but are somewhat below the level of those on Thursday Island. Outer Islands have only primary schools and medical aid posts and clinics. Outer island communities are small, the population ranging from 92 to 562. The Outer Islands are also further divided into administrative and quasi political and social groupings as shown in Table 2.1. These are: the Top Western, the Central Western, the Central and the Eastern groups (see Chapter 4). The local government of each community is carried out by an elected community council established under the *Queensland Community Services (Torres Strait) Act 1984*.

The Cape Islander Communities

Two Island Council communities, namely Seisia and Bamaga, are located on the tip of Cape York (Table 2.1). The residents of these communities are the descendants of Islanders relocated from Saibai Island in 1948 because of severe flooding (Arthur 1990: 70). Their total population is 938 of which 726 or 77 per cent is Indigenous.

At one level, these communities are like islands. They are classified as 'Island Communities' like Outer Islands, they have the same form of elected councils and are members of the regional Island Coordination Council (ICC) and the Torres Strait Regional Authority (TSRA) (see below). However, they are not on their traditional lands but are on the lands of Aboriginal people who make up three neighbouring

Aboriginal communities named New Mapoon, Cowal Creek and Injinoo (Map 2.1). Unlike the two Island Council Communities, the Aboriginal communities have local government status under the Queensland *Community services (Aborigines) Act* and were part of the Cooktown ATSIC region. These Aboriginal communities are not members of the ICC or TSRA but look to the Aboriginal Coordinating Council in Cairns for their political representation (see Chapters 4 and 6). That is to say, Seisia and Bamaga are seen as part of the Torres Strait, but the three neighbouring Aboriginal communities are not. Therefore, there is some degree of overlap between what we can think of as the Torres Strait Islander and Aboriginal domains. On the one hand, the Kaurareg (who do not always identify as Islanders) claim the Inner Islands as their traditional lands, on the other hand, two communities, which do identify as Islander, are located on the Cape which is traditionally an Aboriginal domain. There is an underlying tension between these Aboriginal and Islander Cape communities (Arthur 1990: 70) which has implications for any form of political autonomy which sought to include Aboriginal people within the Torres Strait and this is discussed in Chapter 6.

Papua New Guinea

It can be argued that a fourth sub-region of Torres Strait is made up of the settlements along the coasts of PNG's Western Province and as such these need to be considered as part of the autonomy process. These are the villages of Tais, Buji, Sigabaduru, Ber, Mabaduan and the regional centre of Daru. The 1990 Papua New Guinea census estimated that there were some 23,000 people in the district abutting the Strait with 8,430 of these located on the island and regional centre of Daru. This population is considerably larger than that in Torres Strait. The location and form of border was part of the Treaty between Australia and PNG in 1975. At the request of PNG and the Islanders the Treaty allows for 'traditional' visits to occur between residents of the PNG villages and those Australian Islands within a specially designated zone called The Torres Strait Protected Zone (see Map 2.2). Trade has indeed continued but because of the appreciably higher standard of services in Torres Strait, PNG residents have become reliant on Torres Strait stores for some goods and on the clinics there for medical treatment. PNG people also access the commercial fisheries inside waters that are legally part of Australia. Thus the Treaty arrangements bring a small part of PNG into the Torres Strait, and so must form part of any considerations about

autonomy. This facet of the region will be discussed throughout the remaining chapters and particularly in Chapter 5.

In summary, the Strait's present population is estimated to be made up of around 6,000³ Islanders, 300 Aboriginal people, 500 Papua New Guineans,⁴ and some 1,300 others, many of whom are Europeans. That is to say, Indigenous people are some 80 per cent of the total regional population. It is worth noting that when compared with other regions in Australia, this is a high Indigenous proportion. The former ATSIC regions with the next highest proportion of Indigenous people are found in the Northern Territory (see Map 1.1). The high proportion of Indigenous people in Torres Strait makes it a recognisably Indigenous region. It is noticeable that the first people one sees when getting off the plane at Horne Island in Torres Strait are Islander airport workers, bus drivers and ferry-boat crew.⁵ The high Islander aspect of the region has implications for regional autonomy and is discussed throughout the thesis.

As will be discussed below and fully in Chapter 7, the Islander population in Torres Strait represents only some 20 per cent of all of those identifying as Torres Strait Islander. The remainder and majority live in the coastal towns and cities of the mainland. As noted earlier and in accord with terminology now sometimes used by Torres Strait Islanders, those in Torres Strait will be referred to as 'Homelanders' and those outside Torres Strait as 'Mainlanders'.

Islander culture

Torres Strait Islanders are Melanesian, and have been referred to as Australia's Melanesian minority (Beckett 1977: 77). The most southerly islands, those around Thursday Island, straddle the cultural divide between Aboriginal Australia and

³ Beckett (1987: 26) estimates that at contact with Europeans, there may have been between 4,000 and 5,000 Indigenous people in Torres Strait.

⁴ Estimated by the Department of Immigration and Multicultural Affairs in 1998. In 1990 there were an estimated 215 Papuan residents (Arthur 1992b).

⁵ Though Thursday Island is the regional centre, it is very small and the region's airport is on the adjacent Horne Island.

Melanesia.⁶ Present day culture in the Strait, referred to by many Islanders as *Ailan Kastom*, is very much the product of the contacts that have taken place over the past 140 years, particularly with South Sea Islanders and Christian missionaries. There are some sub-regional variations of this, especially with respect to dances, songs and languages. The language of the eastern islands (*Meriam Mir*) is most closely related to some of those in Papua New Guinea, while the languages spoken in the other parts (*Kala Lagaw Ya*, *Kalaw Kawaw Ya* and *Muralag*) have both Papuan and Aboriginal features (Beckett 1966: 72; 1987: 25) (see Chapter 5). Despite the fact that both Aboriginal and Torres Strait Islanders are Australian Indigenous people (Beckett 1994: 8) ATSIC had stated that Aboriginal and Torres Strait Islander people were two separate cultural groups and should be treated as such (ATSIC 1993: 10). This point is discussed in detail in Chapters 4 and 6. Although, as noted above, language song and dance, can indicate sub-regional cultural variations, many other features compound to make the Strait a cultural region (see Chapter 5). The region is strongly Christian, following the initial work and conversions of the London Missionary Society (LMS) in the late nineteenth century (see Chapter 4).

Formal political structures

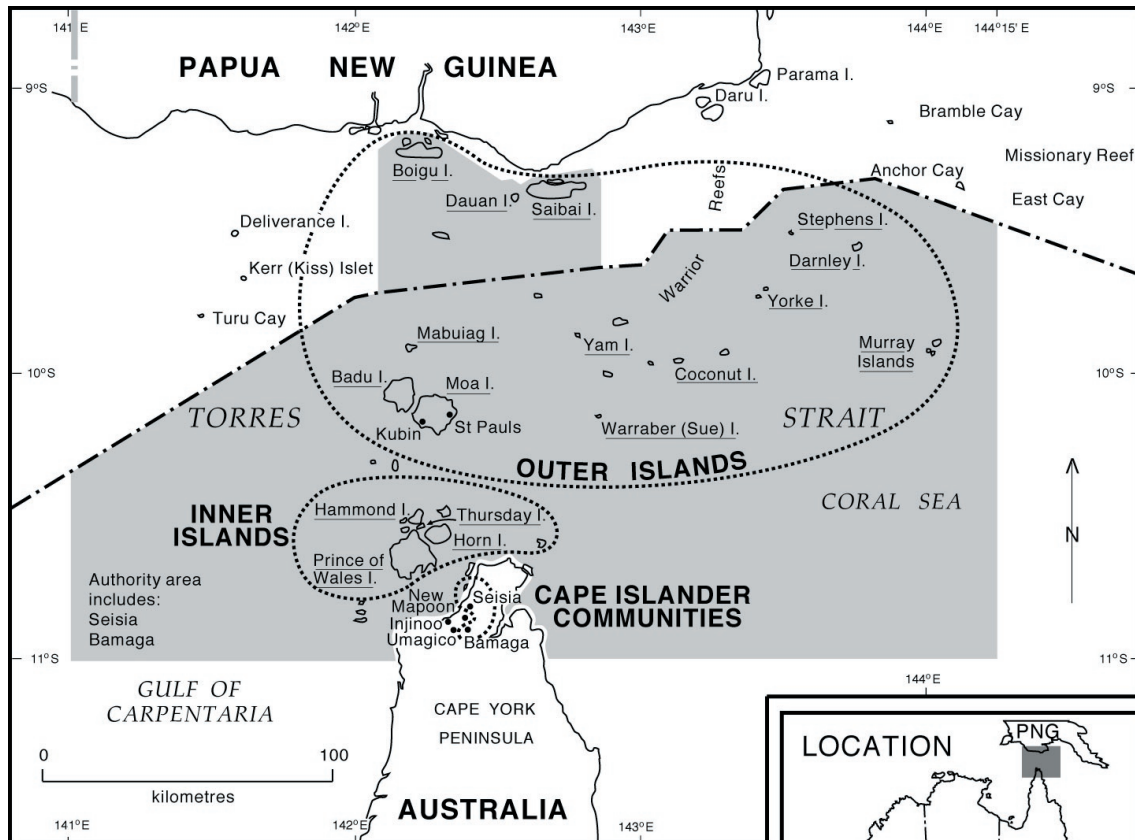
There is a number of non-government Indigenous bodies in the region. However, the region is unique in that it has two statutory Indigenous regional bodies stemming from Queensland and Commonwealth Legislation. These are the Queensland Island Coordinating Council (ICC) and the Commonwealth Torres Strait Regional Authority (TSRA).

The ICC

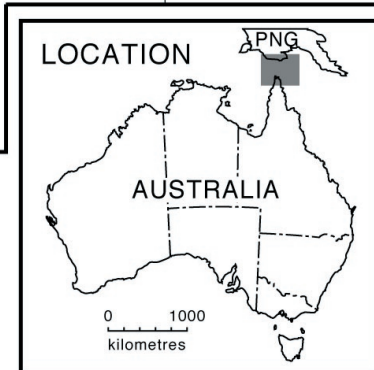
The ICC, formed under the Queensland *Community Services (Torres Strait) Act* 1984, is made up of the elected chairpersons of Island Councils from the Outer Islands and the Cape, plus one representative from TRAWQ Thursday Island (Sanders 1994). The ICC was established to provide policy advice to the Queensland Government but it now also deals with joint Queensland/Commonwealth projects and can receive grants from both Queensland and Commonwealth Governments (ICC 1996: 7).

⁶As noted above, more accurately, these islands (the Inner Islands on Map 2.1) are the traditional lands

Map 2-3. The TSRA (Torres Strait) region.



Note: The TSRA area only extends to Australian territorial waters around islands and cays north of the seabed jurisdiction line: International waters north of this line belong to PNG. Underlining refers to Australian populated islands.



The TSRA

The TSRA is a Commonwealth Indigenous body constituted under the 1993 amendments to the *Aboriginal and Torres Strait Islander Commission Act* 1989. The TSRA came in to being in 1994 replacing the ATSIC Torres Strait Regional Council (TSRC). The TSRA is made up of the ICC's executive plus two additional (elected) members from the Inner Islands; in particular from Horne/Prince of Wales and from Port Kennedy.⁷ It is the TSRA region that has become by default the official area considered as 'Torres Strait' at least for Indigenous purposes and funding (Map 2.3). The history of these two bodies and their role in regional autonomy will be discussed in subsequent chapters.

The Inner Islands and parts of the Cape are serviced by the Torres Shire Council which is a local government council incorporated under the *Queensland Local Government Act* 1936. Indigenous people on the Inner Islands have representatives on the TSRA and may also vote in the Shire elections. In the past, the Shire operated under a non-Indigenous administrator located in Cairns. This arrangement concluded in 1991 when Shire elections were introduced. Since 1994 the Mayor has been an Islander and Indigenous people now are the majority on the Council. Therefore, the Shire can now claim to have multi-racial representation. The Shire's area of responsibility and representation has been limited to the Inner Islands and historically, it has had little formal involvement with the ICC/TSRA (Babbage 1990: 7).⁸

The Queensland Government

From until just after WWII the Strait was largely under the control of a resident administrator of the Queensland Government (Beckett 1987: 45; 75). The premier Queensland department now dealing with Indigenous issues is the Department of Aboriginal and Torres Strait Islander Policy and Development. The Queensland

of the Kaurareg people (Arthur 1999a).

⁷ At the time of the Commonwealth Inquiry, the Port Kennedy representative was the mayor of Torres Shire Council and the Horne/Prince of Wales representative was a Kaurareg. This gave the Shire and the Kaurareg de facto representation on the TSRA.

⁸ In theory, the Shire has responsibility for the region from 11 degrees south to the PNG border, but in practice it does not service the Outer Islands whose local government functions are performed by the Island Councils.

Government has involved Islanders in the Strait in a significant degree of consultation and negotiation for some time (see Chapter 4). In the 1970s the Queensland Government established an Islander Advisory Council composed of Islander leaders for the specific purpose of advising the Government on regional Islander issues (Arthur 1992a: 20). In 1984, this Council was replaced by the ICC and the Queensland, and the Commonwealth Governments have negotiated and consulted with the ICC over a wide range of regional issues, including community infrastructure and social development (Beckett 1987: 195; Babbage 1990: 47). The ICC's role became somewhat diluted with the formation of the TSRA and Queensland continues to operate to a significant extent through both organisations (HORSCATSIA Sub 39, Queensland State Government; Queensland Office of Intergovernmental Relations pers. comm.).

The Commonwealth Government

Because of the international border with PNG, the Commonwealth Government has a greater presence in the Strait than in many other remote parts of Australia (see Chapters 5 and 6). For example, it includes departments dealing with defence, customs, quarantine and immigration. This situation has created a special set of relationships between the Queensland, the Commonwealth and Indigenous people. It has also led to cooperation with the Queensland in areas such as fisheries and quarantine, and in joint funding of large infrastructure projects on Island Communities. These projects have often been negotiated and planned through the ICC and TSRA.

The Torres Strait Protected Zone Joint Authority: a shared political body

The management of the Strait's fisheries is unique in Australia being subject to the requirements of the Treaty which is concerned with the issues of sovereignty, the maritime boundaries and the protection of the 'way of life and livelihood of the traditional inhabitants' and protection of the marine environment. To fulfil the obligations of the Treaty the Commonwealth established the Torres Strait Protected Zone and the Torres Strait Protected Zone Joint Authority (PZJA) (Map 2.2). To this end, the PZJA is structured to ensure that the industry and the environment are jointly managed by: the Queensland and Commonwealth Governments; the Indigenous fishers and community representatives; and the non-Indigenous fishers. The PZJA has

several advisory groups which include Queensland and Commonwealth Government agencies, and Islander and non-Islander commercial fishing representatives. The peak advisory group in the PZJA is the Torres Strait Fish Management Committee which is chaired by a representative of the Commonwealth Government and the Deputy Chair is a Torres Strait Islander (PZJA 1995: 2). The PZJA does not include representation from the Kaurareg. This is because the PZJA has viewed the ICC as the body from which Indigenous representatives should be drawn and, as the Kaurareg are not members of the ICC, they have been excluded.

The PZJA is headed by the Commonwealth and Queensland Ministers responsible for fisheries and the Chair of the TSRA and all recommendations, including those from Indigenous concerns are addressed directly to the PZJA.⁹ Increasing Indigenous participation in the commercial fishery is also one of the PZJA's policies and licensing regulations have been relaxed for Islanders, growth in certain fisheries is reserved for Islanders and the non-Islander involvement in some fisheries is being gradually phased-out in favour of Islanders (HORSCATSIA Sub 25, CSIRO).

An additional feature of the Treaty is the Australia-PNG Torres Strait Treaty Joint Advisory Council (JAC) (PZJA 1999: 7). The JAC is made up of government and Indigenous representatives from Australia and PNG and meets to discuss matters of concern associated with aspects of border management (TSRA 1998: 9). The Treaty and the formation of the PZJA are important elements of Islander autonomy and are discussed throughout the thesis.

⁹The Australian Fisheries Management Authority (AFMA) advise that recommendations made to the Ministers are often followed by discussions between them and the ICC Chair; recommendations are normally approved.

A socioeconomic outline

The Strait's major productive industry is commercial fishing, valued at the time of the Inquiry at between \$24 and \$30 million annually (Table 2.2) (HORSCATSIA Sub 25, CSIRO) making it around 2 per cent of the total Australian fishery and 11 per cent of the Queensland fishery (Altman, Arthur and Beck 1994). Unlike many other parts of the Pacific, Islanders are fortunate in that the region's fishery is an inshore, not offshore fishery (see Chapters 3, 4 and 6).

Table 2.2 Estimated value of commercial fisheries, 1990 and 1995

Fishery	Value \$million	Value \$ million
Prawn	14.0	15.0
Lobster	4.5	5.5
Mackerel	1.5	0.5
Trochus shell	1.2	0
Cultured pearls	1.2 est.	1.2 est.
Live pearl shell	0.3	0
Reef fish	0.2	n.d.
Beche de mer (a)	n.d.	0.5

Sources: Altman, Arthur and Beck (1994); HORSCATSIA, Sub 25, CSIRO.

Notes:

(a) Also known as trepang.

(b) n.d. = no data

Islanders derive income from the commercial fishery as self-employed fishers. They are also substantially involved in subsistence or traditional fishing as well as being employed in CDEP schemes. Thus, they derive their incomes from several sources and can be said to be part of what Altman has characterised as a hybrid economy (Altman 2001). As noted above, Islander involvement in the fishery is encouraged and protected by the spirit and articles of the Treaty. Non-Islander and non-residents are also involved in the region's fishery and so the two groups compete for the region's resource. These features of the fishery have a bearing on Islander economic autonomy and are discussed more fully in Chapters 4 and 6.

Other significant industries include those servicing the resident population and the region. The principal government funds flowing to Torres Strait in 1999 totaled around \$144 million, with the Queensland Government spending slightly more (\$76

million) than the Commonwealth (\$68 million). The largest single expenditures were on housing and infrastructure (\$39.7 million), the CDEP scheme (\$25.5 million), education and health. A large proportion of these funds relates to programs and services for Indigenous residents and it is channeled through the ICC and the TSRA. Using standard indicators, census data show that Islanders have a generally lower socioeconomic status than non-Islander residents (see Chapter 6). This, and high levels of employment on the CDEP scheme suggest a degree of welfare dependency by Islanders that mirrors the position identified by earlier researchers (Treadgold 1974; Beckett 1987). These features of the economy are analysed with respect to economic autonomy throughout the thesis, particularly in Chapters 4 and 6.

Torres Strait Islanders on the Australian mainland (Mainlanders)

Torres Strait Islanders began moving in significant numbers from Torres Strait to the Australian mainland just after WWar II, largely to improve both their socioeconomic status and to increase their political autonomy (Taylor and Arthur 1994). Beckett (1987) has indicated that they viewed this move as a strategy to achieve both economic and political autonomy, characterised as 'freedom' (see Chapters 4 and 7). Initially, almost all Islanders lived in Queensland. Nowadays they are found in many urban centres along the east coast and in the Queensland and Territory capital cities (Taylor and Arthur 1994). The only major exceptions to this are those who live in the Aboriginal communities on Cape York and in the north of Western Australia. Therefore they are, like non-Indigenous Australians, predominantly urbanites.

As noted earlier, Torres Strait Islanders are the majority of the population in Torres Strait which is their traditional country. Those on the mainland meanwhile, are a minority with respect to both non-Indigenous and Aboriginal people and are not living on their traditional lands. There are an estimated 24,341 mainland Islanders, making them about 9 per cent of the Indigenous population on the mainland. Almost 50 per cent of these people live in (mainland) Queensland. Also, their small numbers and their widespread distribution in urban centres makes it harder if not impossible for mainlanders to create any particular cultural regions. Therefore, it is possible that, at a political and economic level, concepts of autonomy for a 'people' (corporate

autonomy) rather than for a 'place' (regional autonomy) may have more application for mainlanders. These issues and the relationship between Homelanders and Mainlanders will be explored fully in Chapter 7.

Conclusions

This Chapter has presented a brief profile of Torres Strait Islanders and Torres Strait to form an information base for the remainder of the thesis. In line with the methodology presented in Chapter 1, attention has been given to political and economic factors as these might apply to the issue of autonomy. Geography alone suggests that Torres Strait is a fairly well identified region. Other factors, such as the proportion of the population that is Indigenous, and some cultural features, point to it being an Indigenous region. At a political level Islanders may already have a degree of autonomy through their Queensland and Commonwealth regional bodies. Nonetheless, there are also regional divisions based on both geography and political representation. For example, the division between the Inner and Outer Islands coinciding somewhat with non-Islander and Islander domains. Islanders are involved in the marine economy at a production level and in the management of the region and its marine resources, through for example, the workings of the Torres Strait Treaty and the PZJA. However, Islanders have a generally lower socio-economic status than non-Islanders in Torres Strait, at least with respect to the standard indicators.

The international border with PNG runs through the archipelago making it a unique region and governments' sensitivities over border regions raise additional considerations for autonomy that will be explored further in the thesis.

The national Torres Strait population is in two parts with by far the largest part living outside Torres Strait on the Australian mainland; giving the so-called Homelanders and Mainlanders. Mainlanders live in quite different political and economic circumstances from Homelanders, and this raises the possibility that the concept or model of autonomy may be different for these two groups.

In Chapter 1 introduced the concept of autonomy. The following chapter will continue this theme but will explore some models of autonomy and how these have been applied in real life. Given that Australia is a settler state, and that Torres Strait is an archipelago of small islands abutting the Pacific, examples will be drawn from these two general socio-political worlds as well as from Australia's own external island territories.

Chapter 3

Models and examples of autonomy

The purpose of this Chapter is to review some models of autonomy with a view to assessing what they might tell us about the possible shape of autonomy in Torres Strait.

Discussions about autonomy often centre on a people regaining a status (and territory) that has been lost or appropriated – usually to a coloniser. A period of recent global colonisation included the 17th to 19th centuries. Significant decolonisation occurred in the 1960s and the models adopted ranged from full statehood to territorial status. In these cases, Indigenous people tended to be in the majority. In the 1970s interest turned to those Indigenous people who were a relatively small part of the populations of settler states, such as in Australia, Canada, New Zealand and the USA. In these situations considerations of autonomy had to consider how to accommodate a degree of separation for a small but (culturally) distinct group (Sullivan 1996).

A variety of models or levels of autonomy has been proposed for Torres Strait. As we will see in Chapter 4 some have suggested that it could be a sovereign region separate from Australia. Others that it should be an Australian external territory like Norfolk Island, or be in free association with Australia like New Zealand's Cook Islands (Rowse 2002b: 341; Lui 1994; Reynolds 1996). While, at the United Nations, the representative from Australia's Department of Foreign Affairs and Trade has rejected the concept of free-association saying that Indigenous self-determination must be part of the internal process of the (Australian) state (Sullivan 1996: 112).

The previous chapter presented some of the principal social, political and economic features of Torres Strait. It is a relatively remote archipelago of small islands located on the border between Australia and PNG and on the rim of the Pacific. Within this region Torres Strait Islanders are a substantial proportion of the total population with their own culture and political bodies. Like many other Pacific archipelagoes its productive

economy is commercial and subsistence fishing, placing some limits on its potential for economic growth.

The examples of autonomy that are reviewed in this chapter have been selected to cover the above features and therefore the principal focus is on some models of autonomy that have been applied to islands, and in particular to relatively small islands and archipelagoes of small islands. Firstly, some aspects of colonisation and decolonisation are presented and then a brief account is given of examples of Indigenous political and economic autonomy in the settler states of Canada and New Zealand. Following this I consider the models of autonomy as applied in the Pacific to independent small island states, to islands and archipelagoes in free association, and finally to island territories, including those that are part of Australia.

Colonisation and decolonisation

From the 17th to the 19th centuries many parts of the world were colonised by European powers and the United States of America (USA) and the right of these colonies to independence was generally denied by the colonising powers (The Economist 1998: 63; Jackson 1990: 31).¹ When the United Nations (UN) was established in 1945 following WWII, it adopted the principal of self-determination for these colonies enshrining this in Articles 1(2) and 55 of its Charter (Jackson 1990: 16, 25, 41; Joyce 1978:155; Pollock 1998a: 9). The principle of self-determination for colonies had been deliberated on by the League of Nations when it was established in the early 1920s (Gottlieb 1994: 100). However, the League initially envisaged that the colonies would be granted only a limited form of independence, remaining for a time as ‘trusteeships’ (Jackson 1990: 15). Implicit in this was the idea that statehood was a thing to be granted by the European powers only when communities were in some way deemed to be viable as independent states (Beran 1994). That is to say, the status of statehood and independence were

¹The European states referred to here include the United Kingdom; France; Portugal; Holland; Germany; Spain. Their colonies were in Africa; South America; the sub-continent of Asia; Southeast Asia; the Pacific and Australia.

conditional. The conditions had both political and economic characteristics. For example, in 1948, the United Kingdom (UK) made independence for its colonies conditional upon them reaching a certain level of economic development, though what this level was to be was left largely undefined (Jackson 1990: 94-5). In 1957, the conditions necessary for the granting of independence were expanded to include the requirement that the prospective states should have an educated governing elite which would be capable of developing their economies by exploiting the resources, access to which had been denied them under colonialism (Jackson 1990: 94-5).

In 1960 these conditional aspects were largely removed when United Nations Resolution 1541 proposed that the move to independence should not be dependent on notions of inadequacy or adequacy, or in assessments of the preparedness of communities in either the political, economic, social or educational fields (Lemon 1993: 39). Also in 1960, the *Declaration on Granting Independence to Colonial Territories and Peoples*, stated that people had an inalienable right of complete freedom, sovereignty and a national territory, associating self-determination more clearly with full independence and statehood (Short 1987: 176). The United Nations proposed that those seeking independence might follow one of three strategies: become a sovereign independent state, become a self-governing territory in free association with another state, or integrate with another state (Short 1987: 176). These events saw the conversion of many colonies to the status of legal and sovereign states resulting in a dramatic increase in the number of these (Jackson 1990: 40). At the outbreak of WWI there were 62 countries in the world, by 1974 this number had increased to 74 and by 1998 to 193, many of which were small island states (Jackson 1990: 15).

Pollock (1998a: 9) sees this decolonisation as reflecting a change in the notion of self-determination from a principle to a right. Similarly, Jackson (1990: 48) suggests that decolonisation resulted from a change in the international moral and legal framework. However he also proposes that it came about because the international community agreed to remove the conditional aspects of statehood noted above. Jackson also notes that these new states are invariably supported economically by special trade arrangements and by aid from the more developed states. Jackson argues further that there is little evidence to

suggest that the aid is transforming new states into economically independent entities and so is temporary, but rather that it may have to be provided in perpetuity. This is largely because although the developed states (the former colonisers) can enfranchise their colonies politically, they cannot empower them economically (Jackson 1990: 21). Jackson likens this relationship to an international welfare state, classifying the new states as 'quasi-states' (Jackson 1990). However, this is a very utilitarian view of independence and autonomy and denies that this distinct state identity may be extremely important symbolically and no less real and valuable to those involved. Lemon argues for example that although many new states still may have significant links with their former colonial power, including one of economic dependency, they feel that they are now independent and that this increases their own feeling of autonomy (Lemon 1993: 41, 54).

Autonomy and settler states

Although there is no official definition of Indigenous peoples, the United Nations working definition indicates that they can be considered as the first peoples affected by European colonialism and/or as those having prior or pre-colonial sovereignty over the land in question (Pollock 1998b: 4, 13, 16). Indigenous people in settler states refers to those cases where they are in the minority with respect to population and to their political and economic power. United Nations interest in Indigenous peoples in settler states increased in 1970 when it established the Sub-Committee on the Prevention of Discrimination and Protection of Minorities and in 1982 this set up the Working Group on Indigenous peoples (WGIP) (Pollock 1998a 14-15; Sullivan 1996: 110). The WGIP's work led to the *United Nations Draft Declaration on the Rights of Indigenous Peoples* (DDRIP) in 1994.

In the earliest days of the United Nations, independence or self-determination was generally thought to mean separation from colonial rule, and in international law it came to represent the formation of a new state. Implicit in this was that the colonial power ceded control and its nationals departed (Pollock 1998a: 14, 15). Many Indigenous people in settler states have now moved away from this view and for them self-

determination is often articulated within borders of the settler state (Poynton 1996: 44; Tully 1995).² Some argue that Indigenous self-government within settler states is a right stemming from their prior occupation, and is to redress their past repression, but there is no clear concept under international law covering this situation (Reynolds 1996: 148; Sullivan 1996: 112). However, the United Nations DDRIP now makes the distinction between external and internal self-determination (Pollock 1998a: 18; Poynton 1996: 51). This gives two different meanings of the term self-determination. In one case it means sovereignty and statehood and in the other it means some form of increased control or self-government by an Indigenous people while remaining part of a state.

Several forms of internal self-determination have been conceptualised including those proposed for external self-determination such as free association and integration (Sullivan 1996: 111). In more detail, Assies (1994: 45-6) has suggested three types of internal self-government which could operate within the state:

1. A local or regionally based approach where the Indigenous population is the majority of the population and so holds the majority control in the regional government;
2. a situation as above but where the control applies only to certain aspects of life, for example those that are in some way culturally important to the Indigenous people and where only the Indigenous people are involved in the control;
3. where Indigenous self-government is basically representation at a national level, does not involve the control of some discrete territory within the state but where national decisions may apply to specific regions.

The above options include either making a separate Indigenous territory, or giving Indigenous people special rights over certain matters in regions. It has been suggested that both of these threaten the unity, integrity and survival of the state. In the first, the state is threatened because it loses some of its territory and in the second because it gives one group rights different to those of other citizens (Fleras and Elliot 1992: 221; Zinsser 1994: 54; Pollock 1998b: 9; Sullivan 1996: 110). In addition, it is never made clear just what special rights the Indigenous citizens might have. Some suggest this would include controlling their political, cultural and economic lives (Gray 1995: 37), but to what extent? This would suggest almost parallel states and, in this regard, the state is posed

² Michael Mansel an Aboriginal activist from Tasmania meanwhile wants defacto secession from Australia (Reynolds 1996: 138).

with the problem of accommodating two kinds of citizen or citizen's rights. A particular issue in creating separate Indigenous territories is catering for the needs of the state's non-Indigenous citizens living there (Reynolds 1996: 149) and I will return to this issue later. Federal settler states like Australia and Canada already have national and State/Territory governments and it has been suggested that this would make them more amenable to constructing a third or Indigenous level of government than say unitary settler states like New Zealand (Quentin-Baxter 1994: 6).

In considering autonomy, less emphasis is placed on the economic factors and control than on the political (see for example Hannum and Lillich 1988). It has been proposed that Indigenous self-government should include provisions for economic growth and development (Reynolds 1996) and that any entities created should have the right to levy taxes, borrow funds, and make financial arrangements with other governments; and that in the case of Australia they should have the same benefits of 'fiscal equalisation' as other States and Territories (Reynolds 1996: 149).³ If this latter point applied then new Indigenous territories would be no more or less economically dependant than other States and Territories. Territorially based Indigenous internal self-determination often occurs in isolated poor areas at the nation's periphery as in the cases of Scandinavia and Canada (Poynton 1996: 54). However, these same states (Australia, Canada, Sweden and New Zealand) are quite wealthy and have comprehensive welfare systems. The economic benefits of a developed welfare system spread fairly evenly to a nation's periphery (Peterson 1985) to the extent that the notion of an economic periphery has less impact than it would in a country with no welfare system, like Papua New Guinea (PNG). That is to say, there may be advantages to having a form of internal self-determination within a settler state, for those who live in poorer and remote regions. This is not to deny that are limits to the degree to which wealthy countries will develop their peripheries beyond providing the basic requirements of the welfare system as is evidenced in Indigenous communities of remote Australia. Examples of internal self-determination in Canada and New Zealand are discussed below. In the Canadian case Indigenous people have

³ Put very simply, fiscal equalisation in Australia involves the national government collecting the major taxes (such as income tax) and then redistributing funds to each State and Territory so that they all can

achieved a degree of political autonomy through establishing a form of regional government and in New Zealand the Maori have negotiated access to the commercial fishery.

Canada

In Canada self-government for Indigenous people is part of national government policy and is given power under the *Constitution Act 1982* (ATSIC 1995: 23; Meyers 2000: 12). The form and content of the self-government are negotiated under land claims agreements between the Indigenous groups and Canadian Government under its Comprehensive Land Claims Policy (Richardson, Craig and Boer 1994: vii). Several agreements were negotiated and established in Canada during the 1990s. Included was that for the Inuvialuit around James Bay; the Yukon Final Umbrella Agreement; and the Dene and Metis agreement in the Northwest Territories (Richardson, Craig and Boer 1994).⁴ In all cases, the agreements include Indigenous groups ceding some rights to their lands for other benefits, including subsidiary rights, financial payments, a say in environmental management, and hunting rights.

In 1992 the Canadian Government and the Tungavik Federation of Nunavut negotiated an agreement over a large part of Canada's Northwest Territory (20 per cent of the Canadian land mass) where the Inuit are 85 per cent of the regional population of 25,000. The agreement is considered to provide a form of self-government for the Inuit. The Canadian Government set up a Nunavut Implementation Commission to establish the new government, and Nunavut self-government commenced in 1999. As noted above, the arrangement was part of a land-rights agreement, in which the Inuit relinquished their traditional rights to the land, in return for self-government and compensation of \$1 billion paid over 14 years. They were also given access to mineral rights, the right to harvest wildlife on the land and waters, and to participate in decisions about land and resource management (Richardson, Craig and Boer 1994).

deliver a similar standard of services to the citizens. Redistribution takes into account the ability of, and attempts by, each State and Territory to be self-financing.

⁴ Only the Inuvialuit form a majority of the population in the area of these agreements.

In Nunavut all the residents (Indigenous and non-Indigenous) elect a Legislative Assembly every five years. The Assembly's members are drawn from 19 electoral districts, and it has a cabinet and territorial court. A group of Inuit 'elders' advises the Assembly on various matters. The territory has a capital city and some 28 communities divided into three sub-regions. The provision of government services is decentralized with agencies in each sub-region dealing with economic development and service needs. Though some Federal and Provincial laws prevail, the Nunavut is responsible for public housing, health, education, social services and other Provincial responsibilities. The new government is to assume these powers and responsibilities gradually between 1993 and 2009. Nunavut is funded largely from existing Federal resources. Although, some argue that the new government arrangement will increase economic development and prosperity, it is unclear how this might happen (see Courchene 1993). In any case, it has been argued that the lack of any conventional economic development in regions like Nunavut should not be seen as an impediment to granting them political autonomy (Richardson, Craig and Boer 1994: 72).

Although the Nunavut government will not have as much power as Canada's Provincial Governments, it is thought that it will be able to implement the terms of its land claims agreement (Richardson, Craig and Boer 1994: 72). However, we should note that the form of self-government is not Indigenous-specific, it is regional. In this regard Inuit political dominance will depend on them remaining the majority of the population and on their ability to form the majority in parliament. The form of self-government is also based on a negotiated agreement, in which the Inuit gave up some of its traditional rights to obtain other rights.

In many respects the stimulus for Indigenous self-government in Canada has been the National government's desire to get access to Indigenous land for resource development. Also, all of the agreements made in Canada have been in the remote north which is a fairly benign region from a security point of view, bordering as it does on the deserted Arctic (Sanders 1995a: 60). The comparable geo-political space in Australia, though remote, 'borders' on Asia, which is both densely populated and politically unstable. The example of Nunavut suggests that a nation-state may give regional Indigenous regional

autonomy despite the risk it could pose to national fragmentation (Richardson, Craig and Boer 1994). However, I would argue that this will no doubt depend on the characteristics of the region involved (see Chapter 5). In any event, Torres Strait is an archipelago and it is more fruitful to consider examples of autonomy as they apply to other islands. Given that Australia and Torres Strait are part of the Pacific Rim, I will consider islands in that region later in this chapter.

New Zealand

The case of New Zealand is discussed here as an example of how an Indigenous people inside a settler state have been given substantial rights over fisheries. The *Maori* are presently some 10 per cent of the New Zealand population and European New Zealanders some 75 per cent. *Maori* autonomy has been coloured by the *Treaty of Waitangi* (the Treaty), signed with the (British) colonisers in 1840. *Maori* political action is often based on their traditional tribes and on collective decision making. However, much of their political action also occurs within the mainstream political system. Since 1967 they have been guaranteed representation in the New Zealand parliament where they presently have seven members drawn from *Maori* constituencies. *Maori* also hold senior positions in the public service and the military. However, many are now dissatisfied with these features and have demanded full sovereignty. In 2003-4 some of this dissatisfaction surfaced in *Maori* claims to ownership of the country's beaches. *Maori* now have their own party (*Mana Mothuake*) to further their more nationalist ideals within the mainline New Zealand parliamentary system.

Maori property rights were implicit in Article 2 of the Treaty which provided that the Crown guarantees *Maori* access to traditional resources. The Treaty also agreed for compensation to be paid for lands and resources unfairly or illegally confiscated (Nile and Clerk 1996: 197). These aspects of the Treaty have been used as leverage to gain significant property rights in commercial fisheries (Altman, Arthur and Bek 1994 : 14).

The *Treaty of Waitangi Act* 1975 incorporated the Treaty into domestic law giving *Maori* the right to challenge the Crown over matters inconsistent with the Treaty. Such challenges could be made before the Waitangi Tribunal (the Tribunal) – a body

established in 1960 to hear land and compensation claims on matters associated with the Treaty.

In the 1980s the New Zealand Government wanted to overhaul the system for regulating commercial fishing, largely to ensure sustainability. This overhaul included introducing a Quota Management System (QMS) which gave permanent fishing rights to only a limited number of fishing companies (ATSIC 2000a: 1). One outcome of the scheme was to force out small operators such as *Maori* (Hersoug 2002: 68). *Maori* appealed to the Tribunal and the courts that this infringed on their interests under the Treaty. As a result, the *Maori Fisheries Act* 1989 allocated 10 per cent of each species to *Maori* and granted them NZ\$10 million to enable them to better participate in commercial fisheries. However, the Tribunal found that these measures were insufficient to meet the spirit of the Treaty and further negotiations resulted in a final settlement under the *Treaty of Waitangi (Fisheries Claims) Settlement Act* 1992. Under this settlement the Crown paid *Maori* NZ\$150 million to enter a joint venture in a large fishing company, Sealords Ltd.; gave *Maori* 20 per cent of any new species quota; and increased *Maori* representation on all fisheries management bodies (Sutherland 1996: 97). In return the *Maori* agreed to forego any further actions and claims to the Tribunal regarding commercial fisheries. A statutory body, the Treaty of Waitangi Fisheries Commission, oversees *Maori* participation in commercial fisheries (including Sealords) and by 2000 it was estimated that *Maori* owned rights to 50 per cent of the quotas granted under the QMS, creating some 800 to 1000 jobs for *Maori* (ATSIC 2000a). In 2000, Sealords had assets assessed in excess of NZ\$500 million. These developments, which appear to have furthered *Maori* economic autonomy, must be attributed in large part to the existence of the Treaty of Waitangi. As noted by Altman, Arthur and Bek (1994) the Torres Strait Treaty may provide Islanders with a similar leverage to negotiate a proportion of the Strait's fisheries for themselves.

Nunavut is part of continental Canada and, whilst not large, New Zealand is rather more than a small island state. As noted in Chapter 2, Torres Strait is an archipelago of very small tropical islands on the edge of the Pacific. Therefore, in considering the conditions and models of autonomy that may have relevance for Torres Strait it is worthwhile to

consider some of the political structures and economic features found in small island states and entities in the general region.

Island states

The United Nations stated that size, isolation and limited resources should not impede the right to self-determination and many of the new states formed in the period of decolonisation in the 1960s were very small, or ‘micro-states’ (Henderson 1994a: 7; Jackson 1990: 17). Listing what they consider to be the world’s 41 smallest states Charles et al (1997: 26) find that many of these are small islands,⁵ or ‘island microstates’ (see Connell 1993).⁶

Although defining smallness is a little arbitrary, some have proposed this can refer to a population of between 1.0 and 1.5 million. However, there are many (35) states with populations of less than 0.5 million people (Commonwealth Secretariat 1997: 2; Hein 1985: 16; The Economist 1998: 63). In fact, the population of island states in the Pacific can be even smaller. Table 3.1 shows that, excluding PNG, the population of island states ranges from 11,000 for Tuvalu to around 900,000 for Fiji. If we consider political statuses other than statehood (free association and territorial) then the population may be even smaller, for example, 617 for Australia’s Cocos (Keeling) Islands. Others have proposed that size should be based on a combination of factors such population, land area and national income (Dommen 1985: 10; Hein 1985: 16; Commonwealth Secretariat 1997: 2). However, such a formula is hard to articulate as many small island states in the Pacific are made up of islands with a small land area spread out over vast archipelagoes, as in the

⁵ By 1995 the world’s ten smallest states were all islands (The Economist 1998: 64).

⁶ These are mostly gathered into three main blocks: the Pacific, the Indian Ocean and the Caribbean (Commonwealth Secretariat 1997: 2).

Table 3.1 Islands in the Pacific and Indian Oceans, 2004

	Political status	Population, est.	% Indig. (est.)(a)
Papua New Guinea(b)	Independent from Aust., 1975	5,295,000	98
Fiji	Independent from UK, 1970	868,531	51
Solomon Islands	Independent from UK, 1978	509,190	93
Vanuatu	Independent from UK, 1980	199,414	98
Western Samoa	Independent from NZ, 1962	178,173	93
Tonga	Independent from UK, 1970	108,141	99
Kiribati	Independent from UK, 1979	98,549	99
Nauru(b)	Independent from Aust., 1968	12,570	50
Tuvalu	Independent from UK, 1978	11,305	96
Fed. States of Micronesia	Free Assoc. with USA, 1986	108,143	99
Marshall Islands	Free Assoc. with USA, 1986	56,429	99
Cook Islands	Free Assoc. with NZ, 1965	21,008	81
Palau	Free Assoc. with USA, 1986	19,717	70
Niue	Free Assoc. with NZ, 1974	2,145	90
French Polynesia	Overseas Territory of France	262,125	78
New Caledonia	Overseas Territory of France (in transition to shared sovereignty)	196,836	44
Guam	Unincorporated Territory of USA	163,941	37
American Samoa	Unincorporated Territory of USA	70,260	93
Wallis and Futuna	Overseas Territory of France	15,743	99
Christmas Island	External Territory of Australia	2,200	0
Norfolk Island	External Territory of Australia	1,600	0
Tokelau	Territory of NZ	1,482	99
Cocos (Keeling) Islands	External Territory of Australia	630	0
Pitcairn	Dependent Territory of UK	47	0
North Marianas	Self-governing Commonwealth of USA, 1978	80,006	86
Torres Strait	In Australian State of Queensland	7,781	79

Sources: Nile and Clerk (1996: 198-205); Charles et al (1997: 10); Shand (1980: 10), CGC (1993: 1); CGC (1997: 13); Larmour and Qalo (1985: 233, 332); CIA World Factbook (2004); (MacLellan 2005).

Notes:

(a) Totally accurate official data are not available for all locations.

(b) Papua New Guinea and Nauru were mandated territories of Australia before becoming independent.

case of Tonga and Kiribati (Dolman 1985: 41). In turn, because their islands are spread out over vast areas, island states may also be made up of several different ethnic groups and languages; they may experience quite different levels of economic activity across their territory (Dolman 1985: 41; Connell 1993: 131). Some island states may also have an urban-rural divide created by the distinction between central and outer islands (Dolman 1985: 41). A yet more political definition of size might refer to a state's unique features, which give it a greater strategic significance than its physical size would suggest (Dommen 1985: 9, 13). I will show in Chapters 4, 5 and 5, that these last two features apply to Torres Strait.

Small states are thought to be disadvantaged with respect to their economic viability (Lockhart and Drakakis-Smith 1993: 2-3; Charles et al 1997: 15). This disadvantage is considered especially acute for many small island states (Dolman 1985: 41, 43; Connell 1988: 81). For example, while the regions of continental states may be able to share some infrastructure to a certain extent, islands are separate and often isolated units and so each must install its own utilities: water, sewerage and power. Small island states are also often a long way from markets, and subject to high shipping costs (Dolman 1985: 43). In some cases they have relatively high labour costs but low levels of production and their limited economy of scale and their high transport costs make them uncompetitive (Dolman 1985: 44). They also often have a small skills base and find it hard to attract skilled people, entrepreneurs and joint ventures (Dolman 1985: 45). Indeed, many of the young, dissatisfied with the limited career and economic opportunities, migrate. The result of this is that often the population is larger abroad than at 'home' (Connell 1993: 121-31). Remittances from these migrants can be a significant part of the economy; they form an estimated 14 per cent of cash incomes in Kiribati and are some 33 per cent of all foreign exchange in Tonga (Dolman 1985: 48). Most remittances come from the metropolitan states with which the island states have close ties and which give access to their workers (Nile and Clerk 1996: 221).

Given their often pleasant environment and climate, it has been thought small island states might be able to benefit economically from tourism (Dolman 1985: 46). However

expansion of this sector is often limited by a lack of drinking water, relatively poor access and high transport costs (Nile and Clerk 1996: 221) factors also common to Torres Strait (Arthur 1990). Furthermore, tourism projects are commonly developed by outside investors who expropriate much of the income generated, so limiting the benefits to the local economy (Dolman 1985: 47; Nile and Clerk 1996: 221).

Commercial fisheries are considered another of the options for economic development in small island states (Connell 1993: 124-25; Nile and Clerk 1996: 209). Independence gave them ownership of marine resources within their 200-mile Exclusive Economic Zones (Nile and Clerk 1996: 209). But the most valuable of these are often offshore fisheries, which require large boats and high capital investments, with the result that few states have had the resources to exploit their fisheries themselves. Instead they have leased them to more developed nations. For example, Kiribati and Vanuatu have leased fishing rights to the Soviet Union (Connell 1993: 124-25). However, these leases often represent a fee of less than 5 per cent of the value of the catch (Connell 1993: 125; Nile and Clerk 1996: 209). In addition, small island states in the Pacific invariably have neither the resources nor skills to adequately police such arrangements and have to pay the cost of policing through the Pacific Forum Fisheries Agency (Nile and Clerk 1996: 209). In some cases, such as in Fiji, the Solomons and Mauritius, national fish canning factories have been established and these have resulted in some employment for local people (Connell 1993: 124). However, in general, local people are predominantly involved in artisanal or subsistence inshore fisheries, though even here some have actually moved from being relatively independent within their subsistence economy to being dependent on imported foods, including ironically, tinned fish (Connell 1993: 122-25). This has also been the case in Torres Strait to a degree, where on some islands with access to subsistence fishing, the largest selling store item is canned fish (Arthur 1990).

Island states in the Pacific receive substantial amounts of financial aid from individual countries, the European Union and the United Nations, with most coming from the former colonial powers, namely Australia, USA, France, and New Zealand (Nile and Clerk 1996: 221). Across the island states of the Pacific in the 1980s, foreign aid was judged to be some of the highest in the world, estimated at \$200 per capita, and equating

to roughly 50 per cent of many national budgets and 100 per cent of some development budgets (Nile and Clerk 1996: 221). This prompted some commentators to assert that the foreign aid sector *was* the economy of many small island states (Connell 1988:81; Dolman 1985: 48). Despite some concessions, such as privileged entry to Australia and New Zealand as members of South Pacific Regional Trade and Economic Cooperation Arrangement, the economies of small island states are often stagnant or show significant trade deficits and are characterised by migration and by remittances from migrants (Connell 1993: 131; Dolman 1985: 45-6; Nile and Clerk 1996: 211). In addition, the development that does occur is often within the local bureaucracy. Such island economies have been termed MIRAB economies, a term derived from these component features, namely migration/remittances/aid/bureaucracy (Connell 1988: 81-2; 1993: 135). It has been suggested that it is hard to see how this situation will change (Nile and Clerk 1996: 221). It has also been suggested that there is in fact a lack of economic motivation within small island states and though their governments may often say they wish to be more economically self reliant, this can include an element of rhetoric (Dolman 1985: 44; Connell 1988: 80).

Regarding their political structures, many island states in the Pacific have a basic Westminster system but with additional elements to accommodate traditional factors to a greater or lesser extent (Nile and Clerk 1996: 198). Table 3.2 shows that in some cases government is composed of, or supplemented by, members drawn from a traditional chiefly group. These arrangements have not always met with popular approval. For example, there has been some opposition to the Tongan system on the grounds that it gave too much power to a chiefly class and reduced the notion of democracy (Nile and Clerk 198). This is a demonstration of a tension between traditional privilege and a modern democratic system within the same Indigenous group. Similar problems regarding the distribution of power have arisen in Fiji where the grievance has been between two different groups of nationals, namely the native Fijians and the Indo-Fijians. Indo-Fijians were taken to Fiji as a source of labour by the colonial powers. By the late 1980s they had become very influential in both commerce and politics and in 1987 their own political party won government. In reaction to this, the native Fijians amended the

constitution in their own favour and to increase the power and influence of a traditionally based Great Council of Chiefs.

Table 3.2 Examples of governing structures, Pacific island states, 2002

	Government	Population est.	% Composition, est.
Papua New Guinea	Unicameral, elected by popular vote	5,200,000	Melanesian 98
Fiji	Bicameral An Assembly plus an upper house advised by a council drawn from a class of chiefs	868,531	Fijian 51 Indian-Fijian 41
Solomon Islands	Unicameral, elected by popular vote	509,190	Melanesian 93
Vanuatu	Elected by popular vote Council, drawn from a chiefly class advises elected body on matters of custom and tradition	199,414	Melanesian 98
Western Samoa	Members elected from a chiefly class by electorate	178,173	Samoan 93
Tonga	Composed of four classes of members 1. Those elected by the population (a minority) 2. Those appointed by the monarch 3. Those elected by a class of hereditary nobles	108,141	Tongan 99
Kiribati	Unicameral, elected by popular vote	98,549	Micronesian plus Polynesian 99
Nauru	Unicameral, elected by popular vote	12,570	Nauruan 58 other Pacific Islander 26, Chinese 8, European 8
Tuvalu	Unicameral, elected by popular vote	11,305	Polynesian 96

Papua New Guinea

PNG can hardly be classified as a small island state and it is included here because it has some special significance to, and relationship with Torres Strait and Australia (see Chapter 5). The Territory of Papua New Guinea came under Australian administration in 1945. Discussions and negotiations about its independence took place through the 1960s and included concerns about its capacity for independence and the location of its border with Australia in Torres Strait (Rowse 2002b). Sections of the Australian administration doubted the political capacity of PNG nationals for self-government. Australia also argued that political independence should be dependent on PNG developing an economic base, as without this, its government would not be able to choose between alternative course of action or give affect to its choice (Rowse 2002b: 179). Thus, independence for PNG was seen as being conditional, both politically and economically.

However, instead of independence some in Australia and in PNG supported the idea of a continued and even closer association with Australia, with PNG becoming a 'seventh State' (Jupp 2001: 617). It has been suggested that this would have been unacceptable to the UN given its stance on decolonisation, and to some in Australia, possibly on racist grounds, and independence was granted to PNG in 1975 (Jupp 2001: 617; Wolfers 1994). Since then and despite having valuable mineral resources and massive financial aid from Australia and other parts of the world, the PNG economy has stagnated, and the country has experienced significant problems with its governance. Whether or not this has been due to premature independence is outside the scope of this thesis. However, the following are likely to have been influential: a traditional (inalienable) land tenure system; a rugged terrain making it costly to exploit inaccessible natural resources; and a democratic system of government and an administration infused with traditional forms of patronage. In any case, by the 2000s PNG's political and financial instability reached a level where Australia felt that some more direct intervention was justified. Australia first put conditions on its financial aid to PNG and then coerced the PNG government to accept administrative aid, in the form of officers of the Australian public service placed within the PNG public service. Though falling well short of making PNG a seventh State, these measures suggest a relationship more akin to that between a state and its territory than between two independent nations. In the same period the Solomon Islands suffered from political and economic instability, to do in part with issues related to traditional views of land and power. Australia also intervened there and although in that case the intervention had a military focus, the aim was also to improve governance. Indeed, by early 2004, Australia's Prime Minister announced that any further and continued assistance to the Solomons from Australia would be 'conditional' on the reduction of the perceived levels of corruption (Special Broadcasting Service News, 6.30pm, 1 March 2004). These examples indicate that Australia would likely be cautious about granting autonomy to any of its regions contiguous with this part of the world, such as Torres Strait. This type of concern is also likely to be felt by those aspiring to greater autonomy and indeed during discussions about policing the border with PNG, the Chair of the TSRA actually asked the Commonwealth to increase its police presence in the Strait

(Waia 1998).⁷ The issue of PNG and its special relationship with Torres Strait will be discussed more fully in Chapter 5.

Nauru

Nauru, is also a former mandated territory of Australia. As importantly however, it is, like some in Torres Strait, a tiny island of only 21 sq.km. with a present population estimated to be between 10,065 and 12,570. Originally the society was made up of an estimated 1,400 people organised in 12 totemic clans headed by chiefs (Viviani 1970). There appears to have been some correlation between these clans and geographic districts of the island. In 1888 the island became part of the Imperial German Protectorate of Marshall Islands with an extractive economy based on copra, though this seems not to have been sustainable (Viviani 1970: 16, 23). In the early 1900s phosphate was discovered and the Pacific Phosphate Company began mining commercially. This mining was to reach such a scale both in value and area, as to create mono-economy for the island. However, Nauruans were not incorporated into these mining activities and their somewhat separate economy was based on traditional subsistence and on selling fish and produce to the Europeans. Following WWI, the island was made a League of Nations 'Type C Mandate' within the British Empire, but administered by Australia. This type of mandate gave monopoly of the phosphate to the British Phosphate Commissioners (BPC). The scale and expansion of phosphate exports to Australia together with its role as administrator created a special politico-economic relationship between it and the island that was to continue until independence. Indeed at about this time the 'chiefs' as well as the general Nauruan population asked that Australia should 'rule the island forever' (Viviani 1970: 49).

In 1927 the administration formed the 14 district chiefs in to a Council of Chiefs (Viviani 1970: 52). The populace elected the Council and it in turn elected a Head Chief and a Deputy Chief. Composed as it was of elected chiefs, the Council was a mixture of the traditional and modern systems. The Council's powers were limited to providing the

⁷ The Chair of the TSRA was also chairman of a northern Island and so subject to the highest level of cross-border movements through 'traditional visits' (see Chapter 5).

administration with advice and it had no say over the design of policy or over the allocation of funds. Most Nauruans continued to work in the informal traditional economy and although attempts were made to introduce them into the administration, they were thought 'not motivated for clerical work'; by 1933 few did this, and senior positions were filled by expatriate (Viviani 1970: 63). Though this period saw the start of what were to be extended disputes over the level phosphate royalties that should be paid to Nauruans, the chiefs described Australian rule as a 'godsend' (Viviani 1970: 60).

Following WWII, the island became a UN Trust Territory, administration passed to Australia's Territories Department which provided all of the senior administrative staff, and the Council of Chiefs' role remained limited to providing advice to the administration (Viviani 1970: 92). The UN saw the Council of Chiefs as a possible instrument of self-government but Australia rejected this notion, describing the Council as 'indolent' in this regard (Viviani 1970: 93). Under continued UN pressure to devolve more power to Nauruans, Australia set up a Local Government Council (LGC) in 1951. The LGC was composed of councilors elected by the general population and had a staff of thirty. But, still Australia gave the LGC few powers, continuing to argue to the UN that Nauruans were incapable of self-government (Viviani 1970: 104). Few Nauruans were employed in the Australian administration and segregation between the European and Nauruans continued. For example, English was the language of the workplace while Nauruan was the language spoken at home, and laws regulating the use of alcohol were different for the two groups.

During the 1950s and 1960s Nauruans, with UN support, moved to gain political independence from Australia, though some in Australia argued that this was an unreasonable goal for such a small population.⁸ Nauruans also demanded a larger phosphate royalty, the rehabilitation of the ground destroyed by previous phosphate mining and ultimately, complete control of the phosphate deposits and industry. Though Australia countered these demands by offering Nauruans a partnership in the phosphate

⁸ In 1960 the total population was 4,475. Of these around 50 per cent were Nauruan. The remainder was made up of Europeans, other Pacific Islanders and Chinese. The latter two groups comprised much of the mining workforce.

industry, by 1967 and through forceful negotiations, the mine passed to Nauruan control. Australia also argued that it should retain control over external affairs and defence, possibly to protect its access to the remaining phosphate resources. In fact, one Nauruan politician proposed that Nauru should enter into 'free association' with Australia, as did the Cook Islands with New Zealand (see below) which would have given Australia this control. However, the majority of Nauruans were in favour of complete political independence and a Constitutional Convention was established in 1967 and political independence gained in 1968. An elected 18 member Legislative Assembly was established with a President. The Assembly in turn elected a five-member Council of State with executive powers (Viviani 1970: 176). Only those defined as Nauruan citizens could vote or be elected.⁹

Australia had been reluctant to transfer political and economic power to Nauru and it is likely this was connected to Australia's economic interests on the island. Viviani (1970) clearly shows how Australian farmers benefited from the often quite cheap phosphates from Nauru. Viviani also suggests that the Nauru example shows that 'where economic and social circumstances are favorable, the attainment of legal sovereignty need present no insuperable problems' (1970: 177). However, it must be remembered that the UN always intended for trusteeships to have some fashion of autonomy and this legitimised the demands of trusteeships in a way that is not open to Torres Strait Islanders. The phosphate deposits, though now depleted, brought a significant return to Nauru, but poor investments and fiscal management left the country virtually bankrupt by 2004. The republic is now dependent on Australia and other donors for financial and administrative assistance. The proposal by the Nauruan politician noted above, that Nauru follow the Cook Islands' example of free association may have had some merit. The free association model is discussed in the following section.

⁹ A Nauruan citizen is someone of Nauruan descent, or the child of a Nauruan and a Pacific Islander. Thus, a child born to a Nauruan mother and an Australian father does not qualify (Viviani 1970: 176).

Free association

Statehood is the most comprehensive form of political independence and includes complete political separation from some other entity, such as a former colonial power. However, as noted earlier, other forms of independence exist that are based on degrees of attachment with another state. One of these is 'free association', which some believe is almost equivalent to statehood and full political autonomy (Quentin-Baxter 1994:1; Hannum and Lillich 1988: 252). Free association is a form of internal self-government. The people remain citizens of the parent or former colonial power, which is usually responsible for such key matters as defence and external affairs. As citizens of the parent country, people in free association can live and work there. Examples of free association in the Pacific include the Cook Islands and Niue, which are in free association with New Zealand; and the Federated States of Micronesia (FSM), and the Republic of the Marshall Islands, which are in free association with the USA (Lemon 1993: 41; Quentin-Baxter 1994: 3) (see Table 3.3). The following describes some features of those in free association with New Zealand and the USA.

Table 3.3 Examples of governing structures, Pacific islands in free association, 2004

	Parent country	Government	Population, est.	% Composition, est.
Cook Islands	New Zealand	Assembly, elected by the people and by island councils. Includes an 'overseas seat' for those outside region <i>House of Arikis</i> of chiefly group advises Assembly.	21,008	Polynesian 81, Polynesian/European and others 16
Niue	New Zealand	Assembly, composed of one representative elected from each village, plus six elected from a common roll	2,145	Polynesian 90
FSM	USA	Unicameral Congress, members elected by popular vote	108,143	Micronesian and Polynesian groups 99
Marshall Islands	USA	Parliament, members elected by popular vote Council of Chiefs advises Parliament	56,429	Micronesian 99
Palau	USA	Bicameral Parliament composed of a Senate, elected by popular vote, and House of Delegates, elected by popular vote	19,717	Palauan 70, Asian 28, Others 2

Cook Islands

Cook Islanders are of the same cultural stock as the present-day Maori of New Zealand.¹⁰ New Zealand took over the administration of the Islands from the UK in 1901 (Henderson 1994b: 1) and in 1964 they were offered alternative forms of autonomy including full independence, integration with New Zealand, or federation with other Pacific islands. They opted for self-government in free association with New Zealand under the supervision of the United Nations, and it has been suggested that they pioneered the concept (Larmour 1985b: 259 Henderson 1994b: 1; Lemon 1993:39). The Cook Islands have a population of around 21,000.¹¹ The islands have an elected Assembly of 26 members, fourteen of whom are elected by the people and seven by island councils (Larmour 1985b: 259, 263). A large percentage of Cook Islanders live in New Zealand. To give these people some say in homeland affairs, the Assembly includes an 'overseas seat', for which they can vote (Henderson 1994b: 5). Traditional political organisation was structured around chiefly families with the senior political title being the *ariki* (Larmour 1985b: 255). The present Assembly includes a separate house named the *House of Arikis* made up of members of this chiefly group. However, this has no legislative powers and its role is simply to advise the Assembly. It has been suggested that its advice is largely ignored by the elected members (pers. comm. P. Larmour).

Traditionally, political control was organised at various levels: parts of islands, islands, and clusters of islands (Larmour 1985b: 255) and as in Torres Strait, the clusters of islands form Inner and Outer Islands. The present political system is similarly organised. Different ministries in the Assembly deal with the Inner and Outer Islands and each island has a local government with the power to make by-laws (Larmour 1985b: 260, 269). The Assembly has legislative power over the majority of island affairs including social services, health and education (Hannum and Lillich 1988: 243). However, as Cook Islanders are New Zealand citizens, the New Zealand Government has the final say about how the Cook Islands' Government deals with its own citizens (Henderson 1994b: 3). Also, Cook Islanders have found it difficult to gain membership of the United Nations (Henderson 1994b: 1, 4). Nonetheless, together with Tokelau (a New Zealand Territory)

¹⁰Maori migrated from the Cook Islands to New Zealand some 800 years ago (Henderson 1994a: 1).

¹¹ There are more than 100 islands of which 15 are inhabited. A similar situation to that in Torres Strait.

they were signatories to a Treaty with the USA and American Samoa in 1980 and so have some degree of 'international personality' (Dommen 1985: 7, 8; Dommen and Hein 1985; Larmour 1985b: 259).

The Assembly has the power to generate income, for example from customs duties and income tax (Larmour 1985b: 263; Hannum and Lillich 1988: 244-45). Attempts have also been made to generate income from offshore banking, by creating flags of convenience for foreign ships, by selling stamps, and from tourism (Nile and Clerk 1996: 211). The Assembly has some control over the resources of its Economic Exclusion Zone (EEZ) but although it is thought that this may contain some valuable seabed minerals, how these might be exploited has not been determined (Nile and Clerk 1996: 211). Despite the above, the islands are dependant on aid, principally from New Zealand (Dolman 1985: 46). In 1978-79, New Zealand contributed almost \$NZ3.5 million in aid to the Cook Islands' budget of \$NZ13.9 million and by 1993-94 this had increased to \$NZ13.5 million (Larmour 1985b: 263). In addition, as citizens of New Zealand, Cook Islanders can live and work in New Zealand and by 1994 some 36,000 or 66 per cent of all Cook Islanders were living there (Henderson 1994b: 2-3). This represents a financial benefit for those working in New Zealand and for those at home to whom they might remit some of their earnings. These financial arrangements with New Zealand may not be permanent. For instance, there are suggestions that New Zealand aid could be phased out by the year 2008 (Henderson 1994b: 2) and New Zealand has withdrawn its support as a guarantor for the Cook Islands for loans from the Asian Bank.

Federated States of Micronesia (FSM)

In 1947, the Caroline Islands, Palau, the North Marianas, and the Marshall Islands became UN Trust Territories under the jurisdiction of the USA, which pledged to move them towards independence or self-government as considered appropriate (Nile and Clerk 1996: 202). In 1969 the Carolines were formed into the Federated States of Micronesia (FSM). In the 1980s the FSM, Palau and the Marshall Islands entered into free association with the USA and in the late 1970s the North Marianas became the Commonwealth of North Marianas administered by the USA's Department of the Interior. Citizens of all of these can live and work in the USA, which also provides long-

term aid, based on each state's needs and population (Larmour 1985a: 341). The USA controls defence and the right to retain military bases (Hannum and Lillich 1988: 234; Nile and Clerk 1996: 202). However, the states can deal in their marine resources and enter into arrangements with other governments regarding their aid to a greater extent than occurs in the New Zealand models of free association (Larmour 1985a: 336). In 1990, the FSM and the Marshall Islands became full members of UN, and so have something of an international personality.

The FSM are made up of the four Island States of Yap, Truk, Kosrae and Ponape which are distributed over a large part of the Western Pacific and have a total population of 105,000. The FSM, has a unicameral Congress elected by popular vote with a directly elected President. In addition, each Island State has its own elected legislature and governor, and municipal local governments (Larmour 1985a: 339-340; Nile and Clerk 1996: 202). The FSM has some rights over marine resources and the ocean floor within its EEZ. Any returns from these rights are shared equally between the territorial and the Island State governments (Larmour 1985a: 341). However, economic activity consists primarily of subsistence farming and fishing. The islands have few mineral deposits worth exploiting, except for high-grade phosphate. The potential for a tourist industry exists, but the remote location, a lack of adequate facilities, and limited air connections hinder development of this and geographic isolation and a poorly developed infrastructure remain major impediments to long-term growth. Taxes can be raised at the island, state and territorial level. However, in the 1980s these generated only 5.7 per cent of government revenue. As a result some 91 per cent of the Territorial budget is from the USA in the form of grants and aid (Larmour 1985a: 339). In 2002, the USA forecast a possible reduction in this aid and this, along with a stagnant private sector, presents an uncertain economic outlook for the FSM.

The Marshall Islands

The Marshall Islands have a population of 58,363. They have a Parliament elected by popular vote and the Parliament elects a President and a cabinet (Larmour 1985a: 341). There are local government councils which can make their own constitutions and determine their own local functions (Larmour 1985a: 341-46). There is some provision for including tradition within the government. Traditional leadership was based on chiefly land-holding families and in the contemporary system some seats in parliament are reserved for these landowners (Larmour 1985a: 346-47). In addition, a 12-member Council of Chiefs advises the parliament on those matters that may affect customary law and practice, so giving a form of cultural bicameralism. The islands have few natural resources, and imports far exceed exports. Agricultural production is primarily for subsistence and is concentrated on small farms. Small-scale industry is limited to handicrafts, tuna processing, and copra. A tourist industry, which presently employs fewer than 10 per cent of the labor force, is a source of foreign exchange and is considered the best hope for future external income. The territory and local governments can impose taxes and charges, but these generate little revenue and the region is heavily dependent on aid from the USA (Larmour 1985a: 348). This aid has amounted more than \$1 billion since 1986.

Free association provides for a significant form of political autonomy. However, in all cases it has been the product of decolonisation and in this regard, it tends to represent a system in which the distinction between Indigenous and non-Indigenous residents does not arise, at least not in the same way that it does in Torres Strait. That is to say, the model of free association is normally applied to places that are basically Indigenous. Territories meanwhile are places that must accommodate all the citizens of their parent country and some of these are described below.

Island territories

Table 3.4 Examples of governing structures of island territories, 2003

	Sovereignty	Governing structure	Population	% Indigenous (est.)
American Samoa	USA	Bi-cameral territorial legislature, upper house (<i>fono</i>) of registered chiefs (<i>matais</i>), lower house elected by popular vote Local Governor, elected, heads legislature Ultimate control by US Secretary of Interior	70,260	Samoan 89, Tongan 4
New Caledonia	France	Unicameral Congress elected by popular vote French style administration High Commissioner appointed by France Metropolitan Ministry in France	196,836	Melanesian 44, European 34, Wallisian and Polynesian 12, Others 10
Tokelau	New Zealand	Territorial Cabinet (Council of <i>Faipule</i>) elected from leaders of each atoll Councils of Elders of each atoll selects representatives for governing body (<i>fono</i>) Administrator, by the New Zealand Government and Foreign Affairs Department.	1,482	Tokelaun 99
Christmas Island	Australia	Shire, elected Community Consultative Committee Liaison Office in Perth Commonwealth Administrator and department of territories	2,200	Chinese 70, European 20, Malay 10
Norfolk Island	Australia	Legislative Assembly elected by popular vote Executive Council with Ministerial powers and duties Commonwealth Administrator and department of territories	1,600	Pitcairn Islanders 46
Cocos (Keeling)	Australia	Dual administration based on two islands Island Council, elected for Cocos Malays, Home Island Co-operative Society, elected, Home Island Commonwealth administration, West Island Commonwealth Administrator, overall and department of territories	630	Cocos Malays 64 Europeans 36

Some Torres Strait Islander leaders have expressed their aspirations for autonomy in terms of becoming a territory of Australia (see Chapter 6). Integrating as a territory, as a

means of achieving a level of autonomy is laid out in the United Nations General Assembly Resolution 1541 (1960) (Principal VIII of the Annex) (Quentin-Baxter 1994: 5). Resolution 1541 suggests that to justify this status aspirants should be able demonstrate a degree of geographic separateness, a distinctive ethnic and/or cultural distinctiveness and some history of subordination to a parent state in administrative, political and economic terms (Commonwealth of Australia 1991). New Zealand, the USA, France and Australia all have territories in the Pacific and Indian Oceans and some of these are outlined in Table 3.4 and are discussed below.

Tokelau

Tokelau, which lies in the Pacific some 3200 km north east of New Zealand, was made a Protectorate of the United Kingdom in 1889, then between 1916 and 1926 it was governed as part of the Gilbert and Ellice Islands (now Kiribati and Tuvalu) (Henderson 1994a: 5). New Zealand took over the administration in 1926, which was carried out initially from Western Samoa and transferred in 1972 to Wellington as a self-administering territory (Henderson 1994a: 5). With a population of just 1,482, Tokelau is New Zealand's smallest dependency (Nile and Clerk 1996: 203). Tokelau's government is a combination of the Westminster and traditional systems (Henderson 1994a: 5). The territory is made up of three atolls. Each atoll elects a leader to make up a Council of *Faipule*, which acts as a territorial cabinet. Each atoll has its own Council of Elders and this selects representatives who go to make up the members of the *fono*, the territory's governing body. The *fono* has limited legislative powers. The head of the territorial government is not elected as such; instead it is rotated between the three atolls (Henderson 1994a: 5; Larmour 1985a: 299). The territory's government is overseen by an administrator, selected by the New Zealand Government and located in its Foreign Affairs Department (Hannum and Lillich 1988: 221; Henderson 1994a: 5).

Tokelau's small size, its isolation, and its lack of natural resources constrain its economic development. Agriculture is confined to the subsistence level, with other sources of government and private revenue coming from sale of copra, postage stamps, souvenir coins, and handicrafts. The territory relies heavily on aid from New Zealand. In 1993-94 New Zealand contributed \$5.5 million or 84 per cent of the Tokelau budget in aid.

Despite this significant contribution, the New Zealand Government leaves the management of the internal economy very much in the hands of the Tokelau Government and only intervenes if there is evidence of gross mismanagement (Henderson 1994a: 6). Statements by Tokelau leaders that they desire to be as economically self-reliant as possible, are considered by some as largely rhetorical as at other times they indicate that they need additional financial assistance from New Zealand to survive (Henderson 1994a). Being in a territory, Tokelauans are New Zealand citizens and can live and work in New Zealand. Those who do, remit money to their families at home.

Despite having an administrator, Tokelau is viewed as a largely autonomous region by the New Zealand Government, which leaves it largely to its own devices (Dommen 1985: 6, 9). However, Henderson views Tokelau as less independent than the Cook Islands and less able to demonstrate its 'international personality' (Henderson 1994a: 1, 6). For instance, he notes that while Tokelau attends the South Pacific Commission, it is not a member of the South Pacific Forum, is only an associate member of the United Nations World Health Organisation, and it has less influence over New Zealand with regard to its defence issues than do the Cook Islands (Henderson 1994a: 6). Tokelau intends having its own flag and national anthem, and is considering the means by which it could move toward free association with New Zealand. However, given its reliance on New Zealand for the bulk of its budget, it is also keen to maintain its political and economic links with New Zealand (Henderson 1994a: 6).

American Samoa

American Samoa, lying just south of Tokelau in the Pacific, was settled by the USA in 1899, and became an unincorporated territory in 1966. It has a population 70,260 and is administered by the USA Office of Insular Affairs. The USA Department of the Interior and Secretary of Interior have ultimate control over it (Qalo 1985: 233-34). It has a bi-cameral territorial legislature with an upper house (*fono*) composed of registered chiefs (*matais*) and a lower house that is elected by popular vote (Qalo 1985: 233). The head of legislature is a locally elected Governor. The legislature can pass its own laws as long as these are consistent with USA legislation and if they are not, the Governor can veto them (Qalo 1985: 234). The legislature can also elect a non-voting delegate to sit in the USA

House of Representatives. The territory has three districts, sub-divided into 14 counties, each with numerous villages (Sullivan 1978). Each district has a governor, and the counties and villages have chiefs. The Governor appoints a Secretary for Samoan Affairs from amongst the leading registered chiefs and the Secretary oversees affairs at the district, county and village levels. American Samoa has control over its marine resources and tuna fishing and processing form the main industry. However, Samoa's remote location and its limited transportation limit further economic development options. Economic activity is strongly linked to the USA, with which American Samoa conducts most of its export trade. In addition, residents can work in the USA and transfers from the USA Government contribute substantially to American Samoa's economic well being. In recent years 63 per cent of Samoa's revenue has come from the USA. Although it is suggested that some leaders would like greater autonomy, it is thought that they would not wish this to occur at the expense of the economic benefits that they gain from their present political links with the USA (Nile and Clerk 1996: 202).

New Caledonia

New Caledonia lies in the Pacific about 1230 km east of Australia. France made New Caledonia one of its Pacific colonies in 1853 (Victor 1995: 216). A referendum held in 1958 gave residents the choice between independence or integration with France; they chose the latter and New Caledonia became a French Overseas Territory (Victor 1995: 222). Of an estimated population of 196,836, some 44 per cent are Indigenous Melanesian, known as *Kanaks*, 34 per cent are Europeans [mostly French ex-patriots (*Caldoches*)] and the remainder is a mixture of Wallisian, Polynesian, Indonesian, Vietnamese, and Chinese immigrants. Thus, compared to the examples given so far, New Caledonia has a high proportion of Europeans in its population and is quite ethnically diverse (Maclellan 2005: 288; 291).

A history of tension between *Caldoches* and the *Kanaks* (Victor 1995: 218) came to the surface in the late 1980s when the *Kanaks* called for greater independence and for new administrative and civil institutions to better reflect their Melanesian culture (Aldrich and Connell 1992: 10). In 1988 the French government established the *Matignon Accords* with the purpose of allowing New Caledonians to choose their future. This included a

plan to direct a higher proportion of funds towards provinces with *Kanak* majorities: Noumea and southern parts of the main island had the most developed economy and infrastructure, while the outer regions had less development and large *Kanak* populations, involved in subsistence farming and fishing (Maclellan 2005: 287, 291; Nile and Clerk 1996: 204). This ethnic, economic and geographic division mirrors that in Torres Strait (see Chapter 2).

The territory had a unicameral elected Congress and Council of Government that determined territorial matters (Sullivan 1978: 65; Chivot 1985: 26, 28). There were five administrative Sub-Divisions and 13 local government Communes with elected councilors and mayors. The Communes enclosed native Melanesian collectives called *tribus* but there was little working relationship between these and the more formal structures of government (Chivot 1985: 29-31). Rather the line of command was Commune to Sub-Division to High Commissioner to the Metropolitan Ministry in France (Chivot 1985: 29). The Congress could impose taxes and receive grants from France, although the High Commissioner determined their rates (Chivot 1985: 29, 36). However, the administration included many French civil servants and a High Commissioner appointed by Paris and Paris was the ultimate source of all legislation and legal codes (Aldrich and Connell 1992: 5, 6). Europeans were over represented in the Commune governments and they generally held power and supported continued French control and administration (Chivot 1985: 32; Aldrich and Connell 1992: 7, 285). It was thought that France was keen to retain a hold on this control, not least for strategic purposes and because of the potential value of the substantial nickel deposits (Aldrich and Connell 1992: 8-9; Victor 1995).

Nonetheless, in 1998 the French Government signed the *Noumea Accord* giving New Caledonia a form of 'shared sovereignty' and a special status within the French Republic (Maclellan 2005: 292). The *Accord* became law in 1999 and established an Assembly for each of its three provinces, a 54 member Congress made up of representatives from the three Assemblies and replaced the French High Commissioner with a government to propose laws to the Congress (Maclellan 2005: 293). In addition, a Customary Senate of 16 chiefs was created to consider issues affecting *Kanak* culture such as land tenure

(Maclellan 2005: 293). The *Accord* also established a separate category of citizenship giving New Caledonians particular rights regarding voting, immigration and employment (Maclellan 2005: 293). International relations stayed with France but New Caledonia can join regional bodies such as the Pacific Islands Forum as observers (Maclellan 2005: 294). These changes will be instituted gradually over some 15 to 20 years with consideration to be given to the transfer of the remaining powers of sovereignty (Maclellan 2005: 293).

Overall, New Caledonia generally enjoys a higher standard of living than its Pacific neighbors (Aldrich and Connell 1992: 6, 282). Some of its wealth comes from agriculture, though food accounts for about 20 per cent of all imports. Other income is generated from a tourist industry and it is estimated to have 25 per cent of the world's known nickel resources, giving it some economic potential. However, New Caledonia has and continues to receive substantial economic support from France, estimated at around 25 per cent of Gross Domestic Product, and it has a comprehensive social security system, which is also the biggest employer. France will also continue to finance the government during the period needed to institute the articles of the Noumea Accord (Maclellan 2005: 294, 307).

Australia's external territories

The Australian Commonwealth has several external territories. These are part of Australia but are not part of any of its States. The external territories are Ashmore and Cartier Islands; the Territory of Christmas Island; the Territory of Cocos (Keeling) Islands; the Coral Sea Islands Territory; Jervis Bay Territory; the Territory of Norfolk Island; Australian Antarctic Territory; Territory of Heard Island and McDonald Islands (CGC 1995: 13; Commonwealth of Australia 1991: xv). All but Jervis Bay Territory and the Australian Antarctic Territory are small, off-shore islands. Australia has sovereign powers over its External Territories, which are administered through the relevant Commonwealth department and permanent residents are Australian citizens (CGC 1995: 13; Commonwealth of Australia 1991: 42). Residents may reside and work on the

mainland, but mainlanders do not have the automatic right of residence in the external territories (Commonwealth of Australia 1991: 7).

The economies of external territories and their ability to provide services to residents vary.¹² In 1984, the Commonwealth adopted a policy of normalisation for its external territories. The general principle of this policy was that these territories would enjoy benefits and services comparable to similar places on the (nearest) mainland State (Commonwealth of Australia 1991; CGC 1995: 10-11). It was recognised that the Commonwealth would have to contribute financially to this policy. One strategy for providing such services was to draft memoranda of agreements between the States, the Commonwealth and the Territories themselves, wherein the Commonwealth provided the funds and the States provided the majority of the services.

Section. 122 of the Australian Constitution appears to give the Commonwealth some power to 'acquire' territories. In the past this allowed for Australia to acquire the Territories of New Guinea, Nauru, Heard Island, McDonald Island and Coral Sea Islands (Renfree 1984: 683). In addition, Sections 6, 111 and 122 of the Constitution propose that that new States may be admitted, or parts of a State might be surrendered to Commonwealth as a territory (Renfree 1984: 680).¹³ However, creating a new Territory from an existing State requires that a portion be excised from that State and given to the Commonwealth and the Commonwealth has no express power to do this (Renfree 1984: 681). Rather Section 123 of the Constitution says that the excision of a new Territory from a State needs the approval of a majority of that State's electors by referendum (Commonwealth of Australia 1991; Renfree 1984: 680).

In the remainder of this chapter I will look at the territories of Norfolk Island, Christmas Island and Cocos (Keeling) Islands, which are smaller in population than is Torres Strait. Norfolk is in the Pacific, while Christmas and Cocos (Keeling) lie in the Indian Ocean.

¹² The economic relationship between them and Australia's federal system is constantly under review (CGC 1995).

Norfolk Island

Norfolk Island lies some 1500 km off the east coast of Australia. It is small in area and has a resident population of just over 1,600 (CGC 1997: 13). From 1788 to 1856, it was a penal colony. In 1856 the convicts were replaced by descendants of the Bounty mutineers and Polynesians from Pitcairn Island, and 46 per cent of today's permanent residents identify as being of Pitcairn descent (Commonwealth of Australia 1991: 131-32; CGC 1997: 14, 20). These 'Pitcairners' are proud of their culture and history, which they argue, makes them like an Indigenous people, and on this basis they approached the UN to have the island recognised as a non-self governing territory (CGC 1997: 18, 29).

In 1879 the island was made part of the colony of NSW and it became an Australian Commonwealth Territory under the *Norfolk Island Act 1913* (CGC 1997: 14). Legislation in 1963 created an elected Island Council though this only had the power to advise a Commonwealth Administrator (Commonwealth of Australia 1991: 135). A Royal Commission resulted in the *Norfolk Island Act 1979*, which created a part-time Legislative Assembly elected by popular vote and which gave the territory a degree of self-government. Four of the Assembly form an Executive Council whose members have portfolios and Ministerial duties, and one of whom acts as Chief Minister (CGC 1997: 19). The Assembly has a public service of almost 200. Persons born on Norfolk are Australian citizens if one parent was an Australian citizen, and residents can vote in a subdivision of any State and in any Commonwealth electorate (CGC 1995: 112, 183; Commonwealth of Australia 1991: 149). However the territory has no elected representative in either chamber of the Australian parliament (CGC 1997: 183).

The Assembly is responsible for local legislation and administration, and its powers have been likened to those of a State government. It also has control over entry to the territory through its own immigration legislation (CGC 1997: 15, 21, 186). However, the Assembly is chaired by a Commonwealth Administrator who must sanction all the laws it makes and who takes instructions from the relevant Commonwealth Minister and the department of territories (Commonwealth of Australia 1991: 135, 143; CGC 1997: 18-19,

¹³ For example, South Australia surrendered the Northern Territory, and the Australian Capital territory was excised from New South Wales (Renfree 1984: 681-2).

182, 186-87). The Australian Government can also veto any legislation passed by the Assembly (Commonwealth of Australia 1991: 14, 16). The Norfolk Government provides education and health services, without Commonwealth support, as well as a form welfare system (CGC 1997: 19, 95). However, this system does not include unemployment benefits or provide public housing or rent relief. Other social payments, mostly to the elderly, are made at only 80 per cent of the mainland rates (CGC 1997: 96, 131). There is however little or no unemployment, in part because many residents move continually between the island and the mainland for work (CGC 1997: 22-23, 25).

The island is considered more financially self-supporting than Australia's other Territories although a significant part of its economy is the public sector to which the Commonwealth contributed some \$4 million in the late 1990s (CGC 1997: 25). The island is not part of Commonwealth-State revenue sharing, and it raises revenue through charges on telephone, post, electricity, health and customs duties (CGC 1997: 19). There are no income or sales taxes and most of the self-generated income comes from a tourist trade and the associated tariffs and duties (CGC 1997: 29). Commercial fishing contributes some \$500,000 to the domestic economy annually, but expansion of this is limited by both the size of the stock and by the poor harbour facilities (CGC 1997: 42-43). The small land area and population, a shortage of skilled labour, the high freight costs and low reserves of potable water also limit economic expansion (CGC 1997: 19-20, 45). The Commonwealth controls the island's EEZ and issues fishing rights, mainly to international companies, but these have been valued at only \$35,000, which barely cover the relevant administration costs (CGC 1997: 43). Although some residents would prefer to control the EEZ, it is thought that the costs of administering these would outweigh the benefits (CGC 1997: 42).

Commonwealth reviews of the island administration in 1991 and 1997 found that some residents distrusted the Administrator and the Territories Office, and were frustrated that they could not achieve a form self-government like that enjoyed by the Cook Islands or Niue (CGC 1997: 17-18). Residents were, nonetheless, ambiguous about their relationship with the Commonwealth, some advocated that island problems were best solved by islanders, while others felt that any increased 'independence' should involve

maintaining their traditional and close links with Australia (Commonwealth of Australia 1991: 145). Though some disputed Australian sovereignty, all seemed to wish to retain the rights of Australian citizenship (CGC 1997: 15, 18).

Christmas Island

Christmas Island is a non-self governing territory of Australia lying some 2600 km off the coast of Western Australia (Commonwealth of Australia 1991: 44-45; CGC 1995: 12). In 1995 its population of 2,200 was composed of Chinese, Europeans, and Malays (see Table 3.4) (CGC 1995: 3). This mixed society is not viewed by the Australian Government as culturally distinct, or as having an Indigenous identity (CGC 1991: 44-45). The island was placed under the authority of the Governor of the Straits Settlements in 1889, and was governed as part of Singapore until 1958 when it was transferred to Australia (Commonwealth of Australia 1991: 33-4; Renfree 1984). The *Christmas Island Act 1958*, and Assembly Ordinance established a Supreme Court, and an elected Assembly (CGC 1995: 11). The Assembly provided all local government and municipal services by means of the Christmas Island Services Corporation (Commonwealth of Australia 1991: 41; CGC 1995: 15). Due to administrative problems, the Assembly was dismissed in 1987 and replaced by a Commonwealth Administrator (Commonwealth of Australia 1991: 41; CGC 1995: 11).

The *Territories Law Reform Act 1992* established a Christmas Island Shire Council with the power to receive Commonwealth Local Government funding. The Shire's formula for local government funding and its election system, were made similar to those of shire councils in Western Australia, the closest mainland State (CGC 1995: 10-13). In 1995 a Community Consultative Committee was also created to provide advice to the Commonwealth Administrator on services, which were to be provided by Western Australia (CGC 1995: 12, 15). An Island Liaison Office was located in Perth to negotiate with the Western Australia Government on the delivery of these services (CGC 1995: 16). The island is part of the Commonwealth electorate of the Northern Territory and is represented in the Commonwealth Senate Government by two Northern Territory Senators and in the Commonwealth House of Representatives by the member with responsibility for Territories (CGC 1995: 13). The administrative and political links

between Christmas Island, the Northern Territory, Western Australia and the Commonwealth are therefore significant.

Services are funded by the Commonwealth and are provided to the island under Service Delivery Agreements (SDAs) between Western Australia, the Commonwealth and the Christmas Island Shire Council (CGC 1995: 18). Education and policing were covered under informal agreements with Western Australia, and health and housing were handled directly through the Territories Office in Canberra (CGC 1995: 19-20). The level of services provided under the SDAs was intended to be consistent with that to similar remote areas of Western Australia while taking into account the circumstances of Christmas Island. However, such realities are quite hard to compute, and in 1995 the level of services was judged to be quite poor (CGC 1995: 12). Should Torres Strait become an external territory, the SDA system could provide a useful model for providing services. In that case the arrangement would be between the Commonwealth and Queensland.

The majority of funds for the island's government, including those for social security, the SDAs and for the Shire's operations are provided by the Commonwealth's Territories Office at a rate determined using mainland criteria (on advice from the Western Australian Local Government Commission) (CGC 1995: 21-23). Commonwealth, State and local government taxes, including income tax are levied at the same rate as on the mainland but excise, customs duty, and wholesale sales taxes are excluded (CGC 1995: 92). The Shire collects the standard range of rates and service charges. The Territory's industries include phosphate mining, some tourism and, between 1993 and 1998, a casino (CGC 1995: 12). However, a major employer is the public sector, which in the late 1990s numbered almost 200 employees (CGC 1995: 9, 48). Rates of employment are relatively high and wages rates are comparable to those of remote places on the mainland (CGC 1995: 48, 49). The island has been judged as having a fair economic base but an unproven capacity for economic development (Commonwealth of Australia 1991: 10; CGC 1995: 48). Factors thought to contribute to this include a relatively high cost of living, the island's small area, its distance from markets and its limited potable water supply (CGC 1995: 41-49).

A Commonwealth inquiry in 1995 found that residents were dissatisfied with their level of autonomy because they felt their administrative system did not provide a sufficient degree of self-government (CGC 1995: 111-12). To counter this, the Commonwealth Grants Commission proposed combining the Shire and the Community Consultative Committee into an elected Assembly to perform the roles of both the Shire Council and of a quasi State Government. This would have made Christmas Island more like Norfolk Island (CGC 1995: 113-14, 116). However, these changes did not occur.

Cocos (Keeling) Islands

The Australian Territory of Cocos (Keeling) is located some 3000 km west of Western Australia. The islands were first settled in early 19th century by a Mr. Hare with 100 Malays and Chinese, and by a Mr. Clunies Ross with some 12 Scots and English (CGC 1989: 11). The UK annexed the islands in 1857, and administered them together with Ceylon and then later with the Straits Settlements, granting Mr. Clunies Ross and his heirs title to the land. In 1954 the islands were transferred to Australia, and by 1978 the Commonwealth had purchased most of the land from Clunies Ross (Commonwealth of Australia 1991: 11, 70-77). The Territory has two inhabited islands and a total population of 630 of which 64 per cent are Cocos Malays and 36 per cent are Europeans.

Following inspections by the UN¹⁴ in 1974-75 an Australian Commonwealth Administrator was appointed and in 1979 the Commonwealth established an Islands Council elected by popular vote. The Island Council was to carry out local administration and to hold most of the land in trust for the Cocos Malay community (CGC 1989: 12, 18, 78). In the 1980s the UN expressed concern that the Cocos Malay customs and traditions were not part of the administration and laws, and in 1984 the Cocos Malay community was given the opportunity to choose between independence, free association or integration with Australia (Commonwealth of Australia 1991: 77). They chose to integrate and this occurred under the *Cocos (Keeling) Islands Self-determination (Consequential Amendments) Act 1984* (Commonwealth of Australia 1991: 78). With

¹⁴ As a non-self governing territory the islands were subject to inspection by the UN Committee on Decolonisation

integration, the Territory came under a variety of Commonwealth legislation including that applying to health and social security. Like Christmas Island, the Territory is in the Federal Division of the Northern Territory (CGC 1989: 11).

The territory and its administration are notionally divided between two islands West Island and Home Island. The Cocos Malays, who have their own culture, language and religion (Islam), reside predominately on 'Home Island' (CGC 1989: 11). The Europeans, who are mostly officers of the Australian public service, reside on 'West Island' which is the main administrative centre. West Island enjoys higher wage levels than Home Island (CGC 1989: 6, 11-12). An Administrator, appointed by the Commonwealth, is responsible to the relevant Commonwealth Minister and oversees a staff of some 35 Commonwealth Officers plus some local Cocos Malays (CGC 1989: 21). This administration is responsible for many functions on the West Island, including health, quarantine, education, post, customs, police, housing, shipping and local government and in the late 1980s its budget, from the Commonwealth, was \$6.4 million. It also provides some State and Commonwealth services over the whole Territory (West and Home Islands) and is responsible for the estimates of income and expenditure (CGC 1989: 21).

The Cocos (Keeling) Island Council largely carries out the administration of the Home Island. The Council, assisted by advisory committees, provides local government type services and some State type services such as education, health, electricity and housing (CGC 1989: 118). The Council can generate income from stamps, from public housing and electricity, and it can attract loans from the Commonwealth (CGC 1989: 22-23). A Cocos Islands Co-operative Society of elected members is responsible for commercial development issues and for the employment of Cocos Malays (CGC 1989: 12). The Council's relationship with the Administrator is limited to providing him with advice on regulations and by-laws (CGC 1989: 18). Thus, the Territory is split to a degree geographically culturally, politically and economically (CGC 1989: 12-13). This split has some similarities to that between Torres Strait's Inner and Outer Islands, as discussed in subsequent chapters.

In the main, all services, including housing, health and education are funded by the Commonwealth and provided in cooperation between the Commonwealth and Western Australia (CGC 1989: 21, 60, 64). For example, teachers are mostly seconded from the Western Australian Government system (CGC 1989: 11, 55). However, secondary education is available only on the West Island, and Home Island Cocos Malays are encouraged to get their education on the mainland (CGC 1989: 12). The principal of fiscal equalisation commits the Commonwealth to bring the standard of services to its external territories to mainland levels (CGC 1989: 5; Commonwealth of Australia 1991). The notion is that the level of services should be similar to that provided by the Commonwealth and State governments to equivalent remote communities on the mainland.¹⁵ To effect this, the Cocos Island Council entered into a Memorandum of Understanding with the Commonwealth and the Cocos Islands Cooperative Society in 1990 (Commonwealth of Australia 1991: 5).

The Commonwealth would prefer the Territory to be more economically self-sufficient (Commonwealth of Australia 1991: 10; CGC 1989: 26). Cocos Malays were employed in a copra industry, but this has declined and, since integration with Australia, most employment is in the Territory's administration. Other economic activity has been limited, the most significant being the injection of \$8.7 million from the Commonwealth in the late 1980s to raise the services on the Home Island to mainland standards (CGC 1989: 11, 20, 26). The Territory is duty-free (CGC 1989: 89). However the Commonwealth has argued that if services are raised to mainland standards and as wages increase, then some taxes should be applied (CGC 1989: 11, 88). The Cocos Island Council on the other hand would prefer to remain tax free, purportedly to encourage tourism (CGC 1989: 89). Tourism was thought to have some potential but the residents have lacked enthusiasm to develop it and attempts at joint ventures with mainland operators in the 1980s stalled (CGC 1989: 27, 28). The scale of any formal development would be very small, and the islands are a long way from potential markets. Since integration, labour costs have risen to mainland levels and the full range of Commonwealth social security payments is available (CGC 1989: 21, 23). Like

¹⁵ The same principle that applies to Christmas Island (see above).

Christmas Island, the Territory has few economic prospects and little capacity for self-sustaining economic development and without other economic development the economy will remain based around the Territory's Commonwealth funded administration (CGC 1989: 26; Commonwealth of Australia 1991: 10).

The Administrator and his staff have almost total authority over decision-making within the Territory and the Commonwealth Minister and his department in Canberra largely determine the Territory's policies. The responsibilities of the Cocos (Keeling) Island Council are limited, to the extent that it is thought that the Cocos Malay residents may actually have less power than their fellow Australian citizens on the mainland (CGC 1989: 15, 21).

Conclusions

The foregoing models and examples provide information that can inform a discussion about political and economic autonomy for Torres Strait. The models: statehood, free association, and territorial status each have relevance for Torres Strait in their own right. In addition, they reveal more thematic factors that are informative.

The models

Although there have been calls for political independence in Torres Strait, it is unlikely that this status is supported by the majority (see Chapter 6). Nonetheless, the above brief profile of some Pacific Island states is relevant. Pacific Island states are the product of decolonisation and so represent the return of territory and sovereignty to an Indigenous people. In this case the issue of catering for Indigenous citizens and the former colonial power's citizens in the political structure does not normally arise. However, there can be political disputes between groups formed by the process of colonization, as shown in the case of Fiji. Several island states have attempted to cater for tradition in their governments, but it is not clear that there is a good fit between traditional forms of government and government based on franchise for all citizens. That is to say, there is

some tension between democratic representation and what I have termed cultural bicameralism (see Chapter 1). The island states have not prospered economically and have become dependent on external aid. In addition, and in part due to size, or economies of scale, they appear to have few if any options to alter this situation. This last point is particularly informative for Torres Strait, suggesting that the more complete political autonomy of statehood, does not, of itself, assure political independence.

Like statehood, the status of free association is a product of decolonisation. It includes a high level of internal self-government with regional elected assemblies or parliaments. In addition, examples from the Pacific show that it is possible to make some provision for tradition within parliaments and for the representation of those living elsewhere. However, comparing tables 3.2 and 3.3 suggests that governments in free association are less likely to include traditional (structural) elements than are those of independent island states. In all of the above cases, the parent country has retained discretion over matters of security. Indeed, the presence of US military bases is part of the agreement of free association between the USA, the FSM, the Marshall Islands and Palau (Hannum and Lillich 1988: 234; Nile and Clerk 1996: 202). This is an important consideration in Torres Strait where the presence of the international border with PNG may colour the Australian Government's view of autonomy from the point of view of national security (see Chapter 5). All of those in free association are small, dispersed archipelagoes and they have few options to expand economically. Like small-island states they are also dependant on aid, most of which comes from their parent country (Connell 1993: 134-35). Importantly, their citizens are free to live and work in the parent countries, increasing their economic possibilities. Indeed, it has been argued that some may be satisfied with free association because they find the economic prospect and responsibilities of full independence daunting or threatening (Henderson 1994a: 1). In a referendum in 1994 Cook Islanders rejected proposals for their own flag, anthem and Indigenous name, indicating a reluctance to increase their 'distance' from New Zealand. Therefore, free association may well represent a satisfactory compromise for *all* parties both politically, economically and strategically (Larmour 1985b: 336). The same might well apply to Torres Strait. For example, as noted earlier, Torres Strait Islanders now move freely between the Strait and the mainland both socially and economically and a

free association model would preserve this facility (see also Chapters 6 and 7). Importantly, the facility would not be so available if Torres Strait achieved independence.

In general terms, territories appear less politically autonomous than do places in free association. Governing structures are overseen in some way or other by a Department of the parent country and Administrators are common. However, even within the category, levels of autonomy can vary. Australia's Norfolk Island seems more autonomous than Cocos (Keeling) Islands and Christmas Island, which have Shire type structures and are quite strongly linked to a mainland State. On the other hand, it would seem that territorial status has some advantages over free association. For instance, residents can make comparisons between their level of services and those of their parent country (see for example Christmas Island). Several attempts have been made to recognize Indigenous culture or tradition within territories, even in New Caledonia, where Indigenous people are in the minority (see Table 3.4). Seventy-nine per cent of the Torres Strait population is Indigenous, making a good case for the recognition of tradition in an autonomous structure. On the other hand, Australia has made no concession to tradition in its external territories so far. Territories can vary in size and comparing the population of those in Table 3.4 with Torres Strait (7,781) would make a Torres Strait Territory, the largest of Australia's island territories. Or, put another way, the size of Torres Strait's population would not form part of a valid argument against it being granted territorial status. All the territories in Tables 3.1 and 3.4 are small islands and are limited economically. All get support from their parent countries (though this is not the same as aid, as they are after all, part of their parent countries). Parent countries would wish their territories to be as self-supporting as possible, but this would apply to any part of a country. In this respect, there is no particular connection between the political status and the economic performance of places that are territories. Again, as with population, the above suggests that economic dependence would not form the basis of a valid argument against Torres Strait being granted territorial status. I shall return to this point in Chapter 6.

I presented two other examples of autonomy within settler states namely that of Nunavut in Canada and the fisheries agreement for the Maori in New Zealand. The former represents a quite comprehensive regional government. However, like that of territories it

is a regional government that has representation from all residents not just the Inuit. In addition, in achieving regional self-government the Inuit had to agree to give up some traditional rights to obtain other rights. This is a strategy not yet adopted in Torres Strait. The Maori example is instructive as it represents a form of economic autonomy for Indigenous people based on the fishing industry which is the major industry in Torres Strait. As noted above, the Maori fisheries agreement is based around the Treaty of Waitangi. No such treaty exists in Australia. However, as I will discuss in Chapters 4, 5 and 6, the Torres Strait Treaty (between Australia and PNG) provides the 'traditional inhabitants' of the Strait with certain and exceptional rights. It is possible that the Treaty could be further articulated to provide Torres Strait Islanders with some greater economic autonomy in the region's fishery.

The themes

Although each model has its own characteristics and implications for Torres Strait, they also reveal some relevant and overarching themes. Firstly, size as measured by population, varies across all of the models (Table 3.1). The average size of islands in the three types of autonomy shown in Table 3.1 is considerably larger than Torres Strait. On the other hand, the smallest independent state noted (Tuvalu) is not much larger than Torres Strait and Niue (in free association) is much smaller. In addition, Torres Strait is larger than the island territories of New Zealand and Australia. Hence, in some respects population is not necessarily a limiting factor when considering any of these forms of autonomy in relation to Torres Strait.

The proportion of population that is Indigenous also varies across the examples (Tables 3.1, to 3.4). Generally, and unsurprisingly, independent states are the most Indigenous, though even here, Torres Strait is more Indigenous than Fiji and almost as Indigenous as Nauru. Places in free association tend to have quite Indigenous populations. Again though the proportions are not too dissimilar to Torres Strait, and Palau is less Indigenous than Torres Strait. Indigeneity is less pronounced among the territories, and Torres Strait is more Indigenous than several of these. Although Norfolk Island has attempted to argue an Indigenous status, none of Australia's territories has any recognised Indigenous

component to their populations. Therefore, a case for a more autonomous Torres Strait based on its Indigeneity would seem quite strong.

Many of the examples in this chapter include islands that are geographically distant from their former colonising state or parent country. This is not always the case however, and the Inuit and the Maori are integral parts of their states. Nonetheless, it is easier to conceive that a state would award a form of autonomy to group of islands than it would to a part of its mainland. Torres Strait would seem well placed in this regard. However, the Strait is not distant from mainland Australia and also it straddles the border with PNG making it politically sensitive (this latter issue is discussed more fully in Chapter 5). Australia's external territories were not part of the process of decolonisation and were not excised from any Australian State. Torres Strait meanwhile is part of the State of Queensland and, as noted above, there are constitutional conditions to excising it as a more autonomous region. In spite of this is it worth noting that during the period of PNG independence some in the Australian Commonwealth Government proposed that steps be taken to clear the way for the Strait to become a Commonwealth Territory (Rowse 2002b: 341).

In several of the cases noted, attempts have been made to accommodate 'tradition' within the autonomous structures of government. This has been attempted by what I have termed 'cultural bicameralism' where part of the government is composed of a chiefly or traditionally-based class of person. There seems to be a slight correlation between the extent that this occurs and the level of Indigeneity (see Tables 3.2 to 3.4). In some of the examples here, this bicameralism is based on the notion that the Indigenous peoples themselves had or have, a chiefly or special class of person/leader. In Torres Strait society this division could be made between recognised elders, and others. Taking these examples as a precedent, and on the basis of Indigeneity, an autonomous regional structure in Torres Strait could well include an element of 'tradition'. However, it is not clear from the examples that electorates favour such structures. And, in those cases where 'tradition' is included, the traditional element of government appears to be restricted to advising the non-traditional element. The issue of 'tradition' and autonomy will be discussed further in Chapter 6, suffice to say here that, in the examples discussed,

autonomous regions with governing structures elected simply by popular vote are as common as those that include elements of 'tradition'.

It is self-evident that political autonomy is greater in independent states than it is in free association and in territories. Territories may have elected assemblies with quite wide powers. On the other hand, the Australian experience is quite varied. Norfolk Island has an elected Assembly and an Executive Council with ministerial powers, while Christmas and Cocos (Keeling) governments are more like local government shires. All have administrators of some kind and all are under the relevant Commonwealth department for territories. They are all part of Australia but are not in any State. Gaining territorial status would leave Torres Strait in Australia but excise it from Queensland. If the intention were to make Torres Strait more autonomous from Queensland, then becoming a Commonwealth territory would do this. It would mean that the Strait would then deal with one political master (The Commonwealth Government) rather than with two (the Commonwealth and the Queensland Governments). On the other hand, the territories of Christmas Island and Cocos (Keeling) have strong links with the State of Western Australia, largely for the provision of services. An additional advantage of being an external territory is that it allows the territorians to argue for improved services by comparing their level of services with the level in mainland places. The examples in this chapter suggest that the general standard of living is higher in the territories of wealthy parent-states than it is in independent states or in places that are in free association.

Linked to this last point is the fact that, in the examples, political autonomy has not led to greater economic autonomy and all of the regions remain economically dependent on financial support from their former colonial state or parent country or on other wealthy members of the international community. In some respects their economic situation relates to their size, their limited resources, their low skills and their isolation. These disadvantages are not necessarily overcome through political autonomy.

Generally, political autonomy was not conditional on reaching a certain economic status in any of the cases cited. However, Norfolk Island is instructive here. It has been the most economically sound of Australia's external territories, and has been given the

greatest political autonomy. We should also note here that Australia is a federation of States and Territories, making it different for example from New Zealand. It can be argued that in federated states, central governments have already given some autonomy to their constituent parts, such as to their States and Territories, and that therefore the ceding of autonomy to regions, such as Torres Strait would be less exceptional. On the other hand, the political status of Norfolk Island, and indeed Australia's other external territories, is not complicated by having to accommodate Indigenous and non-Indigenous residents as would be the case in Torres Strait. As I will discuss further in Chapter 6 and 8, this factor may represent one of the greatest hurdles to achieving autonomy in Torres Strait. As I will show in Chapter 6, to date, Torres Strait Islanders have been unable to envisage a regional model that would embrace both Indigenous and non-Indigenous residents. None of the regional models proposed above, including that of Nunavut, are for Indigenous people only.

Movement out of the autonomous regions noted in this chapter is common. Free association and territorial status allows people to reside and work in their parent state and many take advantage of this, if for no other reason, than to earn income for their families at home. The extent to which the above models accommodate such movers in the autonomy of their homeland is limited. One of the few examples is that of the Cook Islanders who live in New Zealand and who are represented in the Cook Islands Assembly through an overseas seat. Many more Torres Strait Islanders live on the Australian mainland than in Torres Strait and so this issue has relevance for Torres Strait and is discussed in Chapter 7.

Connell (1988: 82) argues that islands in free association and island states have actually increased their ties with the metropolitan powers in their forms of economic dependence or interdependence. Reynolds has suggested that Indigenous peoples may see the state as the best or irreplaceable protector and, once some form of self-government was in their hands, then they would actually want more state involvement to underwrite their autonomy and to provide a secure arena in which they could operate (Reynolds 1996). In this way, the level of Indigenous autonomy would be a balance of political desires and fiscal realities (Reynolds 1996: 141). It is instructive here to note that during discussions

in 1998 about policing the border with PNG, Torres Strait leaders actually asked the Commonwealth to increase its presence in the Strait (Waia 1998). On the state's part, we can see that it too may have its own reasons for wanting to retain and even increase its ties. In the first years of this decade Australia has, as a condition of its financial aid to PNG, increased its influence over PNG's governance and in the interests of regional security, it has deployed troops and police to the Solomon Islands. Thus, like the models discussed in this chapter, both Torres Strait Islanders and the Australian Government may have a common interest in ensuring that any model of autonomy does not create too great a distance between them politically or economically.

The following chapter returns more specifically to Torres Strait to discuss its history up to the time of the Commonwealth Inquiry. This history focuses on how elements of political and economic autonomy might have been lost or regained through the particular form of contact and colonisation in Torres Strait.

Chapter 4

Losing and regaining autonomy?

The people of Torres Strait enjoyed complete autonomy from pre-historic times to annexation by Queensland in 1872 (HORSCATSIA 1997: 13).

At a post-Inquiry meeting on Thursday Island in 1999 an Islander said that their desire was to manage their own affairs, something which had been taken away from them (Notes from meeting on Thursday Island 25 Oct 1999).

Torres Strait is constitutionally part of Australia, the State of Queensland and the Torres Shire, and Torres Strait Islanders are Australian citizens. As Australian citizens they have rights, are subject to the various laws of Queensland and Australia and are part of the economy of the region, of Queensland and of Australia. This was not always the case. Before colonisation Torres Strait Islanders had other laws and followed another economy. These former laws and economy have changed over time as the region was made part of the colony of Queensland and then of Australia. We can imagine that this has also changed Islander autonomy both politically and economically. This chapter is an overview of the history of Islander/non-Islander history from contact up to the 1990s, the decade in which the Commonwealth Government held its Inquiry into Torres Strait Islander autonomy. The aim of this exercise is to reveal the changes that have occurred in Islander autonomy and to determine the level of Islander autonomy at the time of the Commonwealth Inquiry. The sources for this chapter are the relevant historical works and my own research. In line with the thesis outline, these sources have been analysed by giving most attention to what they reveal about the changes in political and economic aspects of autonomy.

Pre contact

The first systematic research to occur in Torres Strait was carried out in 1898 by a team of researchers from Cambridge University led by Alfred Haddon. In academic terms this represented one of the earliest systematic inquiries into Australian Indigenous society. Even so, Beckett (1963) has noted that by that date society had been considerably modified following the activities of the London Missionary Society

(LMS) and of the shell fishers from the South Pacific (see below). Thus our information about pre-contact society and its forms of political authority is limited and what we do know may not have been uniform across the whole region.

The locus of power in traditional Islander society appears to have been magico-religious. This power was derived from various sources, such as certain magic stones and from spiritual ordeals and ceremonies. It was also held in paraphernalia for cult performances such as masks (Beckett 1963: 10, 13). This concept of power imbued all aspects of life, and ceremonies were held for all of the major activities including head hunting and subsistence (Beckett 1963: 11).

The power that derived from these rites and performances seems to have led to the formation of cult groups (Beckett 1963: 110). However, it is also thought that power and authority was held and administered by some form of chiefly group and/or groups of hereditary elders (Beckett 1963: 15, 26).¹ Nonetheless, within this system it has been suggested that there was also a significant degree of individualism and that political authority was only activated to organise people for group events such as inter-island fighting, trading expeditions, and for ceremonial activities (Beckett 1963: 11, 16-17, 38). Rights to land (for example land for gardening) or to reefs were generally inherited through males and could be held by clans or by individuals (Beckett 1963: 24; 1987: 115). Each island society was made up of totemic patrilineal clans, moieties and tribes (Beckett 1963: 7, 17).² There appears to have been no regional or region-wide political identity or activity.

Economic activity differed across the region and followed ecological variation (Harris 1979; Beckett 1963: 52). Thus, in the east gardening was very important while the central and western islands focused more on fishing. Trading was part of the economy (Lawrence 1991). For instance, Murray Island clans specialised in garden produce and traded the surplus (Beckett 1963: 25). Some on that island acted as ‘middle-men’ who facilitated trade between PNG and other islands (Beckett 1963: 26; Lawrence 1991). Early accounts of contact with the region suggest that the Islanders were ardent and shrewd traders (Mullins 1995: 57). Possibly this heritage accounts for the contemporary

¹Missionaries gave these people the title ‘mamoose’, see below (Beckett 1963: 15).

²For example, Murray Island had five tribes of 28 clans (Beckett 1963: 18).

concept of the 'middle-man' amongst Islanders (see below and Chapter 6). This early trading indicates that the islands were not totally economically autonomous. Indeed, all islands obtained canoe hulls through trade with PNG, leading Beckett to propose that the Islanders were dependent on PNG for their very way of life (Beckett 1987).³

Although Islanders are sometimes described as Australia's Melanesian indigenous people, the Strait was always something of a cultural mix. As noted in Chapter 2, the language(s) of the central and western islands (*Kala Lagaw Ya*, *Kalaw Kawaw Ya* and *Muralag*) have both Papuan and Aboriginal features while that in the east (*Miriam Mer*) is more particularly Papuan. Islanders had as much in common with people in PNG as with those in Aboriginal Australia. Indeed, some Islander and Papuan groups shared the same totems and totemic clan organisation (Beckett 1963: 9, 27). Thus there was some cultural variation across the region.

Despite there being no regional political unity as noted above, there were some potentially unifying themes. People from different islands intermarried and, as noted, they fought and traded. More importantly though, some of the major myths traversed the region. For instance, one major mythical hero traveled from the western islands to the east; and a principal mythical figure in the western islands was proclaimed to Haddon as 'a great man...he master over all these islands' (Haddon 1935a: 85). In addition, islands shared the same clans and people of the same clans appear to have formed some inter-island bonds (Haddon 1935a). Further, some of the myths associated with what we call Torres Strait extended into the coastal region of PNG. Therefore, there were some cultural features which, in various ways, operated across islands and even on to the north coast of the Strait and acted to form a type of 'cultural region'. More contemporary cultural features perpetuate the notion of a cultural region and these are discussed further in Chapter 5.

In summary, we can say that even before the arrival of Europeans, autonomy was something of a relative concept if applied to the whole of the Strait. Political authority seems to have been quite weak alongside what appears to have been some individualism (Beckett 1963: 16, 38). It is hard to clearly define what the dominant

³ Pearls shell was exchanged for canoe hulls. The shell and the hulls passed through a complex system of exchange with the shell reaching into the PNG highlands and canoes extending some way down Cape York.

political unit was, possibly the clan. However, political authority seems to have been event-specific. Islands were quite separate and they or their inhabitants did not form a political region. The economy was also not uniform across the region, trading was common and the islands were dependent on trade with PNG for canoe hulls.

In 1606 the Dutch captain Willem Jahszoon passed through the Strait, landing on the west coast of Cape York (HORSCATSIA 1997: 14). In that same year the Spaniard Torres sailed through the Strait and both the region and the inhabitants were to be given his name.⁴ For the next two hundred years contact with Europeans was limited to that with other explorers and was sporadic, intermittent and sometimes accidental, as in the case of shipwrecks. More permanent and purposeful contact came in the late 19th Century with two almost concurrent waves of 'colonisation' from the South Pacific. One was economic, based on the exploitation of beche de mer and pearl shell, and the other was religio-administrative, in the form of the London Missionary Society (LMS).

1860s, and laissez faire

The Colony of Queensland was created in 1859 but its letters patent only gave it jurisdiction over those islands to within three nautical miles of the mainland and government administration, centered at Somerset on the eastern tip of Cape York, was established in 1864 (Kaye 1997: 35). The first significant non-Indigenous impact on the Strait came in the 1860s when operators from New Caledonia and the New Hebrides arrived to exploit the beche de mer and pearl shell (Mullins 1995: 54-56, 60). These operators established bases on the eastern islands and as these had not yet been incorporated in Queensland, they operated outside the Colony's jurisdiction (Mullins 1995: 57, 59; Ganter 1994: 19).

The beche de mer and pearl shell fisheries were to dominate the Strait's economy until the 1950s. Initially, Islanders were not a large part of the industry and lugger crews came mostly from other parts of the world such as Mexico, Mauritius, Java, Singapore and Sri Lanka. Crews also included South Sea Islanders (SSIs) from Rotuma, Mare, Lifu, Tana, Eromanga, Aneityum, New Caledonia, the Solomon Islands, Samoa, Niue, Sandwich, and Mare (Mullins 1995: 69-70; Ganter 1994: 20). This early contact was

⁴ As I argue in Chapter 5, this has been a regionally unifying act.

not always friendly. For instance, locals challenged the arrival of 30 SSIs at Saibai in 1869 and there are records of Islanders and SSIs clashing over access to land for gardening (Mullins 1995: 65; Ganter 1994: 19). However, SSIs were soon incorporated into Islander society often through inter-marriage. Islanders were used to supplement this imported work force, often on a seasonal basis (Ganter 1994: 19) and when not working in the industry they would engage in their traditional subsistence fishing and gardening. This pattern of involvement led Beckett to classify the early Islander labour relations as internal colonialism (Beckett 1977). This is where capitalism does not fully transform people into wage-labourers but leaves them attached to their traditional economy from which they can be recruited as necessary. This is a relatively negative view of such contact. It is possible to also view this form of contact in a more positive light. For, as it does not entirely destroy or displace the traditional economy entirely, it can be said to leave people with some degree of economic autonomy. Further, this is a form of autonomy that may be more likely to be available to people on small islands. This is because fish cannot be fenced off, and so it is harder for colonisers and/or conquerors to separate the people from this aspect of their means of production. In Torres Strait, this was particularly so, as the pearl shell and beche de mer fishers did not particularly want the land but only a certain product from the sea.

The period from 1862 to 1885 has been called the 'island station phase' as operators established bases on islands distant from the mainland and outside Queensland's jurisdiction (Ganter 1994: 23). This may have helped to create the present distinction between the Inner and Outer islands (see below). In any event, the predominant impact on Islander economic autonomy in this period was not from the colonial administration but from the unregulated beche de mer and pearl shell industry and its imported labour force. It is also important to note that, from this earliest time, the commercialisation of Torres Strait was through an in-shore fishing industry and not through an off-shore one, as has been the case in many neighbouring parts of the South Pacific.

1870 to 1900, missionaries and government

The second wave of colonisation was via the London Missionary Society (LMS). The LMS arrived in 1871 and was to have a significant impact on Islanders' lives. Like the marine industry, the LMS originated in the South Pacific and brought SSIs to the Strait. The LMS persuaded Islanders to cease inter-island warring and limited the often-coercive recruitment practices of the fishing operators. For these reasons, Islanders see the arrival of the LMS in positive terms. The arrival of the LMS is characterised as the 'Coming of the Light', is celebrated annually and is viewed by some Islanders as being as important as Christmas (Mosby 1998).

The LMS established a limited form of local government on the islands. It organised Islanders into villages on each island and in some cases imposed curfews on their movements (Beckett 1963: 64, 77). To administer this church-based local government the LMS imported SSI pastors from the South Pacific (Beckett 1963: 75; 1987: 39, 111, 151). These pastors, and the SSI crewmen discussed earlier, had been educated by the missions in the South Pacific and were relatively skilled in English. Because of this they were able to act as spokespersons between Islanders and Europeans and so achieved positions of authority (Beckett 1963: 94; 1987: 24, 33; Mullins 1995: 75). SSI crewmen were also paid more than Islanders were (Mullins 1995: 74). It has been suggested that these qualities made SSIs desirable marriage partners for Islander women and by 1872 SSI men were married into every to Island community (Shnukal 1992). All of these factors tended to create a social distinction between SSIs and Islanders which, it has been suggested, remains today (Shnukal 1992; Beckett 1987: 166). However, it is also important to note that many contemporary Islanders are proud of their mixed heritage. During an autonomy meeting on Thursday Island at the time of the Inquiry, a health worker newly arrived from the Pacific began an address to the meeting by saying 'hello' in several of the languages the Pacific Islands. A cheer from the Islanders in the audience welcomed each greeting, and at the end a voice cried out that he had missed one, namely Tokelau. At the same meeting, one prominent female Islander proposed she was a Torres Strait Islander but that she was also proud of her mixed Scottish heritage, and a Kaurareg leader announced his mixed SSI/Islander background but said that he now chose to identify as an Islander. Appendix C shows

part of the ancestral origins of some families on a selection of islands. I shall return to this issue in Chapter 6.

The LMS was intolerant of, and suppressed, Islander customs, rituals and beliefs. The LMS SSI pastors banned Islanders' traditional dances, which were heavily based on the traditional cults and instead encouraged those from their Pacific homes (Beckett 1963: 77, 95). This helps explain the Pacific influence found in many contemporary Torres Strait Islander dances. Beckett proposes that through all of these changes the LMS reconciled Islanders to the colonial order (Beckett 1987: 39). However, he also notes that Islanders were themselves able to access the church hierarchy by becoming deacons and pastors and that this provided them with an avenue of influence in their post-traditional society (Beckett 1963: 75).

Queensland began to make its presence felt in the region in this period. In 1872 Queensland annexed all islands within 60 km of the mainland and in 1879 the remaining islands to within 5 km of the PNG coast (Beckett 1987: 42, 45; HORSCATSIA 1997: 14; Kaye 1997: 35-37). In 1877 the administrative centre was moved from Somerset to Thursday Island and Queensland began to replace the LMS in island administration. Queensland appointed a head-man as a magistrate (mamoose) on each of the eastern islands, formed minor chiefs into island courts to administer local laws, and set up island police (Beckett 1963: 42, 45, 82; Davis 1998: 84; Mullins 1995: 164). However, despite this apparent Islanderisation of the administration, the LMS still held sway over the derivation of the laws and over the selection of the officials (Mullins 1995: 164).

In 1886 John Douglas was appointed as the Queensland Government Resident of Torres Strait. Through him Queensland began to exert more influence and establish more effective government on the outer islands. Douglas replaced the appointed mamooses with Queensland Government European 'teacher-supervisors' and elected island councils to advise the 'teacher-supervisors'. He also instituted compulsory education in island schools (Beckett 1963: 83; 1987: 44, 89, 121). Beckett proposes that the mamooses and their courts had invaded all aspects of Islander life, suggesting that they had greatly reduced Islander autonomy, at least at an individual level (Beckett 1963: 82,

85).⁵ Douglas's elected councils meanwhile are seen as unprecedented in the administration of Indigenous Australia and the Pacific in general (Beckett 1963: 82; 1987: 45, 122). There is evidence that Islanders favoured the new council system and that they asked for more powers to be passed to them (Beckett 1963: 86). I would argue therefore that this system of elected local government, introduced as it was at such an early date, increased Islanders' political autonomy.

On the other hand, other government rules reduced Islander autonomy. For instance Islanders, including those from the South Pacific, were not allowed in the hotels on Thursday Island and were forbidden from living there (Beckett 1963: 86; 1987: 47, 58). This not only reduced personal autonomy but no doubt increased the distinction between the Inner Islands and the Outer Islands, creating the notion that these were separate non-Islander and Islander domains respectively (see Chapter 6). In the early 1900s the forerunner of the present Torres Shire was established. It limited its activities to what we now know as the Inner Islands, making yet a further distinction between the two domains.

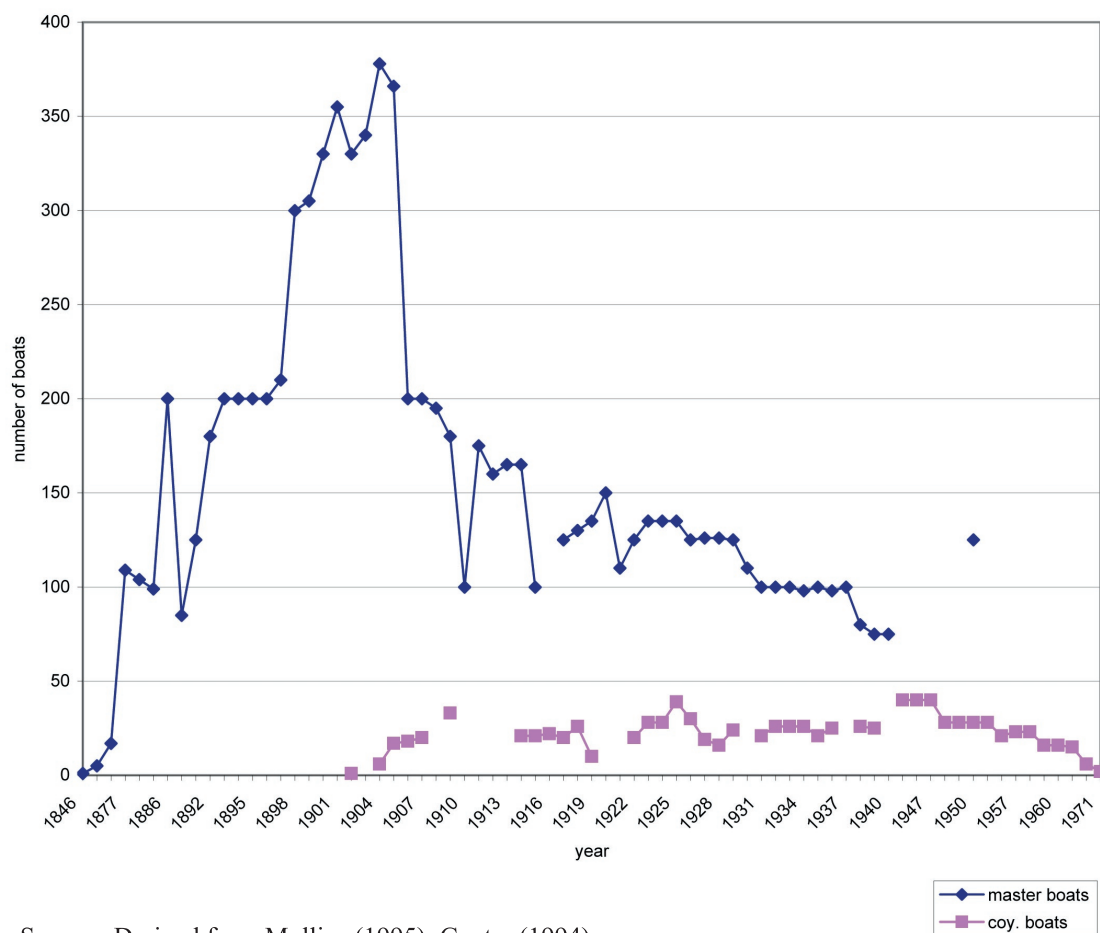
By 1872 there were between 300 and 400 SSIs working in the shell fishery in the western islands alone (Mullins 1995: 72) and though crews were mixed, SSIs predominated. An example of the composition of one crew was: three Europeans, one Chinese and 31 SSIs (Mullins 1995: 70). Nonetheless, Islanders involvement was increasing. In 1870, one crew included 40 Islanders from Tutu Island near Yam Island, and in the next few years other Islanders were recruited from the central and eastern islands (Mullins 1995: 74). Some western islanders (from Mabuia and Badu) also began to collect pearl shell on their own initiative, selling these to the European operators (Mullins 1995: 74).⁶

The number of pearl shell luggers increased dramatically in the period, from around 20 in the early part of the decade to just over 100 in 1879 (Fig. 4.1). New diving equipment and air pumps made the industry more capital intensive, and a few large companies from Sydney dominated, limiting the emergence of local operators. On the other hand, being crew with these Sydney operators gave Islanders the opportunity to

⁵ I myself have heard present-day Islander leaders deride the early mamoose system.

⁶ As shown in Table 4.2 below, and elsewhere in this thesis, western islanders have continued to be at the forefront of the Islander sector of the commercial fishing industry.

Fig. 4-1. Shell Boats in Torres Strait, 1840s to 1970s.



Source: Derived from Mullins (1995); Ganter (1994).

visit Sydney and other eastern ports, so beginning a connection with the mainland that more than likely influenced the pattern of post WWII migration discussed below and in Chapter 7 (Beckett 1987: 47).

During the 1880s police from Thursday Island coerced Aborigines from the nearby mainland into the Strait's marine industry and some Papuan labour was imported through Daru (Ganter 1994: 23, 38, 42-43). All Indigenous workers (Islanders, Aborigines and SSIs) were paid less than Europeans (Ganter 1994: 14). However, Islanders were paid more than Aborigines and Papuans, and it is reported that they began to see themselves as the superior group (Ganter 1994: 3, 38-39; Beckett 1963: 96; 1987: 57-8). Government officers of the day also argued that some distinction should be made between Islanders and Aborigines (Ganter 1994: 39; Beckett 1963: 83, 45).⁷ In accord with this, Queensland's *Aboriginals Protection and Restriction of the Sale of Opium Act* of 1897 applied specifically to Aborigines and so excluded Torres Strait Islanders. This legislation tended to supplement the cultural differences noted earlier, and so legitimised a distinction between Islanders and Aboriginal people. This distinction has formed part of the concept of Islander autonomy until today. That is to say, one aspect of autonomy for Islanders is to be considered separately from Aboriginal people (see Chapters 6 and 7).

1900 to WWII, striking for autonomy

Queensland Government intervention in both the political economic lives of Islanders increased in this period (Beckett 1987: 44). In 1904, following the death of Douglas, Islanders were brought under the same Queensland legislation as Aborigines. Again, with reference to their contemporary aim to be treated separately from Aborigines, Beckett proposes that this is one of the first political events that Islanders remember and comment upon (Beckett 1987: 101). The new Protector (W. Roth) now exercised control over all employment and individual pass books. Compulsory deductions, amounting to 20 per cent of a single man's wage, were paid into an 'island fund' for each island and this provided the equivalent of 'pensions' for workers until 1941

⁷ The Protector of the period, Douglas argued for this distinction based on Islanders' 'marked mental superiority over the mainland native' (Beckett 1987).

(Beckett 1963: 88; 1987: 49). The Queensland Government also took control of all of the island stores.

The LMS's influence was waning and in 1914 it was replaced in the Strait by the Anglican church. The Anglicans were more tolerant of traditional custom and importantly, their hierarchical structure provided opportunities for Islanders to become church officials such as Deacons and Wardens (Beckett 1987: 56). In the intervening years Islanders have become major players in the Anglican church in their own right.⁸

There were changes in the *beche de mer* and pearl shell fishery. Floating stations or boats working to mother ships were introduced, as were more skippers from Malaya, the Philippines and Japan (Ganter 1994: 23). This was in part due to an increasing reluctance by Europeans to be involved in the industry. Islanders remained near the bottom of the wage scale, Japanese divers were paid around 98 pounds per year and Islander skin-divers an average of 18 pounds per year (Beckett 1987: 37).⁹ Islanders were now some 20 per cent of the industry's workforce. However, they continued to only work part-time as wage labour and the remainder work in their subsistence activities, a pattern that continues today (see below) and it was reported that they were not always enthusiastic workers (Beckett 1987: 15, 118, 153). However, it is possible to view this pattern as a sign of Islanders exercising some autonomy, as noted above. The fact that Islanders can obtain food from their gardens and the sea if they so wish allows them to decide whether or not to be fully involved in wage labour. As I argued above, it is more difficult for colonisers to displace fishers from their traditional means of production, and so it is easier for them to retain the economic autonomy that this might provide. Another development was that after 1912 trochus shell became part of the region's fishery. This is a relatively accessible fishery, the shell is found in comparatively shallow water, and this has had implications for Islander economic autonomy, which I will discuss further below and in Chapter 6. Beckett notes that the social structure also appeared to undergo some changes in this period. In particular, the pre-contact totemic clans began to give way in importance to the family as the unit of social organisation (Beckett 1987: 218). Though clan groupings remain important

⁸ The current bishop of Torres Strait is a Torres Strait Islander.

⁹ Japanese divers used the classic (deep-sea) diving suits of the period. Islanders dove for shell with only goggles, often homemade.

today, the individual and the family have become increasingly significant economic units in the contemporary fishing economy (see below and Chapter 6).

In the early 1900s an Islander-specific section of the marine economy was created. The LMS had not been enthusiastic about Islander involvement in commerce and one of its number, the Reverend Walker, was obliged to resign to fulfil his own personal vision of Islanders as owner-operators of *beche de mer* and pearl shell boats (Ganter 1994: 68). To do this Walker created the Papuan Industries Limited (PIL) in 1904 and this was to run to the 1930s (Beckett 1987: 50; Ganter 1994: 70).¹⁰ Boats in the scheme became known as 'company boats' as compared with the European owned boats which were termed 'master boats' (Beckett 1963: 70). In the scheme Islanders could rent or purchase boats from the PIL. The PIL advanced half the price and awarded Islanders loans repayable at 5 per cent (Ganter 1994: 71). The company boats were required to sell their produce exclusively to the PIL, which acted as an agent, and to purchase their goods from the PIL's stores (Ganter 1994: 71). By 1906 there were 17 boats in the scheme and by 1907 there were 20, with 170 Islanders working on them (see Fig 4.1).¹¹ Boats were located at Yorke, Murray, Mabuiag, Boigu, Yam, Coconut, Darnley, and Badu Islands. It is worth noting that although most islands had boats, the centre of the PIL's activities was Badu Island in the west (Ganter 1994: 25; Beckett 1963: 70). This may well have helped Badu achieve some of the economic advantage that it appears to have today and which is discussed later in this chapter.

Though initially people worked hard to pay boats off, it seems that their effort decreased after this happened (Ganter 1994: 74; Beckett 1963: 89). It has been suggested that this might have been due to a lack of incentive within the scheme. For instance, the boats were controlled by the Queensland-appointed mamoose or later, the teacher-supervisor and the proceeds were split between the respective islands rather than between the skippers and crew (Ganter 1994: 72, 76; Beckett 1963: 84). Also, the company boats did not use pumping equipment for air and so may not have been viewed as being a fully legitimate part of the industry (Ganter 1994: 73). Certainly, the scheme produced a two-part industry: 'low-tech' company boats operated by Indigenous people and 'high-tech' master boats operated by Europeans. Also, reflecting

¹⁰The name of this venture says something about the LMS's primary orientation, which was to Papua in the north.

¹¹Though the scheme was aimed at Islanders, some SSIs were also involved (Ganter 1994: 71).

the work patterns noted above, the company boats were not used solely for commercial fishing but were also used for subsistence activities and for making inter-island social visits (Ganter 1994: 73; Beckett 1963: 89). However, Walker felt that whatever their economic success, the scheme increased Islander self worth and business skills in the industry (Ganter 1994: 76). In any event, Islanders saw boats as a mark of prestige, pride and of economic independence (Ganter 1994: 73). It is worthwhile noting that the PIL occurred in the early 1900s and a comparison with the mainland is useful. For, although Aboriginal people were by then a significant part of the cattle industry, they were not to become owner-operators for a further 70 to 80 years.

During the mid 1930s some 400 men were employed on 25 company boats. The boats were earning around 15 per cent of all of the pearl shell income and had become a symbol of prosperity for Islanders (Ganter 1994: 80). However, the PIL was hit by a slump in world price of pearl-shell, and it was transferred to government ownership and renamed the Aboriginal Industries Board (AIB) (Ganter 1994: 61, 86). The AIB was to be the first of a succession of quasi-government bodies involved in commercial fishing and the retail industry in Torres Strait. The Protector viewed Islanders as wards of the Queensland Government, and the AIB and the company boats as belonging to the government, and Queensland took increasing control of the boats and the crew's wage books (Ganter 1994: 77-78). This irked Islanders who also felt that they were being cheated, as the wage rates in the AIB were lower than those paid on the master boats (Beckett 1987: 53; Ganter 1994: 88, 90). The upshot was that the Islanders went on strike from the company boats for four months in 1936 (Beckett 1963: 91; Sharp 1982).

Events following the strike indicate that it produced some gains in Islander political autonomy. For instance, a regional meeting of Islanders was held on Yorke Island, an event now celebrated annually as the first regional gathering of Islanders 'where we came together to discuss development' (Mosby 1998). This meeting led to the drafting of new Queensland legislation that, in accord with Islander wishes, again separated them from Aboriginal people administratively (Beckett 1963: 92). In the same period, the Protector's Department was changed to the Department of Native Affairs (DNA). Also, the government post of teacher-supervisor was replaced with a new system of elected island councils to whom control of the company boats was passed, and Councilor's conferences were established (Beckett 1987: 54, 122; Kehoe-Forutan 1990:

89). (Beckett 1987: 56). In addition, regional representatives were elected and formed into an Island Advisory Council to provide advice to the Queensland Government about Islander affairs. Islanders also succeeded in having the previous Protector (O'Leary) removed from office (Beckett 1987: 54). This is informative in as much as it mirrors demands for the removal of the director the Department of Aboriginal Affairs in the late 1980s (see Chapter 6) and may indicate the extent to which Islanders viewed such government representatives as anathema to their autonomy. There were three heads of the Protector's Department and then the DNA between 1914 and 1986¹² (Beckett 1987: 3). Given that this amounts to a seventy-year period, it is easy to see how these officers might have viewed this remote region as their fiefdom and treated Islanders accordingly.

In 1939 the AIB was renamed the Island Industries Board (IIB) and this was to remain in place for some 50 years (Ganter 1994: 86). Despite the apparent gains noted above, the Queensland Government, through the IIB, continued to control the income and accounts associated with the company boats, which were now referred to as the 'DNA fleet' (Beckett 1987: 55; Ganter 1994: 87, 91). It has been suggested that this level of government control inhibited the emergence of Islander entrepreneurs (Beckett 1987: 56). On the other hand, the DNA tended to allocate boats to families or clans rather than to whole islands, and it can be argued this probably stimulated a more individual level of entrepreneurship (Ganter 1994: 91; Beckett 1987: 154).

Ganter suggests that the 1936 strike was not regional as it had no regional leaders and islands dealt with the government very much as separate units (Ganter 1994: 89). Beckett also sees the 1936 strike as an anomaly as far as regional political action is concerned, as islands rarely acted together either economically or politically (Beckett 1963: 362, 373, 395). He noted for example that small scale economic ventures on Badu succeeded while cooperative ventures on Saibai and Murray Islands failed (Beckett 1963: 388). Thus islands and Islanders tended to act autonomously of each other, a fact also noted in the 1990s, when any inter-island cooperation seemed to depend on the force of the government or the church (Arthur 1990; Beckett 1963: 372). Despite this, the above also suggests that the strike action led to a greater degree and feeling of regionalism, if not regional autonomy and the strike is now lauded by

¹² Bleakley, O'Leary, and Killoran

Islanders as indicating the emergence of their regional political activity. The experience of WWII seems to have compounded this somewhat.

In wartime a national government's interest in its border regions increases. In Torres Strait this increased interest brought Islanders into contact with Australian soldiers who were stationed there during WWII. This gave Islanders a new realisation of their place in the nation with respect to the Queensland and the Commonwealth Governments, raising their collective consciousness and impacting on their perceptions of autonomy (Sharp 1993: 224; Beckett 1987: 63). During the war the European population was evacuated and replaced with Australian soldiers. Islanders were formed into a Torres Strait Light Infantry (TSLI) increasing their notion of themselves as Australians.¹³ The TSLI was formed of four sub-regional companies: A, B, C and D based on the island groupings shown in Table 4.1.¹⁴ This basic structure of sub-regionalism continued after the war and by 1949 the DNA was dealing with Islanders through representatives drawn from such island groups (Beckett 1963: 362; 1987: 75; Duncan 1974). Members of the TSLI (some 900 volunteers between 16 and 35 years old) were only paid half the standard army rate stimulating another strike after which the wage was increased to 2/3rds the standard (Beckett 1963: 102; 1987: 63). This strike can be seen a second expression of some regional political action, after the 1936 marine strike. Members of the TSLI were also promised a better 'deal' after the war as a reward for fighting for 'their country'. This was characterised by Islanders as achieving their 'full citizenship rights', their 'freedom' and some notion of economic advancement (Beckett 1963: 102, 126).

Table 4.1 The Torres Strait Light Infantry (TSLI), 1945

TSLI Company	Islands	Sub-regional island grouping
A	Erub, Mer	Eastern
B	Badu, Mabuiag, Moa	Western
C	Purma (Coconut), Yam, Massig	Central
D	Boigu, Dauan, Saibai	Northern

Source: Horton (1994: 1087).

¹³ It is notable that several contemporary Islander dances and songs deal with the war period and the TSLI.

¹⁴ Although many Australian Indigenous people served in the armed forces in WWII, the TSLI was the only purely Indigenous regional militarily unit.

In its administration of Islanders the DNA acted as a 'middle-man' intruding between them and many aspects of their life (Beckett 1963: 86, 107, 361-62; 1987: 65). However, being on the international border and close to the war front in PNG, Commonwealth interest in the Strait increased. This made Islanders more aware of the Commonwealth Government and its relative power (Beckett 1987: 105). Islanders began to mistrust the Queensland administration, suspecting it of withholding information and monies due to them.¹⁵ This is more than likely related to the fact that the Queensland Government, in the form of the IIB, was the principal buyer of shell from Islanders.¹⁶ Indeed, political autonomy has been characterised by some Islanders as removing Queensland as a (political) 'middle-man', so that they can deal directly with the Commonwealth Government (see below and Chapter 6).¹⁷

1950s to 1960s, post-war migration

In 1965 Queensland's DNA was made the Department of Aboriginal and Islander Advancement (DAIA) (Beckett 1987: 186). Islanders still had no Queensland franchise, and island councils were their only political representatives. Though Islanders were now allowed to live on Thursday Island, some became frustrated with the perceived lack of progress towards the political autonomy or 'freedom' they imagined would be theirs after WWII (Beckett 1963: 107; 1987: 77). This dissatisfaction increased when Pacific island colonies began to achieve their independence and regional leaders emerged who had the idea of contesting or 'fighting' the government for improvements (Beckett 1987: 75, 102, 137-38).¹⁸

The Queensland Government now employed more Islanders in skilled positions, but it still controlled their basic wage and although this was raised, it was still lower than that of unskilled local whites (Beckett 1987: 71). In the early 1960s the Commonwealth gave Islanders the vote and they became eligible for some social service payments such

¹⁵Beckett points out that suspicion is a common social trait within Islander society (Beckett 1963: 129, 135-36; Beckett 1971).

¹⁶In the 1940s a communist party researcher felt that this apparent monopoly by the IIB was inhibiting Islander economic development and control (Kehoe-Forutan 1990: 85).

¹⁷Today, Islanders are still suspicious of fish buyers who they classify as the 'middle-men' (Arthur 1990).

¹⁸Richard Davis has noted that Islanders adopt the metaphor of 'fighting' when discussing their dealings with government (Davis 1998).

as child endowment, maternity and some pensions (Beckett 1963; 1987: 71, 74, 103). The 1967 Referendum gave the Commonwealth the power to legislate for Indigenous people and there was a growing perception among Islanders that they might achieve more by working with the Commonwealth rather than with the Queensland Government (Beckett 1987: 186).

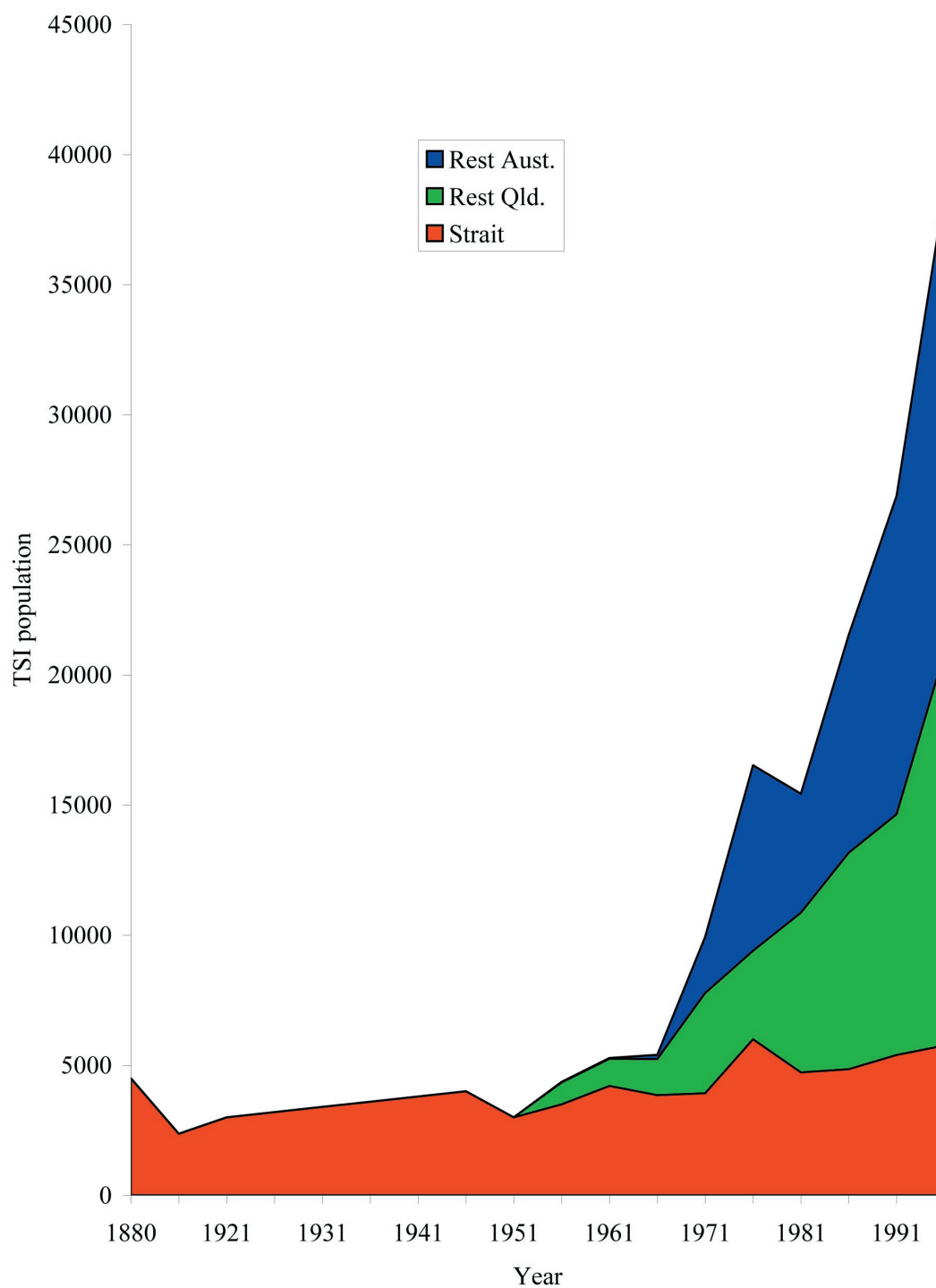
Structural changes also occurred in the marine industry. Up to WWII, the highest paid shell divers were usually Japanese. After the war, Islanders replaced the Japanese as divers and skippers and their incomes increased accordingly (Beckett 1987: 66, 68, 107). In this, Beckett identified the emergence of an ethnically based class system. For instance community leaders and government employees were often of mixed SSI and European descent. In some cases these people continued to be the 'middle-men' operating between Islanders and the administration as noted in earlier times (Beckett 1963: 395; 1987: 84-85). Given that people of SSI descent were more prevalent on some islands than on others this had the potential to create differentiation between islands (see Arthur 1990). Badu Islanders were more likely to be employed on company boats and to have higher incomes than were Murray Islanders (Beckett 1987: 160). Beckett speculates that this was because some personalities with SSI ancestry who resided on Badu were on the island council and employed their family members on their boats (Beckett 1963: 51, 112). At the same time, these same council members exercised some significant control over other residents to the extent that this subverted their individual autonomy. Indeed, Beckett has proposed that Badu operated like an oligarchy (Beckett 1963: 387).

The marine economy was relatively strong in the early 1950s, many islands had one or more company boats, and Islanders were proud of their place in the fishing industry (Beckett 1987: 108-11). In fact, this is now seen as something of a golden era in Islander history and a common contemporary Islander artifact is a model of a shell-lugger from this period (Fig. 4.2). However, demand for shell declined rapidly in 1959 and by 1960 several islands could not maintain their boats (Beckett 1963: 112; 1987: 126). Some of the slack was taken up by the Queensland Government, which employed more people than the private sector on Thursday Island and reinforced the notion of Thursday Island as something of a government town (Beckett 1987: 70, 84).

Fig. 4-2. Model lugger, Thursday Island, late 1990s.



Fig. 4-3. Geographical Distribution of Torres Strait Islanders, 1880 to 1996.



Note: (a) Where data are unavailable, particularly pre-1946, figures are estimates and averages.

Source: Derived from Beckett (1987); Caldwell (1975); Fisk, Duncan and Kehl (1974); various ABS Censuses.

Those dissatisfied with the decline in the shell industry came to see migration to the mainland as a way to increase their economic and political autonomy and as a way to achieve the same socio-economic status as non-Islanders (Beckett 1963: 114, 124-25; 1987: 67). However, movement to the mainland was still controlled by the Queensland Government. Queensland relaxed its controls on movement in 1947 and allowed 80 Murray Islanders to go south to cut sugar cane and by 1958 there were 400 Murray Island people on mainland Queensland (Fig. 4.3) (Beckett 1963: 116; Beckett 1987: 71, 126). This early migration has been characterised as protest by Islanders against the excessive control of the Queensland Government and some island councils, and as evidence of their desire to increase their economic status (Beckett 1987: 79). Or put another way, as evidence of the desire for greater political and economic autonomy.

1970s, and the border issue

Amendments to Queensland legislation under the *Torres Strait Islanders Act 1971-1975* made Island Councils corporate bodies, but they remained under the ultimate control of the DAIA (Sharp 1981). Nonetheless, Islander regional representation was given a boost when the Queensland Government established the Torres Strait Advisory Council (TSAC). The Council's function was to liaise with the Queensland Government and to give Islanders some input to the Queensland Government's activities. The TSAC was made up of one delegate from each of three sub-regions: the east, west and central islands so recognising both regionalism and a sub-regionalism (Beckett 1987: 191; Kehoe-Forutan 1990: 97). Though Islanders could now enter hotels on Thursday Island, could vote, and could move at will between islands it is notable that no TSAC representatives were drawn from the Inner Islands (Beckett 1987: 77; Kehoe-Forutan 1990: 151). Thus, though the TSAC would have increased a regional Islander identity, its membership still reflected the distinction between the Inner and Outer Islands and their respective domains.

A new Commonwealth Labor Party Government in 1973 began to take an active role in Indigenous affairs throughout the country, establishing the first national federal Department of Aboriginal Affairs (DAA) and a DAA office was established on Thursday Island (Beckett 1987: 171). Now both the Queensland and Commonwealth

Governments allocated resources to the region's Islanders, starting what Beckett saw as an uneasy inter-government alliance in the Strait (Beckett 1987: 185, 171-72). The Commonwealth also established the first national Indigenous bodies, such as the National Aboriginal Consultative Committee and then the National Advisory Council, and Islanders were represented in both of these (Beckett 1987: 171, 195, 199, 200). However, as we shall see in Chapters 6 and 7, Islanders were never entirely happy with this arrangement as it included them in the same forums as Aborigines and so, in their eyes, reduced their autonomy vis-a-vis Aboriginal people at the national level.

The new Commonwealth Government also moved in this period to give PNG its independence. The arrangements for this included deciding on a location for the border between Australia and the newly independent PNG. This matter is dealt with in detail in Chapter 5. Suffice to say here that the issue stimulated thoughts of regional identity and sovereignty for Islanders. Some in the Australian Government suggested that the border be located mid-way between the two countries. This would have put several Torres Strait islands in PNG. Islanders were universally opposed to this and in 1972 formed a Border Action Committee, mainly composed of island councilors, which visited Canberra to lobby its case (Beckett 1987: 171, 186-88). This has been seen as another example of Islanders acting in a unified regional fashion (Sharp 1993: 226 ff.). It is also an early example of Islanders exerting some autonomy by dealing directly with the Commonwealth rather than having their affairs mediated by Queensland through its DAIA (Beckett 1987: 189). And, as a statement by Islanders that the Commonwealth should recognize the island councils as the legitimate representatives of the Islanders (Beckett 1987: 188) The border issue also resulted the first visits to the Strait by a both Queensland Premier and the relevant Commonwealth Minister. Not long after, in 1976, the in-coming Prime Minister of the new Liberal and National Country Party Coalition Government also visited the Strait. This attention to Indigenous issues at a regional level by senior parliamentarians is relatively unheard of in Australian Indigenous affairs.

The border issue also spawned the first Torres Strait Islander political party, the Torres United Party (TUP). Though principally made up of eastern islanders the TUP claimed that Torres Strait should also be given sovereign independence as the 'The Free Nation

Torres Strait' (Beckett 1987: 206).¹⁹ It was proposed that this sovereign status could be financed through revenue from oil and gas, the sale of national stamps, from allocating fishing rights, and from electrical power generated from the sea (Beckett 1987: 204). The TUP had plans to take its case for sovereignty to the United Nations (UN) and in 1978 it lodged an appeal for sovereignty to the High Court of Australia (Sharp 1981). Beckett provides a multi-faceted analysis of the activities of the TUP. At one level, and as I note above, the TUP emerged at the same time and as part of the border issue (see Chapter 5). They can also be seen as another manifestation of people's hostility towards their colonial relationship with the Queensland Government and people's attempts to utilise the power of the Commonwealth (through the High Court) to further their aims for autonomy (Beckett 1987: 205). In a somewhat contradictory fashion Beckett feels that the TUP's approach to the UN was recognition by the proponents that the UN was an even more powerful body than the Commonwealth, when compared to Queensland (Beckett 1987: 205). Again, noting that the TUP was very much an Eastern Island and mainland initiative, Beckett sees it as a form of claim by Mainlanders for their continuing legitimacy as true Islanders (Beckett 1987: 210). However, the appeal to the UN languished and the TUP disintegrated, possibly because it was not a Strait-wide initiative and in fact was driven largely by those outside the Strait; features that weaken the notion of legitimacy when applied to regional autonomy and to the position of Mainlanders in regional autonomy (see Chapters 6 and 7).

Islanders were now eligible for the full range of social security payments, pensions and unemployment benefits and became less interested in working for the comparatively low wages in what was left of the failing shell-fishery (Beckett 1987: 172, 181). The Queensland Government became a major employer of Islanders and also attempted to stimulate Islander involvement in a fledgling lobster fishery by installing small freezers on several Outer Islands (Beckett 1987: 172). However, researchers noted that these freezers were not always utilised by Islanders (Treadgold 1973: 29). The Commonwealth also attempted to stimulate economic development. In 1972 it introduced turtle farming, and set up some 27 separate experimental farms at a cost of \$6 million. By 1979, the project was acknowledged to be a failure, some suggesting

¹⁹ The TUP was centred around the eastern islands and on the mainland, and its formation and operations formed part of Beckett's thesis that, of all groups in Torres Strait, eastern Islanders have tended to favour political strategies to achieve their goals (Beckett 1987). This is discussed further in Chapter 6.

because of poor management, and was cancelled (Beckett 1987: 182; Kehoe-Forutan 1990: 159).²⁰

In the 1970s airstrips were built on many islands, making the mainland much more accessible. On the mainland, machines replaced Islander labour in the sugar industry but they moved successfully to take up work as fettlers on the railways in Queensland and Western Australia, often related to mining projects in these States. However, they continued to have a low socio-economic status and remained tied to government services. For instance, Beckett estimated that in 1974, 40 per cent of all Islanders in Queensland were renting DAIA houses, a situation that remains the case to day (see Chapter 7) (Beckett 1987: 203). Like many migrants from the Pacific, Islanders formed voluntary organisations, in some cases connected to churches (Beckett 1987: 203, 232). Cultural events such as 'island dancing' and 'tombstone opening' became important as a form of legitimising their status as Islanders on the predominantly Aboriginal mainland (Beckett 1987: 208, 233- 34).²¹

1980s, a new economy?

When the Torres Strait Treaty was ratified in 1985, the Torres Strait Protected Zone (the Zone) was delineated, reinforcing the notion of the Strait as a region (see Chapter 5). The Torres Strait Protected Zone Joint Authority (PZJA) was established to manage the Zone. The PZJA was a joint Queensland/Commonwealth body headed up by the relevant minister from the two Governments (PZJA 1986: 1). It had several working groups and committees based around the different marine species and Islanders were represented on these (Arthur 1990: 97). The Treaty also established a Traditional Inhabitants Group, where Islander and PNG representatives discussed the Treaty and border issues of common importance to them. Thus, several aspects of the PZJA could be said to have increased Islander autonomy. For example, it included Islanders in its working groups and so in the management of the Zone. In addition, it gave them

²⁰ It is not clear that poor management by Islanders was the reason for this failure. Government reports on the project, though ambiguous, suggest that the failure had as much to do with poor after-care by the government (House of representatives Standing Committee on Environment and Conservation 1973).

²¹ 'Islander dancing' is a term used by Islanders to refer to their particular style of dance. The term 'tombstone opening' is used by Islanders to refer to the usually elaborate ceremony of unveiling the headstone of a deceased relative often some time after burial. Both if these cultural traits are identified with Torres Strait Islanders.

‘international personality’ because, as part of the Traditional Inhabitants Group, they had the status of international representatives (Hannum and Lillich 1988).

The Treaty acknowledged and aimed to protect the way of life and livelihood, including traditional fishing, of the traditional inhabitants and also, through Article 26, it sought to promote economic development for the traditional inhabitants, principally through commercial fishing (Blaikie 1986: 5, 9; PZJA 1986: 1). By extension, the PZJA’s policy has been to maximise Islander involvement in the industry (PZJA 1988: 5; Babbage 1990: 322). To achieve this end certain fishing methods were designated by the PZJA. These included limiting the lobster fishery to a dive fishery and the mackerel fishery to a line fishery (Haines 1986: 10, 15). In addition, licensing requirements were modified to increase Islander access to commercial fishing. For instance, the *Torres Strait Fisheries Act*, 1985 (established from the Treaty) created the concept of ‘community fishing’ in which licenses were awarded to community councils and which gave Islander residents automatic entry to the commercial fisheries (Haines 1986: 8; PZJA 1988: 5). PZJA policy also aimed to transfer the exclusive use of some of the marine resources to Islanders. For instance, it reserved any expansion of the lobster fishery for Islanders (PZJA 1987: 4). All of these measures, which largely stem from the Treaty, can be said to have increased Islander autonomy both politically and economically.

The Queensland Government also initiated new policies, which impacted on Islander regional autonomy. Queensland’s TSAC was disbanded and replaced by the Island Coordinating Council (ICC). This was composed of the elected chairs of each outer island and like its predecessor, its principal role was to advise on, and help coordinate, Queensland’s activities. However, the ICC had its own small staff and began to act like a mini-cabinet whose public service arm was the various government departments, and in 1988 there were proposals to set up portfolios within the ICC (Arthur 1990: 15). The ICC also created an environment for increased cooperation between Queensland and Commonwealth agencies and by the late 1980s the ICC, DAA and the Queensland Department of Community Services were jointly planning major public infrastructure upgrades on the Outer Islands (Beckett 1987: 195; Babbage 1990: 317). Members of the ICC executive were also made members of the IIB board, so providing Islanders with greater input to that Queensland agency (Beckett 1987: 195). Taking these points

together the ICC appeared to increase Islander regional autonomy and was seen by Islanders as having the potential to provide the kind of control they had been asking for since WWII (Beckett 1987: 89, 194-95).

However, the ICC's structure did little to decrease the distinction between the Inner and Outer Islands. Legally, Torres Shire had responsibility for local government functions from 11 degrees south up to the international border with PNG (Arthur 1990: 76). However, the Outer Islands were made up of quasi-local governments, under Queensland legislation. The elected Islander Councils provided (with the support of Queensland and Commonwealth grants) local government services but residents did not own their houses or the land and so did not pay rates. For these reasons the Torres Shire only exercised local government over the Inner Islands. Further, because the ICC was made up of the elected chairs of the Outer Islands, it had no representative base on the Inner Islands. The ICC was not represented on the Shire and vice versa. Thus, though the ICC presented an opportunity for cooperation across governments this only applied on the Outer Islands and was restricted to Islander-specific affairs. In addition, and as discussed in chapter 2, the Inner Islands were multi-cultural, and had a sizeable waged labour market in the public and private sectors (Arthur 1990: 75). The Outer Islands meanwhile were composed of discrete Islander communities, where self-employment, in commercial fishing, and subsistence activities were more the norm. The Outer Islands tended to be inward looking rather than regional and viewed Thursday Island as a European entity (Kehoe-Forutan 1990: 178, 183). For these reasons, during the 1980s, the Shire and the ICC tended to be isolated from each other, each working in their own domain (Arthur 1990: 80; Kehoe-Forutan 1990: 178, 180-81; Sanders 2000). Each of these domains was a construct of social, cultural, political and economic factors.

The 1980s saw moves by Islanders to increase their political autonomy. For example the TSAC wanted to make Islanders more autonomous from the Queensland Government by having all of their affairs dealt with by the Commonwealth (Beckett 1987: 191, 193). This seems to have been a further manifestation of the Islanders' suspicion of 'middle-men' discussed above and is one that was raised again during the period of the Inquiry (see Chapter 6). The TSAC also wanted their own structure or 'Commission' independent of the NAC so that they could deal with the government independently of Aboriginal people (Beckett 1987: 192, 196). As in other times, this

separation was legitimised on quasi-cultural grounds when a prominent Islander leader said Islanders should have their own Commission because they were a 'unique race' (Beckett 1987: 196, 208). The above aspirations reflect two themes in Islander notions of autonomy: one of which was to separate themselves from Queensland and the other to separate themselves from Aboriginal people.

Islander aspirations for greater political autonomy seemed to come to a head in 1988 when a large public meeting was held on Thursday Island to discuss possible secession. The outcome of the meeting was a call for greater autonomy from government including Islander control of all land and seas and the removal of the then head of the Commonwealth's DAA. This event however has been analysed in academic terms as a demonstration of Islander dissatisfaction with the level of government services rather than a call for independence (Kehoe-Forutan 1988; 1990: 189). In fact, this was exactly the rationale given for the event by the chair of an Outer island during the 1996 Inquiry (see Chapter 6).

In any event, the Thursday Island meeting stimulated the Commonwealth to set up an Interdepartmental Committee (IDC) to report on affairs, though only on Commonwealth affairs, in the Strait. The IDC reported in 1989 and proposed some further study of the Strait, stating that:

'In view of the Islanders wish for regional autonomy and independence, and both State and Federal Governments stated desire to give self-management to the Islands, the study should identify present and possible future constraints to the economy that prevents attaining a reasonable level of economic self-sufficiency and advise on the possible options to remove such restraints to the economy' (O'Rourke 1988).

The study found that there was little if any desire across the region for secession (Arthur 1990: 80) and as described below, it revealed that people viewed autonomy at various levels, and differently with respect to different resources.

One manifestation of this difference can be classified as a form of economic autonomy at the island level, and the desire by some islands to have greater control over what they considered to be their own waters (Arthur 1990). This was stimulated by a fear that fishers from another island would over-fish their waters. This in turn related to the

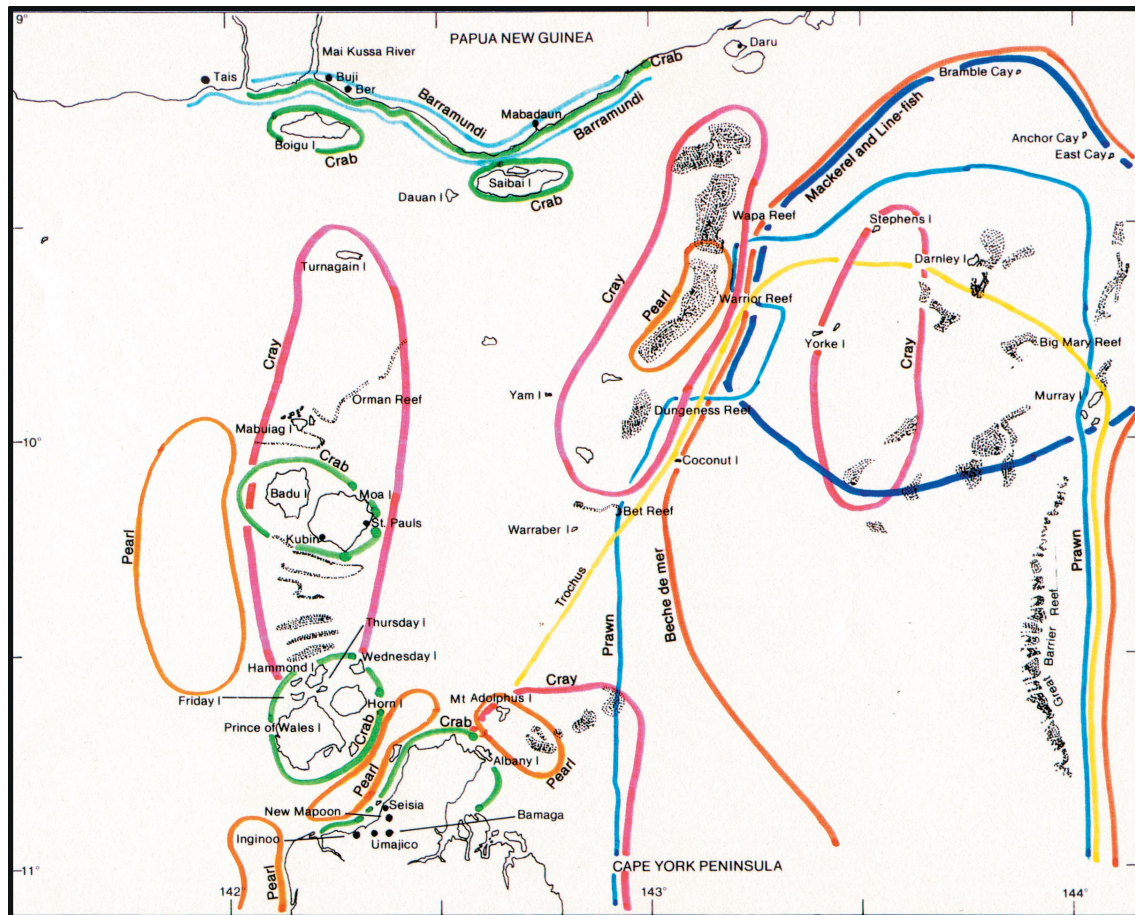
different access provided by boats and dinghies. Some islands had only dinghies while others had larger boats, which were more mobile and could travel far from their home island to fish in the waters of other islands. The islands with only dinghies wanted to limit the access to their waters by those from islands that had boats (Arthur 1990: xiii, 7, 43). There was also little evidence that islands would cooperate or form economic joint ventures with each other (Arthur 1990: 37, 57). Rather they wanted to handle their own development, a characteristic that Beckett previously noted as creating a level of inter-island and intra-island competition (see Beckett 1971). This level of economic autonomy applies largely to a division between Islanders. As I will discuss in Chapter 6, this form of economic autonomy now includes a division between Islanders and non-Islanders.

This island level of economic autonomy might also be associated with the fact that not all islands have the same commercial species in their home waters (Arthur 1990: xvii, 46). As discussed below, this period saw the introduction of new fisheries. These are not evenly distributed across the region, as shown in Map 4.1, with the result that some islands became advantaged over others. For instance, in the early 1980s Beckett noted that Murray Island was outside the lobster fishing area, whereas Badu had very good access to it (Beckett 1987: 215, 223). Table 4.2 shows this differential in the late 1980s according to the catch of each species taken by each island.

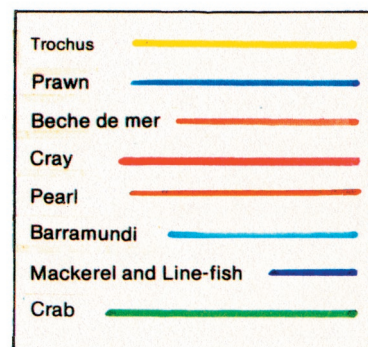
While Western Islands had good access to lobster, Eastern and Central Islands did not but had better access to trochus shell. Northern islands and Cape Island communities had no access to any species (Arthur 1990: 130).²² Similar data were determined by Harris et al (1994) who found that lobster catches were largest in the west and central islands, and that trochus shell predominated in the central islands; the east and northern islands had the smallest catches of any species (Harris et al 1994). As the species vary in value (lobster is the more valuable species by far) access to a species relates directly to income. That is to say, the potential to generate income from commercial fishing is not the same for all islands. A similar geographic distinction applies to access to subsistence fisheries and hence subsistence income (Arthur 1990). Access to services may also affect the catch. The western islands and the west central islands all have good

²² In line with the data in Table 4.2, in the late 1980s the ICC described northern Islands as poor and central islands as wealthy (pers. comm.).

Map 4-1. Fisheries Distribution.



Source: Arthur (1990)



access to the services of Thursday Island including reliable freezer plants and fish buyers. Islands further afield have less access to these sorts of services (Arthur 1990). It is worth noting that trochus shell does not require freezing and so catches are not dependent on complex infrastructure. It should also be remembered that all catch data varies according to market value. Islanders will attempt to shift their effort to the species with the greatest market value at any time, though again access to reliable freezers is a determining factor with perishable species (Arthur 1990).

Table 4.2 Islander catches by island, 1989 (tonnes)

Islands	Lobster	Mackerel	Trochus shell	Reef fish
NORTHERN				
Boigu	0	0	0	0
Saibai	0	0	0	0
Dauan	0	0	0	0
WESTERN				
Badu	43.0	0	32.0	0
Moa	14.4	0	0	0
Mabuiag	7.2	0	0	5.0
CENTRAL				
Yorke	4.1	9.3	45.2	1.6
Coconut	1.9	0	45.5	0
Warraber	1.0	0	9.8	0
Yam	4.9	0	11.9	0
EASTERN				
Murray	0	0	40.1	0
Darnley	0	0	33.4	0
Stephen	0	0	2.9	0
WEST CENTRAL				
Thursday Island	21.6	n.d.	2.6	n.d.
Prince of Wales	0	0	0	0
Horn	0	0	0	0
CAPE ISLAND COMMUNITIES				
Seisia	0	0	0	0
Bamaga	0	0	0	0
Total	98.1	9.3	223.4	6.6

Sources: Arthur (1990: 30, 40, 112-13).

Notes:

1. Data are drawn from a number of sources including information from the Australian Fisheries Management Authority (AFMA) and the Queensland Boating Fisheries Patrol and include best estimates.

The desire for, or to protect political autonomy at an island level was evident in the relationship between Island councils and the ICC. Islands were keen for the ICC to lobby the government on their behalf on regional issues. But they wanted to retain full control of the development of their own Islands and were not keen to see this pass to a regional body such as the ICC (Arthur 1990: 15, 37).

In other cases, people had views about autonomy at a level below that of the island council. Some residents felt that councils were too involved in the commercial aspects of the fishing industry and in residents' affairs and that they should limit their activities to local government and public works (Arthur 1990: 24). For instance, Island councils often owned and controlled the only fish freezer on an island and some felt that while these might be owned by the council, they should be leased to individuals (Arthur 1990: 24). In another example, an island council wanted all economic ventures to be under council control while some residents favoured ventures as private businesses (Arthur 1990: xi, 24, 56). Earlier observations of this kind prompted Fitzpatrick-Nietschmann (1980) to question the whole idea of 'community' with respect to the islands of the Strait.

The issue of the level of autonomy was also apparent with respect to the control exercised by island councils versus that by traditional owners. Traditional land tenure on each of the outer islands was still strong in the 1980s. Under Queensland legislation, island councils controlled the use of all lands for public works. However, there were many instances of traditional owners contesting this right with councils (Arthur 1990: 7). Thus, autonomy in the eyes of traditional owners, might include an increase in their control over public lands, over that of island councils.

Conflicting notions of autonomy also arose between councils and residents with respect to house rents. People could apply for perpetual leases of up to one hectare for residential purposes (Arthur 1990: 7). Their house meanwhile was supplied by the Queensland Government, and maintained by the council. However, Islanders, certainly those on Outer Islands, tended to feel that in traditional terms they owned both the land and the house and so were reluctant to pay rent to the councils (Arthur 1990: xii, 48).²³

²³ One manifestation of this notion of ownership is that some Islanders bury their kin and erect a tombstone in their house yard. In such cases, the notion of the house and its land as a public or sellable utility seems greatly diminished.

Given notions of traditional ownership, councils seemed powerless to evict those who did not pay rent and had to continually appeal to residents' public duty (Arthur 1990). The disputed right and power of councils to collect house rents is an ongoing issue in the Outer Islands. In these cases, Islander residents appeared to enjoy a particular form of autonomy not available to renters of mainstream public housing.

As noted earlier, Beckett has proposed that individualism is an Islander cultural trait, characterised from the shell lugger days as 'everybody wanting to be a skipper' (Beckett 1987). Certainly, in the late 1980s the emerging economic unit seemed to be the individual and the family rather than the community (Arthur 1990: 17, 24). If we accept that Islanders are relatively individualistic, then possibly there is some synergy between this and the Strait's economy as it was emerging in the 1980s. For instance, because the unit of production for commercial in-shore fishing can be quite small (a dinghy and motor) and the fisheries are rather profitable, it is relatively easy for Islanders to establish themselves as individual or family fishers. This has the potential to provide them with the opportunity to exercise some economic autonomy at these levels, as discussed below.

By the 1980s there was a degree of two way traffic between the Strait and other parts of and Queensland due in part no doubt to the access provided by airstrips on the Outer Islands (Beckett 1987: 212). However, by the late 1980s conditions in the Strait and on the mainland were changing. Unemployment was rising on the mainland and some found that life as an unemployed person was easier in the Strait than on the mainland. Although food was more expensive in the Strait, rents and transport were often lower and it was as cheap or cheaper to live there than on the mainland (Arthur 1990: 10). Also, services such as housing were improving in the Strait to some extent. These changing conditions made the Strait a more attractive place to live and some people were returning there from the mainland (Arthur 1990: 10).

In the early 1980s the Strait was still described as a remittance economy, supported by funds from relatives on the mainland and from government (Beckett 1987: 223). However, by the late 1980s although the government continued to underwrite the Strait's economy to a large extent, the new fisheries were changing the relationship between Islanders in the Strait and their mainland relatives. For example, by 1989 one

inducement for Homelanders to fish commercially was to meet requests for money from Mainlanders (Arthur 1990: 48). In 1990 some \$110,000 was sent south to relatives through the IIB and the Post Office on Thursday Island (Arthur 1990: 48). Indeed, by the late 1990s some Islanders were finding it attractive to live on the mainland and fly periodically to the Strait to fish commercially for lobster.

Given the greater access provided by airstrips it has been suggested that the Strait and the mainland began to coalesce in the 1980s into one region (Taylor and Arthur 1993). However, I would argue that during this period those on the mainland and those in the Strait also began to more fully develop their own domains. Mainlanders established church and voluntary groups and in the 1980s the government began sponsoring annual national workshops. These structures were used by Mainlanders to discuss their own affairs and to lobby government for various services, much as those people in the Strait used the ICC. Thus, as will be discussed more fully below, the period saw the inception of two connected but distinct groups of Islanders: Homelanders and Mainlanders. Notions of autonomy developed differently for these two groups: regional autonomy seemed more relevant for Homelanders, and corporate autonomy more relevant for Mainlanders (see chapters 6 and 7).

During the 1980s and into the 1990s the marine industry diversified and prawns and lobster became the dominant commercial species. Together with intervention by the Queensland and Commonwealth Governments, these changes impacted on Islander economic autonomy.

From the 1800s to 1950s pearl and trochus shell were the major elements of the regional marine economy. By the 1980s this was no longer the case. Pearl shell was collected only to supply several local cultured-pearl farms and by the early 1990s these farms could not get enough shell to satisfy their needs (Arthur 1990). People had become reluctant to dive for shell as other activities were more profitable, suggesting that Islanders were now able to exercise some autonomy regarding the supply of their labour. The pearl farms, which were often joint ventures between Japan and Australia, did not present much opportunity for Islanders. The technology was a carefully guarded secret, specialised technicians were flown in from Japan and Islanders and PNG nationals only worked on the farms as labourers. Furthermore the pearls were sent to

Japan for processing and there was almost no local marketing in the Strait, as there was in Broome in Western Australia. In general, this industry impacted little on Islanders or the Strait in the late 1980s.

By the late 1980s a new fishery had developed, based on a mixture of species including prawns, lobster, trochus shell, beche de mer, Spanish mackerel and reef fish. Islanders became involved in sections of the fishery, due to the policies of the PZJA noted above, but also to the in-shore character of the fishery. Being in-shore, the fishery can, with the exception of prawns, be exploited from a dinghy. Although some Islanders purchased boats in the period, these were quite small and the major fishing unit was a dinghy with an outboard motor.

Another major feature of the new fishery was that it included lobster, which is a relatively high-profit fishery. Prices in the late 1980s were \$22 per kilo, the outlay for a dinghy and motor was quite low, say \$8,000, and this was quite easy to earn. By 1989 many Islanders were taking out loans from the National Bank on Thursday Island for dinghies and the repayment rate on these was as high as 98 per cent (Arthur 1990: 133). By the mid-1990s one fisher told me that profits were so high that it was more efficient to buy a new outboard than to spend time repairing a broken one. One reef north of Thursday Island was given the local name of 'Dollar Reef' because as one Islander put it 'you go there if you want a dollar, just like the bank' (Arthur 1990). Other young Islanders described to me how they might leave their Outer Island by dinghy for a weekend trip to Thursday Island and catch enough lobster on the way to pay their expenses. Therefore, the development of this one fishery alone appeared to provide Islanders with some greater degree of economic autonomy.

Islanders were also involved in the trochus shell, mackerel and beche de mer fisheries (Table 4.2). Again, they could do this under the concessional licensing arrangements of the PZJA and by using dinghies. However, Islanders did not become involved in prawning, the most valuable of the new fisheries. This was despite the fact that three prawn licenses were reserved specifically for Islanders by the PZJA. Although also an in-shore fishery, prawning has more of the characteristics of an off-shore fishery as it is capital intensive and high-risk (see below).

The governments

The Queensland Government continued to be involved in the regional economy and in Islander development. The IIB's 1989 strategic plan stated that its role was to undertake business, and to act as a catalyst for Islander business and as a development agency for Islanders. To this end it was enabled to give Islanders small development loans (Arthur 1990: 14). Also the Queensland DAIA opened a fish freezer for Islanders on Yorke Island with the IIB as the marketing agent (Kehoe-Forutan 1990: 156). However, in reality the IIB's activities seemed to focus more on improving the quality of its stores in the region than on Islander development (Arthur 1990: 14). There was a suggestion of leasing IIB stores to Islanders but there was no consideration of transferring the IIB to full Islander ownership (Arthur 1990: 14). Also, several councils and individual Islanders, particularly women who were often petty traders on Outer Islands, were keen to establish retail outlets and they viewed the IIB as a competitor rather than as an agent of Islander development (Arthur 1990: 14, 71).

Despite its failure with turtle farming in the 1970s, the Commonwealth continued to be involved in Islander development. The Aboriginal Development Commission (ADC) was established in the period and it attempted to stimulate several fisheries projects. In 1982 the ADC established the Kerriba Lagau Development Company purchasing two boats with the purpose of processing prawns from non-Islander prawn trawlers (Beckett 1987: 182; Kehoe-Forutan 1990: 161). The project was not a success and by 1984 it owed \$1 million and went into receivership (Kehoe-Forutan 1990: 161). It has been suggested that the project failed because the boats were WWII minesweepers and so largely unsuitable for the work (Kehoe-Forutan 1990: 161). In 1983 the ADC helped establish an Islander project in the lobster fishery. It set up the Bamoa Torres Strait Islander Corporation to purchase and market lobster from Islander and PNG fishers (Beckett 1987: 182-3; Kehoe-Forutan 1990: 161). This also failed, and in 1985 three Badu Islanders bought the assets with working capital borrowed from a non-Islander fishing company and established their own company called Badu Enterprises. By the late 1980s this was contracting between 30 and 100 Islander lobster fishers (Kehoe-Forutan 1990: 162).

The period also saw the Commonwealth introduce its national Indigenous employment program called the Community Development Employment Projects (CDEP). As noted

in Chapter 2, in this scheme unemployed community members were paid their unemployment benefit by performing some work, usually for their community (Arthur 1990: 33). The work was normally part-time as it is paid at award-wage rates. In Torres Strait, the norm was for people to work every second week and the organising agent was their island council. CDEP was first introduced in 1980 at Darnley and Dauan Islands and most other islands joined the scheme gradually between then and 1989 (Arthur 1990: 32). In the 1980s there was no CDEP on the Inner Islands because there was no official island council or other body to administer it. In 1989 there were 655 CDEP participants across the Strait.²⁴ Although CDEP work was often community-related in Torres Strait, it found some synergy with the local fishing industry. Islanders on CDEP were able to fish commercially on their week off. In this way the scheme could be seen as supporting the Islander fishery (Arthur 1990: 46). On the other hand, when Islanders were free to fish did not always coincide with the best fishing conditions (Arthur 1990: 47). In addition, the scheme may have reduced Islanders' propensity to take the risk of being fully self-employed and so perpetuated a form of dependency on government transfers. In one instance some Islanders clearly articulated a preference for being on the scheme rather than establishing risky retail ventures (Arthur 1990: 69). In another case, catches dropped when the scheme was introduced to some islands suggesting that Islanders actually reduced their fishing effort when work on the scheme became available (Arthur 1990).

Another outcome of CDEP was that it changed the power relationship between councils and residents. Recipients of unemployment benefits deal with a government agent for their payments and are relatively independent of their council. Under CDEP the workers become employees of the council and the council then controls all time sheets, work programs and payments. In this way it can be said that the scheme increases the autonomy of councils at the expense of that of their residents (Arthur 1990: 32).

By the late 1980s the value of the fishery was as shown in Table 4.3. Two major distinctions within the industry were the Islander sector and the non-Islander sector, reflecting in part the distinction between company and masters boats of the earlier PIL period. Within the non-Islander sector is the further distinction between residents and

²⁴ By 1998, this figure had increased by 155 per cent to 1672 participants.

non-residents. Islander involvement in the fisheries varied largely by species and island (see Tables 4.2 and 4.3).

Table 4.3 Value of fisheries, and involvement, late 1980s

Species	Value, to fisher, \$s (million)	Islander involvement	Non-Islander, resident involvement	Non-Islander, non-resident involvement
Prawn	14.0			Yes
Lobster	4.5	Yes	Yes	Yes
Mackerel	1.5	Yes	Yes	Yes
Trochus shell	1.2	Yes		
Cultured pearls	1.2 est		Yes	
Reef fish	0.2 est	Yes		
Beche de mer	n.d.	Yes		
Live pearl shell	n.d.		Yes	

Source: Arthur (1990)

From Table 4.3 we can see that the most valuable fishery, prawning, was a non-Islander and non-resident fishery. The boats were serviced, provisioned and fuelled from mother ships, which are often part of the same company, and they were from ports in northern Queensland. Under this arrangement, this fishery contributes little to the region. As noted above, in accordance with its policy to encourage Islander involvement in commercial fishing, the PZJA awarded three prawn licenses to the ICC in 1989, to be forwarded to Islanders.²⁵ None of these was taken up. There appear to be several reasons for this. Although prawning was the most valuable fishery it is capital intensive, boats require high maintenance and it is high risk. In addition, only community councils could take up the licenses that were awarded to the ICC. This means that Islander fishers would have been working to their councils. In some ways this reflects the pattern of control that existed on the ‘company boats’ of the pearl shell days described earlier. An Islander leader has proposed to me that people will no longer work under this type of arrangement, suggesting that they would not be satisfied to cede the control, and possibly the profits, of such a venture to their island councils (pers. comm. J Elu, 2003).

The other fisheries were quite well accessed by Islanders as can be seen from Table 4.3. Again, this is due to the concessional licensing provided under the Treaty and the

²⁵ In 1989 a license was worth around \$200,000.

PZJA. However, in these cases fishers were largely operating as self-employed people. As noted above, they were working from a small dinghy that they owned, or they fished from a dinghy under contract to an Islander who had a larger boat. They sold their catch directly to a non-Islander or in some cases to an Islander agent. Under this arrangement fishers could clearly see that their rewards were directly related to their personal effort. Or, put another way, they were relatively autonomous economically.

Diving for pearl-shell required large luggers with pumping gear. Luggers needed a skipper, some crew, and a hard-hat diver who was something of a specialist. Even under the company boat system fishers could not have owned luggers individually. In the new economy, Islanders tended to use their own dinghies for fishing and the crew included the owner, and then only one or two friends or relatives (Arthur 1990). Beckett classified this new period as the democratisation of boat ownership (Beckett 1987: 216). I suggest that this represented the start of an increase in individual economic autonomy, afforded by the particular exploitation the new market species and by the arrangements of the Treaty and the PZJA.

Islanders are not always full-time fishers. In the late 1980s 80 per cent of Islander fishers, fished only part-time (Arthur 1990: 40) an aspect of the fishery also noted by Beckett (1963; 1987) and by Poiner and Harris (1988). At one level, this can be explained by the fact that fishing is both seasonal and dependant on tides and so is largely part-time by nature. Even a regular fisher expects to fish for only around 100 days per year in Torres Strait (Arthur 1990: 47). However, some fishers indicated that they fished only when they required extra cash, or when relatives on the mainland asked them to send down money (Arthur 1990: 48). Lobster-fishing is quite high-profit; by the late 1980s, and based on a possible fishing season of 5 to 6 months, one Islander fisher on Thursday Island estimated his annual income at between \$36,000 and \$42,000, and another at around \$100,000 a year (Arthur 1990: 133). If we take into account the back-up provided by CDEP, the low house rents and the high levels of subsistence on Outer Islands,²⁶ there may be little incentive to be a full-time fisher. Rather the aim might have been to minimise fishing effort to meet needs (Arthur 1990: 48). In the late 1980s some five kinds of Islander fisher could be identified:

1. Those who mostly treated fishing as their main job and who fished regularly;

²⁶ It was estimated that at this time, subsistence fishing and gardening were about 10 per cent of Islander incomes (Arthur 1990).

2. Those who fished regularly but part time and who were also on CDEP;
3. Those who fished irregularly and who were also on CDEP;
4. Those who fished only when they needed extra cash; and
5. School-boys who fished during their school holidays (Arthur 1990:47).

The fourth of the above is a practice similar to that described by Peterson as ‘target working’, where people enter the formal workforce only to accumulate a certain amount of cash and usually for relatively small and immediate purchases (Peterson 1977). This concept has some resonance in Torres Strait where it is now recognised by some Islanders (see Chapter 6). Again, the mixture of working for cash, being a CDEP worker and obtaining significant amount of imputed income from subsistence activities has been characterised in positive terms by Altman as a ‘hybrid economy’ (Altman 2001). Whatever else, it would appear that this mix and the element of CDEP provided Islanders with some flexibility or choice. Given that CDEP derives from the welfare section of the Australian economy, this results in a form of welfare autonomy (Arthur 2001c; Arthur in Peterson 1999).

Non-Islander fishers meanwhile were all of the first type noted above. Non-Islander fishers are largely outside the CDEP scheme, must pay rents and/or rates and often have home mortgages. The above suggests that during the 1980s Islanders in Torres Strait may have begun to experience a degree of individual economic autonomy within the new fishery. This derives largely from the nature and accessibility of the fishery itself, from concessional licensing of the PZJA and from the flexibility provided by the CDEP scheme.

The 1980s can be seen as a period during which Islander autonomy increased somewhat both politically and economically. The Queensland Government introduced the Island Coordinating Council. The Commonwealth’s Treaty arrangements gave Islanders some entry into new fisheries, a say in the management of the marine resources, and an international profile by dealing with their PNG counterparts regarding Treaty issues.

The period also saw the formation of commercial fishing into two broad sectors: the Islander and the non-Islander. The Islander sector was small, not capital intensive and allowed some economic autonomy at the individual or family level. In some respects this was a development of the earlier ‘company boat’ period, but it also relied to a degree on the Treaty arrangements and on the introduction of some new market species.

The non-Islander sector included some of these species but also prawning. Prawning was by far the most valuable fishery and was capital intensive and high risk. In addition, while the Islander sector was locally based, the non-Islander sector had both local and non-local elements. All of these features form part of an analysis of economic autonomy in Torres Strait and will be discussed further in Chapter 6.

Conclusions

This chapter has presented a history of Torres Strait Islander society, identifying those aspects that relate to the concept of autonomy. Several aspects of Islander society have emerged from the history of contact described above that are relevant to an understanding of the Inquiry and of autonomy for Torres Strait Islanders and these are discussed more fully in chapters 6 and 7.

Political autonomy?

At contact, Islander society existed at the clan level. The LMS and then the Queensland Government formed Islanders into communities and then brought them under a form of regional and sub-regional administration. By as early as 1886 Queensland had set up elected island councils and island schools – it would seem that this system introduced as it was at such an early date must surely have increased Islanders autonomy at least with regard to governance at the island level. However, in this administration, Islanders were not autonomous as regards their ability to leave the Strait. However, following WWII, and as the restrictions on movement were relaxed, Islanders expressed their dissatisfaction with the political and economic conditions on the islands by moving to the mainland. This movement became a feature of Islander life and by the early 1990s two Islander societies were taking form, one in the Strait and one on the mainland. As I shall show in chapters 6 and 7, these two groups came to view autonomy differently both with respect to each other and to government.

The issue of the level of political autonomy, or of to whom autonomy might apply, was evident in Islanders' relations with the Queensland and the Commonwealth Governments. Islanders have a notion of the 'middle-man' possibly stemming from their earliest patterns of trade with people in PNG and Cape York. During the period covered by this chapter the LMS and then the Queensland Government had a significant degree

of political control over Islanders lives. Queensland, through the company boat system and then the IIB, was also an economic agent in the Strait on behalf of Islanders. From the late 1960s Islanders have dealt with both the Queensland and the Commonwealth Governments. Despite the calls for sovereignty by some, statements suggest that one concept of autonomy for Islanders was autonomy from the Queensland Government. This was expressed in terms of Islanders being free of Queensland (in Brisbane) by being able to deal directly with the Commonwealth Government (in Canberra).

By the early 1990s the Strait seemed to evince a fair degree of regionalism and regional identity. The Queensland Government had always considered the Strait as a region and the Protected Zone established under the Treaty with PNG helped reinforce this at a Commonwealth level (see chapter 5). The Treaty also brought the Queensland and Commonwealth Governments together in a form of regional cooperation not found in other parts of the country (Arthur 1999a). On the other hand, early colonial administration of Islanders focussed on the Outer Islands, helping to create a distinction between them and the Inner Islands. The former was an Islander domain and the latter a non-Islander domain. Over the period, the Queensland Government set up Islander regional political bodies such as the TSAC and the ICC but again their influence extended mostly to the Outer Islands and to only Islander affairs. Therefore, the power or autonomy that these bodies had was restricted to those realms. Also in the late 1980s there was ambivalence amongst Islanders about whether levels of political control or autonomy should rest with such regional bodies or with individuals or islands councils. Thus, in the early 1990s, the region was not politically homogeneous, nor did Islander political control extend beyond the Outer Islands or beyond Islander-specific affairs.

Cultural autonomy?

Islanders have been described as Australia's Melanesian people (Beckett 1971), making a distinction between them and Aboriginal people on cultural grounds. Over the period of contact discussed in this chapter Islanders have been at different times administered under the same Queensland legislation as Aboriginal people, or under separate Islander-specific legislation. Since the 1967 referendum the Commonwealth has included them in the same national Indigenous bodies as Aboriginal people. Islanders have continually argued that they should be considered separately and this can be said to form another

aspect of Islander autonomy: that is to say, the desire for autonomy from Aboriginal people. This position often has been legitimised by Islanders on the basis of their cultural difference and can be viewed as a form of cultural-political autonomy. This aspect of Islander autonomy is long-standing and it continued into the 1990s and into the work of the Inquiry as will be discussed in Chapters 6 and 7.

Economic autonomy?

Islander economic life and autonomy was changed by the arrival of the 19th century pearl shellers. This early industry left Islanders dependent on subsistence activities for part of the time leading Beckett to characterise the period as one of ‘internal colonialism’. Seen from another perspective, it can be suggested that not separating Islanders fully from their subsistence activities actually left them with some form of economic autonomy. We can further suggest that traditional economies that depend on marine resources are less likely to be separated from those resources by colonisation than are economies underpinned by land-based resources. Or, put another way, it is harder for a coloniser to separate a predominantly marine people from their means of production than it is to do the same to a predominantly non-marine people. In addition, in Torres Strait, what the coloniser desired was not on the land but in the sea.

Islanders retained significant access to their subsistence activities up to the 1990s and this seemed to provide them with some economic autonomy. Despite the control exerted by the LMS and the Queensland Governments a former LMS missionary and then the Queensland Government were responsible for the PIL and the company boats. Whether these ventures were an economic success or not, they both undoubtedly gave Islanders a sense of worth and some very early experience of having some economic control or autonomy. In addition, it was their confidence and experience in these ventures that led to the marine strike of 1936 and the resulting agreement by Queensland to increase Islander political representation.

Their earlier commercial experiences with the company boats also no doubt left Islanders quite well placed to take advantage of the new marine economy of the 1980s as evidenced by their involvement in the lobster and trochus fisheries. This involvement has however not been without government assistance both in the form of grants and loans and through the concessional licensing arrangements of the PZJA. The policies of

the PZJA also gave Islanders some control over the marine resources and the right to discuss issues associated with the international Treaty with their PNG counterparts. However, Islander control over the marine resources was limited. Also, we should note that Islander involvement in contemporary fisheries was a little serendipitous. For instance, it has been their good luck that their waters included a lucrative in-shore lobster fishery that could be accessed from small dinghies.

Many Islander fishers also received an income from the government by working part time in the CDEP scheme. Thus this government scheme can be said to have subsidised the fishery and Islander participation in it. Beckett noted the large government subsidies to the Strait in the 1950s to 1970s for housing and unemployment benefits. Following Paine (1977), Beckett proposed that this led to a level of government involvement in Islander political and social and life that could be characterised as ‘welfare colonialism’. The Strait, like many other remote parts of the country, remains dependent on government transfers and subsidies. However, the concept of welfare colonialism seems to carry with the suggestion that the ‘state’ is a beneficiary of the situation. This does not seem to be valid, as all governments are keen for Islanders to reduce this dependency (see Chapter 6). In addition, though the Strait and the Islanders are dependent on the CDEP scheme, it operates largely to their advantage as it subsidises their involvement in the regional fishery. Indeed, it can be suggested that the mix between CDEP work and work in commercial fishing results in a form of welfare autonomy.

More pertinent to this thesis is Beckett’s contention that over the 1970s and 1980s Islanders made some gains in political autonomy due to the Queensland Government’s form of Islander regional administration, and from the ‘condominium’ of the Queensland and Commonwealth Governments in the Strait (Beckett 1987: 198). He noted however that this did not detract from the fact that the Strait was economically dependent on government (Beckett 1987: 198). Beckett argued that this was because ‘the government could supply houses but not economic development’ (Beckett 1987: 174). Put differently, the ‘state’ can give people political autonomy but it cannot give them economic autonomy. This reflects a theme of this thesis derived from Jackson (1990) which is that people may achieve political autonomy but not necessarily economic autonomy. However, as noted above, it would appear that Islanders did seem

to gain both some political and some economic autonomy over the period. This possible contradiction will be further explored and discussed in Chapter 6 and 7 as it relates to the Inquiry.

The purpose of this chapter has been to consider the history of Islander society up to the period of the Inquiry with a focus on notions of autonomy. The following chapter will discuss in more detail how the international border and the resultant Treaty with PNG has helped form the region of Torres Strait, the ways in which Islanders can identify with the region, and the implications of this for forms of autonomy.