

Constitutional accommodation and conflict prevention

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This article is extracted from a longer piece by Yash Ghai and Anthony Regan: 'Bougainville and the Dialectics of Ethnicity, Autonomy and Separation' in Y. Ghai (Ed) Autonomy and Ethnicity: negotiating competing claims in multi-ethnic states (Cambridge: Cambridge University Press, 2000).

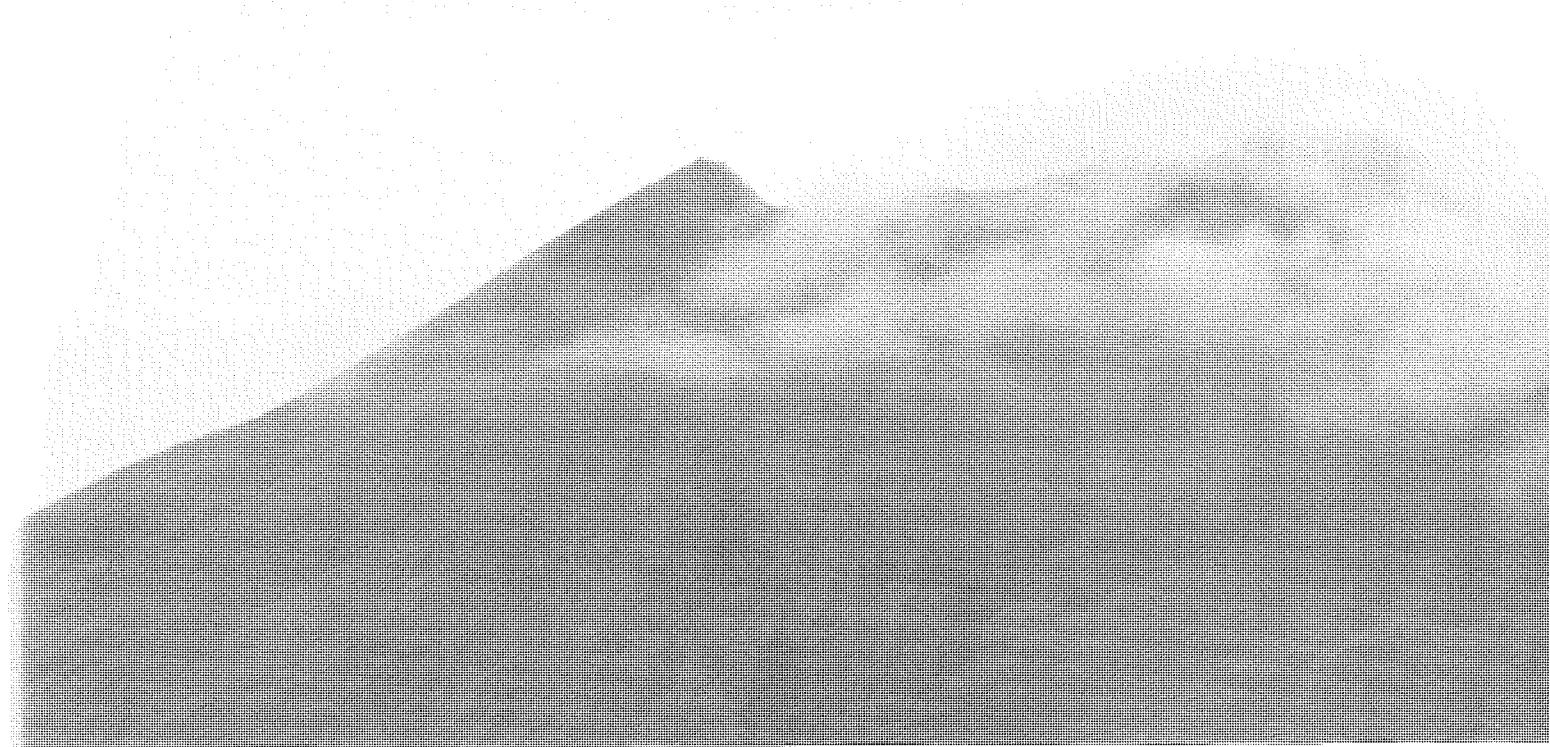
Mobilisation of Bougainville nationalism

It was in the late 1960s that Bougainvillean concerns about governance escalated to public demands for secession, and this was largely due to the dramatic increase in grievances against the colonial regime over the Panguna copper mine. It was significant that this occurred at a time when political possibilities in Papua and New Guinea were being transformed by the beginnings of decolonisation. The first universal adult suffrage elections for the colonial legislature, the House of Assembly, were held in 1964, and thereafter at four-year intervals (1968 and 1972). Debate on decolonisation established a context in which there were new possibilities for Bougainvilleans to define themselves in relation to the state. If independence for Papua and New Guinea was a possibility, then why not autonomy, independence for Bougainville or even union with Solomon Islands?

A major reason for the emergence of such local autonomy movements was the lack of any form of unifying national politics similar to those that emerged from independence struggles in Africa or Asia. There were no strong political parties articulating regional or national concerns. As a result, the grievances of local groups against the colonial regime defined national politics from the late 1960s until well into the 1970s, giving them a great deal of influence in the pro-Independence constitutional debate.

Moves toward constitutional accommodation

The House of Assembly elections of 1972 created the first indigenous-led Papua New Guinea government, and three of the four Bougainvillean representatives took prominent positions in it. Mainland leaders hoped that such high-level Bougainvillean involvement and the opportunities for inclusion in a new, soon to be independent Papua New Guinea, would quell Bougainvillean secessionist movements. In June 1972,



the Constitutional Planning Committee (CPC) was established as a House committee to consider Papua New Guinea's independence constitution, and the powers provinces would have upon its adoption. The CPC's terms of reference included 'central-regional-local government relations and district administration' and it was expected to find acceptable ways for the integration of Bougainville and of other groups demanding autonomy.

Support for secession did not die however and continued to be discussed sporadically at meetings in Bougainville. The central importance of antipathy toward 'red-skin' Papua New Guineans as a factor in Bougainville ethnic identity was also demonstrated in December 1972 when two senior Bougainvillean public servants were victims of 'payback' killings by villagers after a road accident in the New Guinea highlands. This led to vocal anti-'red skin' opinion and support for independence consolidated dramatically in all areas of Bougainville. Within two months, a committee of leaders from councils and other political groups from all over Bougainville – the Bougainville Special Political Committee (BSPC) – was set up to negotiate the future status of Bougainville with the Port Moresby government. The CPC and the BSPC, together with the first Papua New Guinean-led central government, now became key actors in the development of proposals for constitutionally entrenched decentralisation arrangements.

Development of decentralisation proposals, 1972-1977

From February 1973 to April 1977, when the *Organic Law on Provincial Government* came into effect, movement towards autonomy for Bougainville was remarkable, all the more so given the high degree of centralisation of the previous colonial administration system. At each step of the way, the initiative was taken by Bougainville, albeit

with CPC support at some crucial points. But although there was little pressure for change from other districts, the three main sets of concessions made by central government – in November 1973, July 1974 and August 1976 – were extended to all districts.

Having determined to move quickly towards decolonisation, Australia was content largely to stand back from decisions on future arrangements. As a result, constitutional debate – including the debate on decentralisation – was essentially an internal one, although influenced by external ideas. At the time the CPC was established, there was consensus in the new nationalist government under Chief Minister Michael Somare that an independent Papua New Guinea should be dramatically different from the colonial regime. The CPC looked to develop a state more democratic, participatory, responsive and accountable than the colonial state had been. Its decentralisation proposals were part of a complex web of recommendations directed to these goals. For the CPC the most suitable units for decentralisation of power were the existing districts. They had the advantage of being large enough to be viable, were widely recognised and signs of mobilisation and identity-formation, particularly on Bougainville, were already being shown at such a level. Other proposals to divide the country into four main regions (Papua Coast, New Guinea Coast, Highlands and Islands) were rejected, as the CPC feared such divisions would promote regionalism and fail to address the country's diversity adequately.

Although the CPC *de facto* chairperson, Catholic priest Father John Momis, was a Bougainvillean, the CPC was not just reacting to local Bougainvillean pressures for autonomy. Its views on decentralisation were part of a complex political and constitutional analysis that pushed it towards uniform decentralisation, rather than any asymmetrical arrangements. From 1973 to 1976,

Bougainville swung between demands for special arrangements suitable to it and acceptance of uniform arrangements applicable to all parts of the country. Although eschewing violence, Bougainville was in a fairly strong position to advance its agenda. The BSPC demands of July 1973 – essentially confederal arrangements with a right to choose independence at a later date – were deliberately over-ambitious. The real concern of the Bougainville negotiating team was to secure both a reasonable share of the Panguna mine revenue, upon which the national government was increasingly relying for its own financing and the autonomy to use such resources as Bougainville determined. The resultant compromise, reached in 1973, allowed decentralisation of powers for district government, followed in 1974 by negotiations on establishing an interim provincial government.

The Final Report of the CPC, released in July 1974, offered detailed recommendations for constitutionally entrenched legislative, executive and financial powers for transfer to an elected body in each province. The CPC had by then developed its own power base, through its widespread public education campaigns and consultative meetings, and developed its proposals with significant independence from the national government. However, the disparity between the CPC and increasingly conservative central government became apparent, as the national government opposed key features of the proposals, particularly the entrenchment of the arrangements and the supremacy of provincial laws over national laws. A compromise, reached in the House of Assembly, was to state key principles in the *Constitution*, leaving details for an organic law with a lesser degree of entrenchment. A follow-up committee was established to decide what should be included in the proposed organic law on provincial government.

Failure of negotiations

Negotiations between the national government and Bougainvillean representatives finally broke down in May 1975, after disagreement over financial arrangements for the Bougainville Interim Provincial Government. Bougainville sought to extract a reasonable share of national government revenue from the Panguna mine to be used as it saw most appropriate, while the national government was concerned about the costs of generalising what Bougainville demanded across all provinces and all economic resources. Negotiations collapsed in May 1975, followed by threats of secession at a meeting of Bougainville leaders.

On 28 May 1975, a day before debate was to begin on the draft national *Constitution*, Bougainville's Interim Provincial Government agreed on secession. The next day, national legislators rejected the recommendation on

provincial legislative supremacy. Seeking compromise, the national government attempted to resolve the situation throughout June and July, later convincing the Constituent Assembly to delete the section of the draft *Constitution* dealing with provincial government. Bougainville leaders responded by making clear their intention to declare independence on 1 September, ahead of Papua New Guinea's scheduled independence on the 16th. On 1 September 1975, the Bougainville leaders issued their 'Unilateral Declaration of Independence of the Republic of North Solomons'.

Attempts at reconciliation

Bougainville leaders sought recognition of their independent status at the United Nations and explored a possible union with Solomon Islands, but were unsuccessful in both endeavours. This inability to garner international recognition of their independence brought the Bougainville leadership to accept Papua New Guinean sovereignty in early 1976. The national government, wishing a non-violent and expeditious re-accommodation, undertook to restore the provincial government provisions to the *Constitution*, and amendments providing for the prevalence of provincial laws over national ones were also added. Other matters, including provisions of the proposed *Organic Law on Provincial Government*, were resolved via the *Bougainville Agreement* of August 1976.

The 1976 *Bougainville Agreement*, while ostensibly detailing Bougainville's special relationship with the central government, was widely supported by the national Parliament as a sign of acceptance of the CPC's proposition that the road to Papua New Guinean unity laid through recognition of diversity. The document clearly highlights its application solely to the Bougainville situation, but endorses a nationwide plan of decentralisation and serves as a suggestion of the type of structure that could be formed under the flexible, and thus still technically 'uniform', Constitutional arrangements.

In negotiating the *Bougainville Agreement*, the North Solomons delegation focused on ensuring that the arrangements in the Organic Law would provide a sufficient balance between its needs and those of the centre. Of particular importance in this regard were the entrenchment of the arrangements, their marked federal characteristics and the great flexibility available in the provisions on powers and functions, funding and staffing that offered the possibility of asymmetry through variation between provinces. There were also aspects of the arrangements which, despite being generalised, were so directed to Bougainville's concerns as to be of little or no relevance elsewhere.

Failure of decentralisation agreements and growing tensions

Many aspects of the decentralisation arrangements were implemented and operated much as planned. Democratic political systems were established in all 19 provinces, and provincial consciousness and identity were increased. Powers and resources were transferred to provincial governments, enabling some to develop their own policies, while others remained content to work mainly within national policy frameworks.

Other aspects of the arrangement did not work out as expected, for complex reasons. Few provincial governments operated effectively and thus failed to mobilise strong support. Capacity for policy and administration was weak in all levels of government, especially as both the central state structure and the decentralisation arrangements were complex. The North Solomons Provincial Government was undoubtedly one of the most effective government units in Papua New Guinea, but it was fully occupied with maintaining basic services and managing its capital expenditure programme.

Relations between the national government and provincial governments were often strained. The national government paid little more than lip service to aspects of the machinery that it could not ignore – for example the Premiers Council, which the Organic Law specified had to meet annually – and ignored other aspects. (The National Fiscal Commission, whose responsibility was to make recommendations and resolve disputes on intergovernmental fiscal arrangements, did not meet from 1984.) Moreover, arrangements for suspension of provincial governments were amended in 1983, removing important procedural safeguards against abuse. Subsequently, those powers were used extensively against provincial governments and often for purely political reasons. The courts, however, provided an important balance between the central government and the provinces, interpreting and pointing out important Constitutional provisions that were either being misinterpreted or ignored by the national government.

The flexibility built into the *Constitution*, to allow for increased devolution of powers to the provinces, in the end resulted in very little transfer of authority, due to the consolidation of power at the national level, the central government's desire to implement decentralisation uniformly and the limited interest of the newly created provincial governments in operating outside the laws provided by the national government. The response of the national government to serious disputes between it and the Bougainvilleans in 1981 regarding resources from the Panguna mine clearly showed that there was no interest at the national level in transferring further resources.

This lack of authority made it increasingly difficult for provincial governments to deal with local problems, particularly on Bougainville, where the North Solomons government had limited power to respond to either the ongoing grievances of ordinary Bougainvilleans concerning the Panguna mine or the tensions associated with rapidly increasing economic inequality. These tensions manifested themselves in the growing resentment of outsiders and concerns that outsiders were undermining traditional authority and culture. There was also little the province could do to combat the increasing economic inequality among residents, which was at odds with the relatively egalitarian nature of traditional society. These growing tensions on Bougainville, and the inability of the provincial government to do much of substance to address them, fomented the secessionist movements that turned violent in 1988.

Conclusion

Decentralisation did not give Bougainville the power to deal with basic grievances, nor to deal with economic and social developments that created ever-growing tensions. On the other hand, the rejection of decentralisation in favour of violent separatist struggle is not in itself an indictment of the decentralisation arrangements in Bougainville. These arrangements were not capable of limiting the unfolding of powerful economic and social forces, and it was those forces, largely external to the decentralisation arrangements, that led to the demise of decentralisation. While the relatively successful operation of a provincial government for Bougainville probably helped contain ethnic tensions for a time, those arrangements were increasingly seen by those with limited stakes in them (landowners receiving few benefits, those failing to extract economic benefit from the mine or cash-cropping etc) as irrelevant to the needs of Bougainville. The inability of the arrangements to respond to deeper concerns flowing from rapid socio-economic change probably contributed to increased resentment of outsiders who were to some degree a convenient explanation for a multitude of problems. It might be argued that only an extremely inward-looking form of either asymmetric autonomy arrangements or independence could have contained the forces at work in Bougainville and such arrangements would have created their own tensions and problems. On the other hand, the provincial government was operating well in many respects, and was seeking ways of dealing with the sources of ethnic tension. Indeed, even as violence intensified from 1998, the North Solomons Provincial Government continued efforts to find an acceptable negotiated solution to the conflict.