Managing decentralisation in local-level governments: Papua New Guinea

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Since its independence from Australia in 1975, Papua New Guinea's machinery of government has been organised on three levels: national, provincial and local-level governments. In 1995, under its new policy of decentralisation, Papua New Guinea undertook one of the most radical reforms in the country's history through the enactment of the Organic Law on Provincial and Local-Level Governments. This article examines what has transpired since and the policy constraints and implications for local-level governments.

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In the developing country context, decentralisation is often advanced on a number of grounds including its role in improving development management, popular participation, countering secessionist groups (thereby instilling national integration), easing the administrative workload on the centre, and promoting rural development (Smith 1985; Conyers 1983; Cheema and Rondinelli 1983). It broadly entails the transfer of powers or functions from a national government to a second or third-tier level of government.

Different trends in decentralisation determine the degree and extent of its implementation. These encompass

- devolution—the legal transfer of power to a locally elected political body
- deconcentration—the transfer of power to administrative units at the local level
- delegation—facilitated through the transfer of powers or functions to local governments or local representatives of the national government and therefore could be easily revoked

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- dispersal—the posting of civil servants to local-level governments without any significant transfer of powers or functions (Conyers 1983; and Smith 1980).

This paper explores the recent changes in Papua New Guinea's decentralisation reform. It pays particular attention to the changes within local-level governments and the policy constraints and lessons that arise as a result of these changes.

Decentralisation policy before 1995

Decentralisation in Papua New Guinea began in 1977 with the adoption of the Organic Law on Provincial Government. This Organic Law provided the impetus under which most provincial governments were to be established. Transfer of power was largely through devolution, but mainly within the framework of a unitary system of government. The Organic Law provided for the establishment of provincial executives and legislatures which to a large extent were responsible for similar powers and functions as exercised by their national-level counterparts. Wide-ranging legislative powers were given to provincial legislatures which allowed provincial governments to make provincial laws and enforce them within provinces. Administrative decentralisation through a combination of delegation and deconcentration was effected, with the shifting of national public servants to work in provincial departments. While day-to-day control and oversight over the administrative machinery was exercised by provincial governments, ultimate control was exercised by the national government through the Department of Personnel Management. To expedite the development process, and especially the implementation of transferred functions and responsibilities, annual grants from the national government to provincial governments were incorporated into the Organic Law. These grants—Minimum Unconditional Grant, Additional Unconditional Grant, Derivation Grant and Conditional Grant—were appropriated to fund provincial activities and functions. Additional powers were given under the Organic Law for Provincial Governments to raise internal revenue through provincial taxation. The Organic Law (S249(1)) in complementing the Constitution (S187I), provided for further decentralisation of powers and functions from provincial governments to local or community governments. Under these provisions, provincial governments were responsible for establishing and sustaining community or local governments through the enactment of relevant legislations and the provision of necessary financial, material and administrative support. Generally, the efficacy of local-level government management prior to 1995 was a consequence of how effective each provincial government had been in maintaining these roles.

Local-level governments

Local-level governments in the form of community governments, local government councils, urban and town councils constitute the third tier of government in Papua New Guinea. While a number of legislations, including separate Acts of Parliament (for example, the NCD Act), have often been used to facilitate the decentralisation process to local-level governments, the primary legislations have been, until recently, the now-repealed Organic Law on Provincial Government and the Local Government Act, 1964, Chapter No. 57. In practice, if provincial governments did not have the capacity to

initiate or establish legislation for local-level governments using the provision of the Organic Law, the Local Government Act, 1964, would apply.

The common form of local-level government in Papua New Guinea has been community governments and local government councils. Community governments were a notable feature of decentralisation in the New Guinea Islands region and were generally seen as a success despite some problems (Sause 1992). This success has been attributed to a number of factors. First, respective provincial governments had taken the initiative to initiate legislations ensuring that community governments were properly organised politically and administratively. Had the 1964 legislation been used, this would have not been possible. Second, powers and functions were devolved *vis-à-vis* the capacity to implement. This culminated in their overall success. Third, adequate funding and resources were annually given to each community governments. Financially, many community governments were better off than local government councils in many provinces because their respective provincial governments have improved their internal revenue-raising measures. Fourth, there was arguably less 'politicking' and more effort was placed on getting the job done. Finally, the administrative machinery at the community government level was better suited to the activities required.

Local government councils on the other hand have had an abysmal record of performance. With the exception of the New Guinea Islands provinces, most provinces have had either local governments existing by name only or, in cases where they were still functioning, a multitude of problems have rendered them ineffective. These include

- poor legal structures of councils which do not specify clearly transferred powers and political and administrative responsibilities
- a lack of focus in provincial budgeting with a consequential effect of improvised funding annually; poor internal revenue base at both local and provincial government levels which could not supplement the already improvised national government budgetary support
- lack of maintaining and sustaining critical material and manpower resources
- lack of properly trained staff whose lack of skills has undermined administrative effectiveness.

By definition, community governments focus on much smaller areas (constituency) while local government councils focus on district levels (larger than constituency). Unlike community governments and local government councils whose focus is on rural areas (district and constituency levels), urban and town councils have been established primarily to govern towns and cities. With the exception of the National Capital District Commission which has a separate legislation (NCDC Act), most town councils have been exercising their powers and responsibilities under the Towns (Councils) Authorities Act. Again, similar problems were encountered in their operations. These include

- an inappropriate legal regime which did not address particular problems and circumstances of town councils
- low revenue base
- lack of financial support from respective provincial governments
- the devolution of powers and functions disproportionate to the capacity to manage and lack of properly trained administrative staff.

Decentralisation policy since 1995

The biggest changes in decentralisation policy stem from the enactment of the new Organic Law on Provincial and Local-Level Governments in 1995. The new piece of legislation owes its origin to, among other factors, the deficiencies of the old Organic Law, namely its inability to properly address and provide for effective decentralisation within local-level governments. This was evident in a number of areas.

First, while the old Organic Law had placed an overwhelming responsibility on each provincial government to pass specific local-level government legislation, most provinces did not implement this simply because it was not politically convenient.

Second, the Organic Law did not take seriously the critical need for local-level government funding and in many cases, this law had actually perpetuated the practice of poor funding. In particular, two factors appeared to contribute to this: the lack of direct funding to local-level governments by the national government; and the lack of a mandatory requirement guaranteeing funding to local-level governments. In the former, it was increasingly apparent that critical local-level government funds which were a part of the overall national government grants were repeatedly diverted to other areas through the provincial budget. Had provision been made for direct funding, many local-level governments would have received the necessary budgetary support. In the latter, the problem of funding largely arose as a result of the lack of a requirement for provincial governments to fund local-level government in the Organic.

Third, the focus of the old Organic Law was largely on provincial governments to the neglect of local-level governments. This was evident, for example, in a lack of incorporating the basic political, financial and administrative framework of local-level governments in the old Organic Law. This led to confusion in many provinces, and the non-establishment of many local-level governments.

Fourth, the old Organic Law did not provide for appropriate policymaking linkages by bringing together policymakers from the three tiers of government, leading to a lack of commitment and continuation of policy, and worse still, rivalry and non-cooperation.

Finally, most provincial governments were already having difficulties in funding their transferred responsibilities and functions from the national government grants and, as a result, found it increasingly difficult to adequately finance their respective local-level governments. Regan (1995) found that the level of Minimum Unconditional Grant (MUG) funding to provinces was disproportionate to the increased level of responsibilities and demand for government services in provinces. For example, in the case of Eastern Highlands Province, whereas MUG remained constant over the years, the growing demand for school space and government services has actually increased the number of teachers and public servants to an extent where in 1985 alone, 97 per cent of MUG was spent on salaries while the rest was spent on recurrent activities and maintenance. It was apparent at that time that the disproportionate funding in MUG was a consequence of the deficient MUG formula in the old Organic Law which did not take into account the need for funding proportionate to increased responsibilities and workload over time. The same could be said of the Deriviation Grant. While provinces could have got more from this grant, the formula of 1.25

per cent of f.o.b. value on exports has rendered it impossible for them to increase provincial revenue from their various export commodities.

Political structures of local-level governments

The political and administrative structures of local-level governments, although transparent in some areas, still need to be clarified. However, in general, structures seem to be clearer compared to the old Organic Law. Under the new Organic Law (Ss31–36), local-level governments would comprise a legislature whose members would be voted into office and an executive arm to be made up of committees whose membership would be derived from the legislature. The new Organic Law expressly makes mention of the Joint District Planning and Budget Priorities Committee whose responsibilities include, among others, planning, formulating budget priorities, approving budgets prior to the legislature's approval and conducting annual performance reviews (S33A(3)).

Law-making powers of local-level governments

A wide variety of law-making powers have been devolved to local-level governments under the new Organic Law, however, these are subject to the Constitution, the new Organic Law and relevant provincial government laws (S44). Local-level governments cannot make laws pertaining to the authorised subject areas if there is already an established law on the subject matter by a higher tier of government or if the local-level law is inconsistent with a certain provision of an already established provincial or national law. While structures and subject areas for lawmaking are expressly mentioned in the new Organic Law, specific procedures and processes of how laws are to be made is left to an Act of Parliament, which has yet to be enacted.

Administrative and financial management

A key change associated with the new Organic Law has been the emphasis of moving public servants to district headquarters so that they can better manage and implement government policy. This partly came about as a result of the apparent lack of administrative machinery at the district level which, among other things, has contributed to the poor administrative capacity of community governments and local government councils. In principle, public servants at the district level would be the main vehicle for offering advice, coordination and planning, and implementation of local-level government policies.

Perhaps the relieving factor of the reform under the New Organic Law has been the way local governments would now be funded which promises to solve most of their financial problems. Changes in financial management have been many. First, there has been a shift from non-guarantee of funding to guaranteed funding from the national government. Under the change, local-level governments would be granted finance under the Administration Support and Development Grants respectively. Second, grants such as the Village Service and Infrastructure would be given direct to the district treasury and in doing so avoid the problem of being diverted to other areas in the provincial budget. Third, additional

mechanisms for properly ensuring the use of funds and accountability for their use were put in place through the establishment of provincial and district treasuries and provincial and district auditors. The establishment of these two entities arose largely from the need for prudent financial management—a key problem in the previous provincial government system. In practice, provincial and district treasuries would be responsible for the dual function of assisting respective provincial and local-level governments design their budgets and, more critically, of ensuring that funds are expedited properly through the expenditure control process. Provincial and district audit offices, on the other hand, will authenticate financial performance and its accountability through the use of regular procedural and value-for-money audits.

Policy constraints and lessons

Reforming decentralisation in Papua New Guinea has been fairly recent and the full results of the exercise cannot yet be readily determined. But the policy in its infant stage has encountered some problems and is likely to encounter more in the future. However, useful lessons could be learnt from Papua New Guinea's experience to date.

- A number of actual and potential constraints remain to be tackled within the decentralised system of local-level governments.
- The Local Government Act required by the Organic Law needs to be urgently enacted. The Act should clearly spell out the parameters of the law-making powers of local-level governments within provinces and more critically, put in place the mechanics of the political and administrative framework. Failure to do that would usher in problems of inconsistency in local-level laws, and irregular procedures and processes of the political and administrative structure.
- Existing legislations of the Public Service Management Act (1986), the Public Finance Management Act (1986) and the Audit Act must be streamlined to accommodate the principles of administration and financial management now encountered in the new environment. For example, matters such as reporting and accountability of district administrators have never been adequately dealt with by the Organic Law, yet the provincial administrator is responsible for effecting local-level government policy. In addition, complementary legislations which are necessary to implement the Organic Law have yet to be prepared by relevant government departments and enacted by parliament. For example, the Deputy Auditor General at a recent Local Government Conference indicated '58 separate pieces of legislation have yet to be enacted to allow for effective implementation of the reforms' (*The Post-Courier* 29 May 1997).
- Given the difference in magnitude and style of managing local government councils and urban councils, the assumption that they will operate under one legislation is misleading. Different legislations should be tailored and made pertaining to their specific circumstances.
- The notion of moving public servants to the districts is noble, however, the government is yet to provide the basic infrastructure for the resttlement of staff to the districts. If this remains unresolved, then the idea of public servants working for

local-level governments would remain a 'pie in the sky'.

- A reclassification of positions and new levels of remunerations for public servants to reflect the kind of work and hardship they would face has never been appropriately determined by the Department of Personnel Management. Consequently, it would be difficult to move public servants to rural areas because of a lack of performance incentives.
- After the transitional period of the new Organic Law, local-level governments have continuously been underfunded, demonstrating a lack of political support from the national government.
- A number of provinces have not yet instituted local-level governments as required by the new Organic Law, which raises doubts as to their capacity to implement the Law.
- Lack of understanding and appreciation of the reformed decentralised system has led to a passive approach by several key departments responsible for coordinating and administering the reform process, slowing progress.
- There has never been adequate financial support given by the national government to key departments responsible for overseeing and implementing reform, and a number of departmental heads have identified this to be a key factor inhibiting the progress of the reform (see *The Post-Courier* 29 May 1997).

A number of useful lessons can be readily identified from the experience of Papua New Guinea

- effective decentralisation would be realised if governments were not only committed to drawing up the blueprint for it, but also committed to sustaining and maintaining it, through adequate funding and administrative support
- guaranteeing the sustainability of decentralisation and protecting it from *ad hoc*, ill-fated political decisions are two key conditions for the success of decentralisation. While ordinary policy decisions and subordinate or ordinary legislation may prove useful, constitutional laws are a better option for sustaining and maintaining decentralisation
- given the type of decentralisation, primary and complementary legislation must be enacted in a systematic and coordinated manner
- decentralisation of powers and functions to local-level governments must always be proportionate to the capacity to implement these powers and functions
- the revenue base of many local-level governments will continue to be a problem. As much as possible, decentralisation must ensure that local-level governments have powers over increasing their revenue base. This step, however, must be taken with caution, especially in the area of taxation
- financial sustainment of decentralisation depends on the level of economic activity in a district, province, region and the country as a whole. It is therefore in the interest of national and local-level governments to ensure that growth and investment are enhanced so that the decentralisation process can be sustained
- a good financial and administrative system determines the effectiveness of the decentralisation process. Laws must be incorporated to ensure that the financial and administration system is sound. Following that,

appropriate financial, administrative, and planning processes and procedures must be established so that decentralisation is effectively operational

- efficiency in the decentralisation process calls for close cooperation among different government organisations concerned with capacity building, training and advice. Lack of cooperation will undermine this process.

Conclusions

Decentralisation in Papua New Guinea has been a common feature of government since independence from Australia in 1975. Experiences highlighted in this paper point to two radical changes: the enactment of the old Organic Law on Provincial Government in 1976, and the enactment of the new Organic Law on Provincial and Local-Level Governments in 1995 which effectively replaces the Organic Law of 1976. Perhaps the significant feature of decentralisation under these two changes was its constitutional underpinning which has strengthened decentralisation in two ways. First, since the Organic Laws, in essence, were constitutional laws, the sustainment of this process in the long run was guaranteed. Second, there was and is protection from sudden political decisions which often undermine decentralisation.

While decentralisation in local-level governments was provided for in the two Organic Laws, it is evident that there were also deficiencies inherent in the Laws, particularly the old Organic Law, and its inability to appropriately accomodate the political, administrative and financial needs of local-level governments. While the new Organic Law of 1995 has attempted to address the key deficiencies of the old Organic Law, it is evident that a number of problems still exist, which policy makers must now deal with to allow for the effective implementation of the Law. Among the many are

- the urgent need to enact subordinate supporting legislation
- the need for appropriate political will in determining local-level government finance based on the new formulae; the need to organise administration and planning within local-level governments
- the need for building appropriate infrastructure at district level
- the need for cooperation among government departments and agencies responsible for implementing the new Organic Law.

Reforming decentralisation within local-level governments in Papua New Guinea is still in its infancy however, there are useful lessons that are worth noting from the PNG experience, especially by other countries contemplating constitutional changes effecting decentralisation to local-level governments.

References

Bonney, N., 1986. *The Politics and Finance of Provincial Government in Papua New Guinea*, Centre for Research on Federal Financial Relations, The Australian National University, Canberra.

Cheema, G. S. and Rondinelli, D.A., 1983. *Implementing Decentralisation Programmes in Asia, Local Capacity for Rural Development*, United Nations Centre for Regional Development, Nagoya.

Conyers, D., 1983. *Decentralisation for Development. A Selected Annotated Bibliography*, Commonwealth Secretariat, London.

——, 1981. 'Decentralisation for Regional Development: A Comparative Study of Tanzania, Zambia and Papua New Guinea', *Public Administration and Development*, 1:107–20.

Regan, A.J. 1987. *Operation or Financial Arrangements for Provincial Governments: The Eastern Highlands Case*, IASER, Waigani.

Sause, L., 1992. Accountability and Performance: the case of provincial governments in Papua New Guinea, MPP Thesis, Victoria University of Wellington, Wellington.

Smith, B.C., 1985. *Decentralisation: The Territorial Dimension of the State*, George Allen & Unwin, London.

——, 1980. 'Measuring Decentralisation', in G.W. Jones (ed.), *New Approaches to the Study of Central-Local Government Relations*, Gower, Farnborough.