

FACT SHEET

Options for Bougainville's Autonomy Arrangement: A Study from a Global Comparative Perspective



THE NATIONAL
RESEARCH INSTITUTE
PAPUA NEW GUINEA

MAIN ISSUES

This report commissioned by the Bougainville Referendum Research Project in 2018 s for the purposes of informing stakeholders in preparation for the Referendum to be conducted in 2019 as mandated by the Bougainville Peace Agreement. The report's aim was to provide insights on the substance of autonomy regimes worldwide with a view to identifying and illustrating options for the status of Bougainville within Papua New Guinea.

WHAT IS AUTONOMY? A WORKING DEFINITION

With the enormous variety of arrangements of self-government, it is acknowledged that there is a lack of clarity and consensus around the concept of 'autonomy'. Terms like 'autonomy', 'devolution', 'decentralization' and 'federalism' are all interrelated concepts that are used pragmatically as and when needed. For the purposes of this report, (territorial) autonomy (of a territorial entity) is defined broadly as the "granting of internal self-government to a region...thus recognizing a partial independence from the influence of the national or central government." (Heintze, 1998, p. 7). (See Chapter 1)

WHY DO COUNTRIES ESTABLISH AUTONOMY ARRANGEMENTS (OR NOT)?

There are many reasons why autonomy arrangements come into being. The most relevant driving forces include geographical factors, historical grounds and, increasingly, the need to accommodate ethno-cultural diversity. Autonomy arrangements are often settled on as a compromise solution. It is usually not the ideal and primary goal of either party in the negotiations. Various factors that are either conducive or detrimental to establishing autonomy in countries riddled with (violent) conflict need to also be considered. (See Chapter 2)

TYPES OF AUTONOMY? A COMPARATIVE OVERVIEW

Geography sometimes plays a vital role in granting autonomy. This is linked to the idea of accommodating the periphery being far away from the state's political and economic centre. Autonomous island regions in particular constitute a particular form of periphery. The two main types of autonomy arrangements for islands are federacies and associated states. There are also arrangements in between the two with varying degrees of autonomy. The economic viability of the island state often strongly influences the degree of autonomy that is sought.

Asymmetrical autonomy arrangements are usually constitutionally entrenched and established with a view to respond to particular needs of certain territories due to history, geographical position, culture or linguistic characteristics. They enjoy different and more substantive powers as compared with other subnational entities of the same state. Extending special status to all territories of the state would contradict the very rationale of special treatment.

While reasons for establishing asymmetrical autonomy regimes are many, population diversity in terms of ethnic, cultural, linguistic or religious characteristics is by far the most frequent. Debates on whether owned (territorial) autonomous arrangements allow minority groups to feel included in the nation state or are used as a precursor to secession has led to power-sharing arrangements being viewed as the better arrangement. Power-sharing arrangements can keep minority groups from being underrepresented (as traditional democratic principles would have it) and keep nation state together. (See Chapter 3)

ASSESSING BOUGAINVILLE'S CURRENT AUTONOMY ARRANGEMENT FROM AN INTERNATIONAL PERSPECTIVE

The autonomous arrangement put in place for Bougainville as part of the Peace Agreement is

KEY POINTS

- A broad definition of (territorial) autonomy offered in this report is the "granting of internal self-government to a region."
- The most relevant driving forces for establishing an autonomy include geographical factors, historical grounds and, increasingly, the need to accommodate ethno-cultural diversity.
- Autonomy arrangements are often settled on as compromise solution. It is usually not the initial ideal and primary goal of either party in negotiations.
- A whole range of factors can be conducive or detrimental to the establishment of an autonomy arrangement.
- The two main types of autonomy arrangements are federacies and associated states. There are also arrangements in between the two with varying degrees of autonomy.
- The economic viability of the island state often strongly influences the degree of autonomy that is sought.
- Comparatively, the legal (constitutional) entrenchment of Bougainville's autonomy is very high. However, in practice, self-government in Bougainville has not been fully developed. This can be attributed to failures by both the PNG and Bougainville governments to execute the agreement.
- Bougainville currently has a long list of powers and functions that are yet to be drawn-down. The quite slow process of transferring powers appears to be one of the major difficulties of the implementation process.
- Any autonomy arrangement needs to be sufficiently flexible to adapt to changing contexts because an overly rigid form of autonomy faces the risk of becoming obsolete.

entrenched both in the national constitution of PNG, several organic laws, and within the newly crafted constitution for the autonomous region of Bougainville. Comparatively, the entrenchment of Bougainville's autonomy is very high. In addition, a lot of emphasis was placed on implementation compared to other arrangements around the world. However, in practice, self-government in Bougainville has not been fully developed. This can be attributed to failures of implementation of the provisions of the BPA by both the PNG and Bougainville governments.

Currently Bougainville has the same powers and functions as all other provinces have, as well as those in healthcare, education and agriculture. Beyond that Bougainville also has jurisdiction over subjects like local government and part of policing. Meanwhile the National Government carries powers related to national concerns such as defence, foreign affairs, currency, central banking and others. Bougainville also has a long list of powers and functions that it may draw down from the National Government. The slow process of transferring powers from the National Government to the Autonomous Bougainville Government was one of the major difficulties of the implementation process.

Intergovernmental relations and conflict management: If there is no balance between and interaction of "self-rule and shared rule", autonomy runs the risk of turning into isolation. In Bougainville's case, there is a certain degree of integration in various respects, as Bougainvilleans continue to be represented in other national institutions. Moreover, national institutions still play a crucial role because the setting up of some autonomous institutions has been prevented by limited financial capacities or intergovernmental disputes. In terms of dispute management, mechanisms have been put in place through the initial peace agreement and through the Joint Supervisory Body and the courts to prevent conflicts and/or resolve them. (See Chapter 4)

ALTERNATIVE OPTIONS BETWEEN THE EXISTING ARRANGEMENT AND FULL INDEPENDENCE

Entrenchment and implementation of autonomy: Global experience shows that legal guarantees for autonomy arrangements can be found in diverse sources which can include international agreements and/or domestic legal guarantees entrenched at various levels of government. Any successful entrenchment and implementation of an autonomy arrangement needs to be based on its continued acceptance and adaptation by the main stakeholders concerned. The involvement of the international community in brokering the initial compromise, is necessary for the next step of putting in place self-government mechanisms.

Autonomous powers: Autonomous powers are the backbone of any autonomy arrangement. The autonomy is in practice when it has the ability to establish its own rules and exercise them. From a comparative perspective, autonomy can be exercised in all areas of statehood: ranging from constitution-making, legislation, administration, judiciary and external relations. However, usually in practice, autonomy only affects some of these fields and is always limited by the national constitutional framework.

Intergovernmental cooperation and conflict management: Political participation and judicial conflict resolution mechanisms appear to be indispensable to sustaining autonomous arrangements. The examples for (meaningful) political participation range from institutions, such as the parliament or others (e.g., conferences), to special procedures of consultation. Bilateral relations reflect the procedural answer in case of strong asymmetries in status and powers. Courts complete the picture as arbiters of legitimacy after decisions have been taken. (See Chapter 5)

FINAL THOUGHTS

To make any autonomy arrangement work, there must be a willingness to consider a flexible adaptation of autonomy over time and continual negotiations between the national and autonomous governments. Any autonomy arrangement needs to be sufficiently flexible to adapt to changing cultural, social, economic, political and legal contexts because an overly rigid form of autonomy has little potential to be and remain widely accepted. Last but not least, successful autonomies require ongoing maintenance and continuous support from all of the stakeholders.

ABOUT THE RESEARCH

This fact sheet summarises the research paper produced by the PNG National Research Institute in 2018 to help understand and promote discussion in preparation for the Referendum that was to be held in 2019.

The full research paper is available here.

References to the related sections of the research paper are included in this fact sheet.

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