Torres Strait Islanders and Autonomy: a Borderline Case

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Declaration

Unless otherwise stated, the ideas and the approaches utilised and explained in this thesis are mine alone.

William Stewart Arthur

Acknowledgments

Abstract

During 1996 and 1997 an Australian parliamentary committee conducted an inquiry into greater autonomy for Torres Strait Islanders, but by 2000 the future of the issue seemed unclear. This thesis explores what the notion of autonomy has meant for Torres Strait and for Torres Strait Islanders in the past, and what it might mean in the future. The thesis uses material from the period before European contact to just after the end of the parliamentary inquiry.

Several analytical tools were utilised to explore the concept of autonomy. Major among these to propose and then analyse the relationship between autonomy's economic and political components. The thesis also introduces the paired concepts of negative and positive autonomy to provide a counterpoint to ideas of welfare colonialism. Cross cutting these economic and political elements is a consideration of both regional and corporate forms of autonomy. The thesis argues that it is necessary to consider the factors which people can use to legitimise a case for autonomy and these are identified and discussed.

Although previous research and historical material are utilised, unique parts of the thesis include an analysis of: the formal submissions and hearings associated with the parliamentary inquiry; the Torres Strait's location between Australia and Papua New Guinea; and the Strait's small-island make-up. In this latter regard, comparisons are made with models and examples of autonomy found in small island states and territories in the Pacific.

The findings include that we must consider two groups of Torres Strait Islanders, those in Torres Strait and those on mainland Australia. Whereas those in the Strait have been able to legitimise a case for a form of autonomy those on the mainland have not. Islanders in the Strait have achieved a degree of regional autonomy; those on the mainland are unable to make a case to be part of this regional autonomy, or to achieve a form of corporate autonomy. The status of Islanders in the Strait is influenced by several factors including

the Strait's location on the border with Papua New Guinea, the associated Treaty with that country, and the nature and the accessibility of the in-shore fishery. A major finding however is that although Islanders have achieved a degree of regional political autonomy, which may be progressed yet further, they have been unable to embrace non-Indigenous people within this. Their present aspiration for regional political autonomy therefore is limited to one that would apply only to Indigenous-specific affairs. This stands in some conflict with their aspiration for regional economic autonomy which would include their control over the entire regional fishery which they presently share with non-Islanders.

Though Islanders have achieved some degree of political autonomy, they depend on substantial government financial transfers to the region. Despite this they have also achieved some economic autonomy, particularly through being involved in the region's fishery. Juxtaposing negative and positive autonomy with political and economic autonomy shows that a dependence on government economic transfers does not preclude gains in political autonomy. This can be contrasted with the notion of welfare colonialism.

Contents

Chapter 7. The Inquiry: the mainland

Chapter 8. Conclusions

Appendices

Figures

Chapter 1
Approaching Indigenous autonomy[1]

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).

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[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

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[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 people[4], 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

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[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

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[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

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Strait. See also Appendix B.

[5] In a similar way, Articles 3 and 31of 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

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[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

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.

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[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 ATSIC region, 1996.

7,746
(67)

Torres
Strait

6,064
(80)

8,992
(10)

7,001
(59)

7,122
(40)

5,635
(44)

3,423
(28)

3,958
(57)

4,088
(40)

14,712
(8)

3,449
(52)

6,658
(20)

14,678
(5)

4,298
(12)

7,518
(66)

4,449
(18)

11,332
(3)

2,688
(25)

8,804
(3)

27,635
(1)

5,006
(9)

5,888
(8)

10,711
(6)

25,058
(2)

3,152
(6)

7,344
(14)

1,867
(5)

34,286
(1)

17,998
(1)

6,204
(3)

18,047
(4)

11,079
(1)

10,395
(0.5)

9,123
(2)

12,689
(1)

13,873
(3)

6,204   Indigenous population

(3)   Indigenous as percentage of the total regional population

Source: ABS Census, 1996
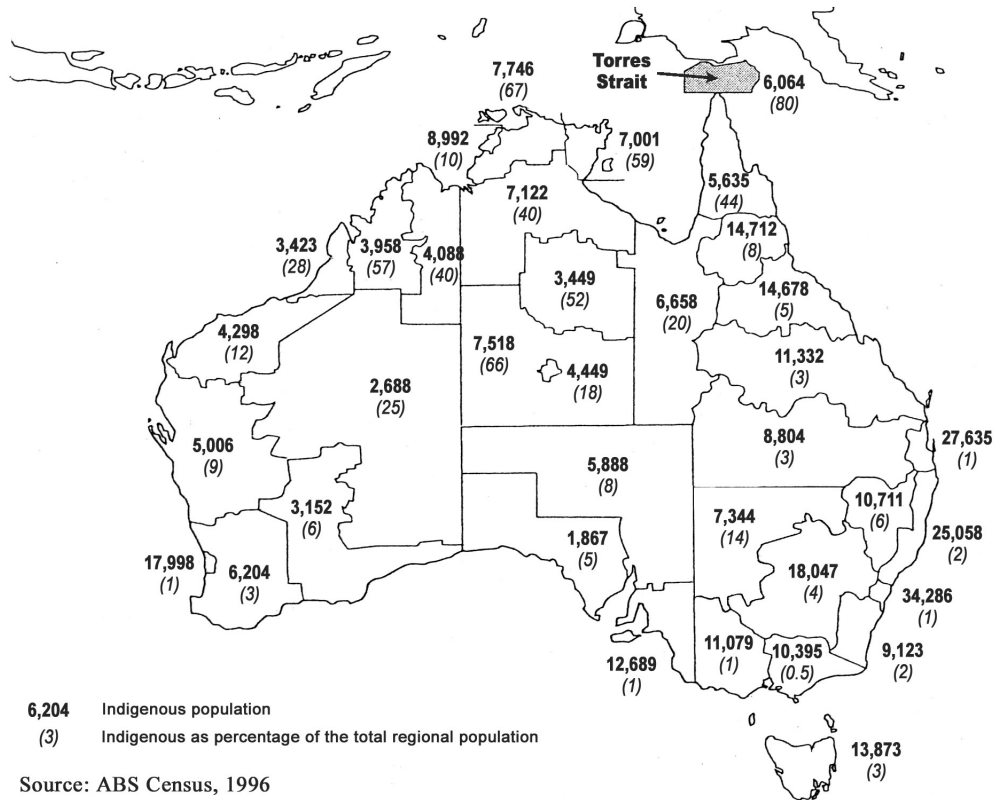
Regional autonomy (for a place)

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,

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[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.

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[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.

6,058

2,055 5,177 5,490

8,829 5,426

9,904

2,218

9,106 11,249

6,608 3,610 1,222

5,021 5,616 1,611

13,529 6,538

4,413 2,997 734

7,159

4,522 3,742 2,071 1,196

938 3,260 9,794 1,182 543

1,482 1,395

1,441 1,522

609

938   Dollars per capita

Source: ATSIC Annual Report (2000: 199-203);
         OEA (2001: 49); ABS Census, 1996.
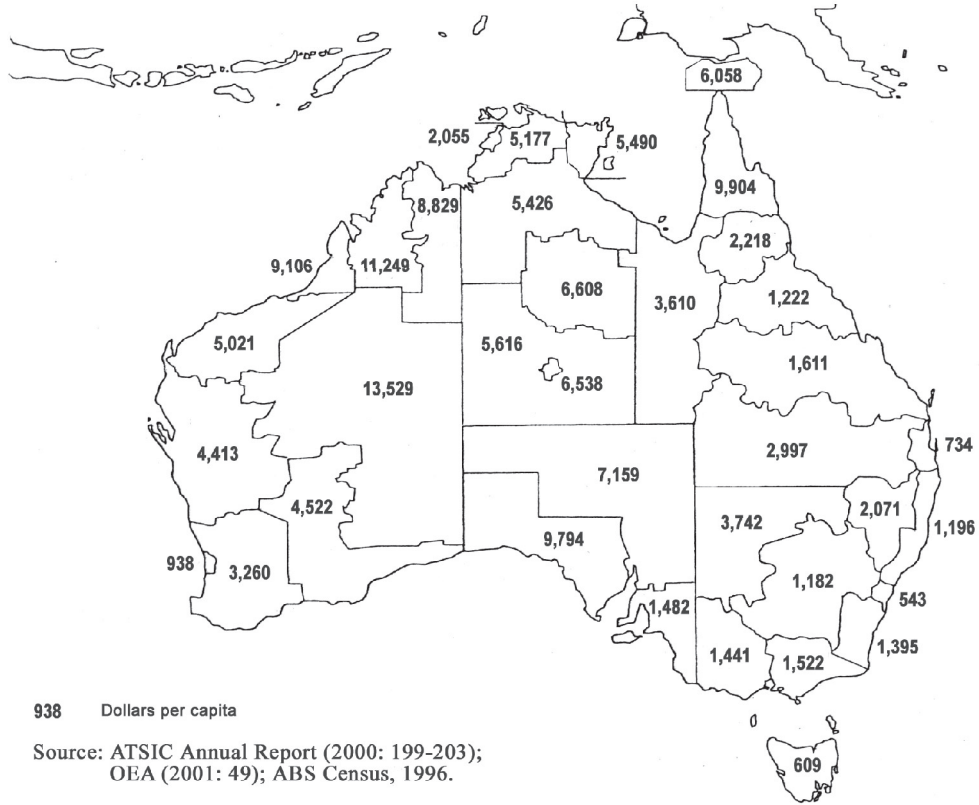
Conversely where populations are low—in the centre and the north—expenditures were high. Therefore, if we equate the level of autonomy in a region with the level of Indigenous-specific resources under the control of RCs, then we can see that this form of autonomy is likely to have been more significant 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

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[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

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[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 legitimation 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

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[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

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[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		
	Political	*Economic*	*Cultural*
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			

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[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.

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[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.

141 E   142°E   143°E   144°E   144°15′E

PAPUA   NEW   GUINEA

9°S

Parama I.

Daru I.

Bramble Cay

Missionary Reef

Boigu I.

Anchor Cay

East Cay

Dauan I.

Saibai I.

Deliverance I.

Reefs

Stephens I.

Kerr (Kiss) Islet

Darnley I.

Warrior

Turu Cay

Yorke I.

Mabuiag I.

Yam I.

Murray
Islands

10°S

Badu I.

Moa I.

Coconut I.

TORRES

Kubin   St Pauls

STRAIT

Warraber (Sue) I.

OUTER ISLANDS

0

CORAL SEA

N

INNER
ISLANDS

Hammond I.   Thursday I.

Horn I.

Prince of
Wales I.

Authority area
includes:
Seisia
Bamaga

New
Mapoon
Injinoo
Umagico   Bamaga

Seisia

CAPE ISLANDER
COMMUNITIES

11°S

*GULF OF
CARPENTARIA*

144°E

CAPE YORK
PENINSULA

0   100

kilometres

141°E   142°E   AUSTRALIA   143°E

LOCATION

PNG

AUSTRALIA

0   1000

kilometres

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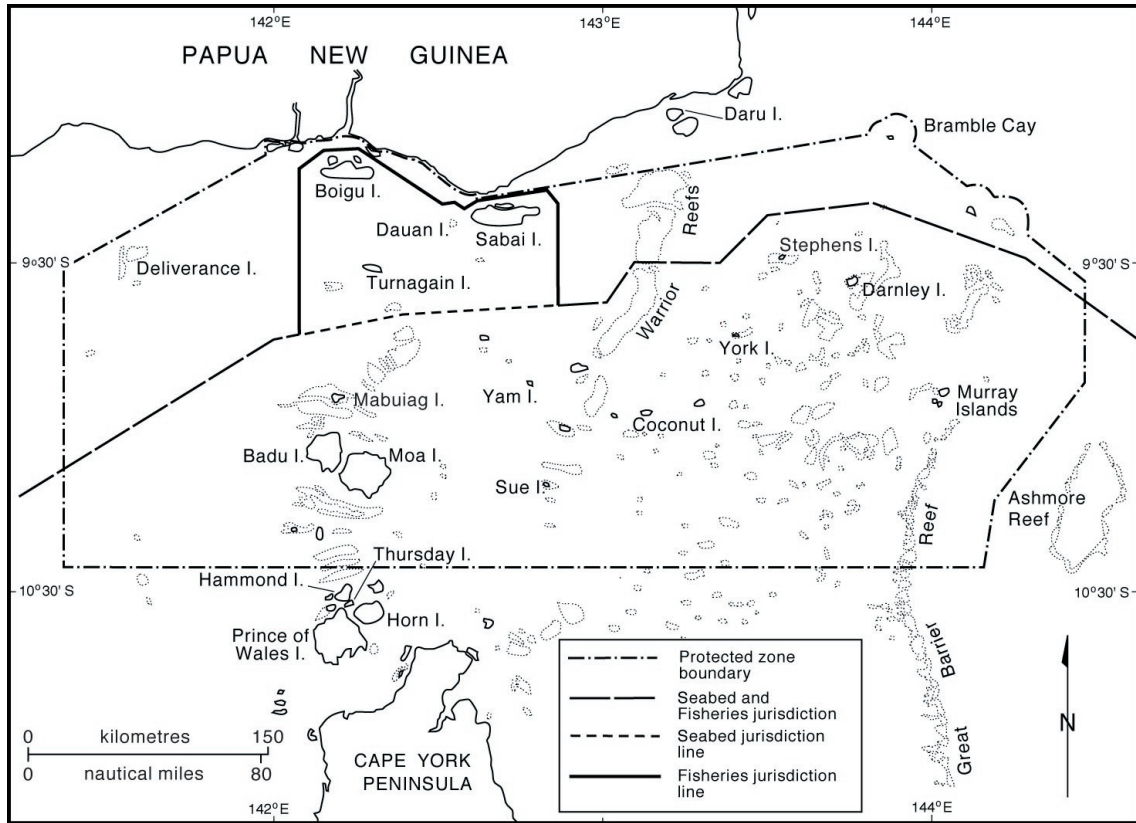
The archipelago, contained as it is within a strait, is relatively easily identified as a discrete geographic region (Chapter 5). However, it also has a number of political and social sub-regions. These and their populations are important for an understanding of people's approaches to autonomy and are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

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[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			
Top Western			
Boigu Island*	Boigu	227	243
Dauan Island*	Dauan	120	126
Saibai Island*	Saibai	243	272
Central Western			
Badu Island*	Badu	527	562
Moa Island*	Moa	399	443
Mabuiag Island*	Mabuiag	174	180
Central			
Yorke Island*	Masig	250	283
Sue Island* and Coconut Island*	Warraber and Poruma	348	391
Yam Island*	Lama	150	150
Eastern			
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 coats 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 6,000[3] 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

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[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).

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[6]As 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.
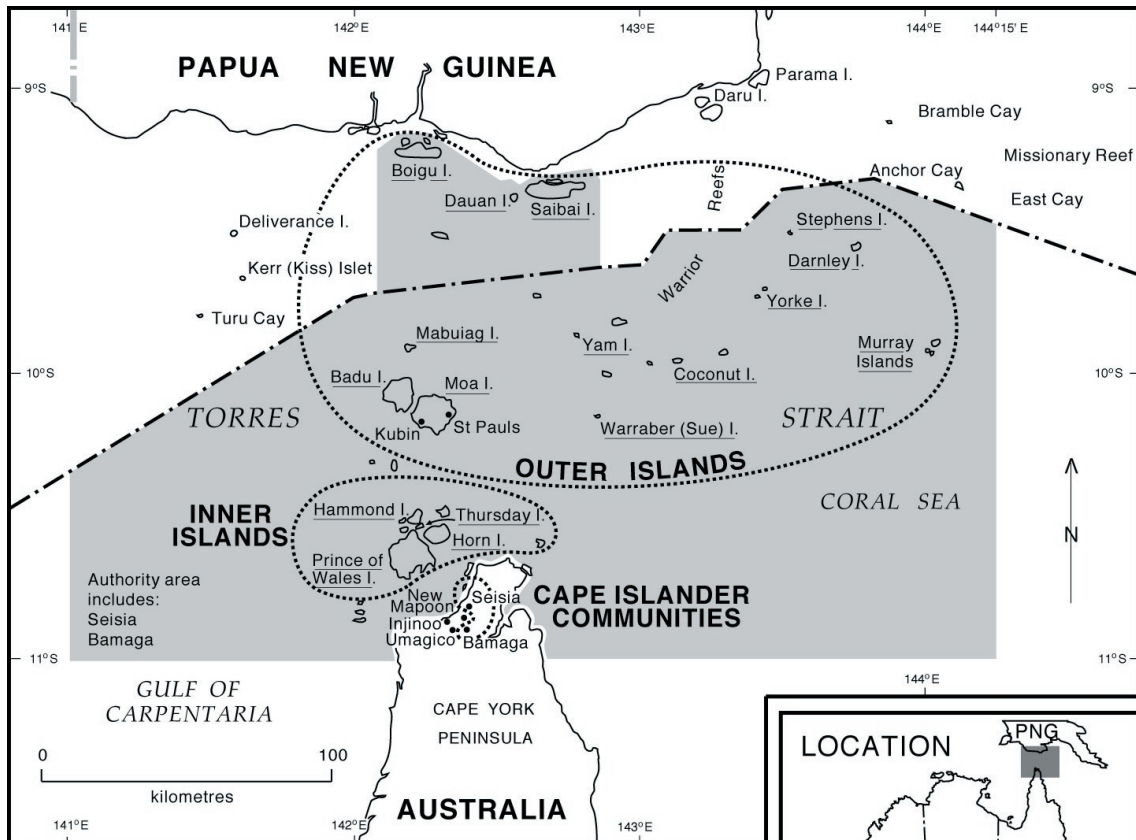
Torres Strait Regional Authority Area

—·—·— 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.
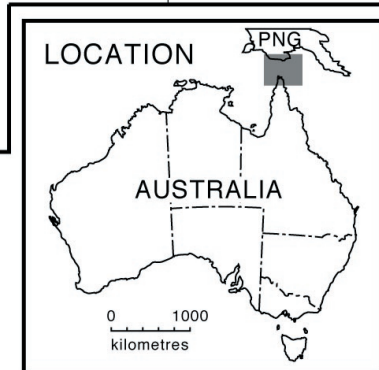
The TSRA

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

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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.

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[9]The 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 form 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

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[1]The 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

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[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

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[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).

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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

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[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 Minster 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, Naruans 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 the14 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

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[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 Naruans 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 Naruans, 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 Naruans 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 Naruan was the language spoken at home, and laws regulating the use of alcohol were different for the two groups.

During the 1950s and 1960s Naruans, 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] Naruans 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 Naruans a partnership in the phosphate

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[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 Naruan 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 Naruans 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.

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[9] A Naruan citizen is someone of Naruan descent, or the child of a Naruan and a Pacific Islander. Thus, a child born to a Naruan 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 *House of Arikis* 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)

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[10]Maori 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 bicamerlaism. 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 (*fono)* of registered chiefs (*matais*), 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 *Faipule*) elected from leaders of each atoll Councils of Elders of each atoll selects representatives for governing body (*fono)* 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; Common wealth 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.

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[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,

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[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 provided 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 realtivities 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 and external territory, the SDA system could provide a useful model or 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 UN[14] 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

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[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

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[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 discus 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

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[1]Missionaries gave these people the title 'mamoose', see below (Beckett 1963: 15).
[2]For 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

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[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

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[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 Mabuiag 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

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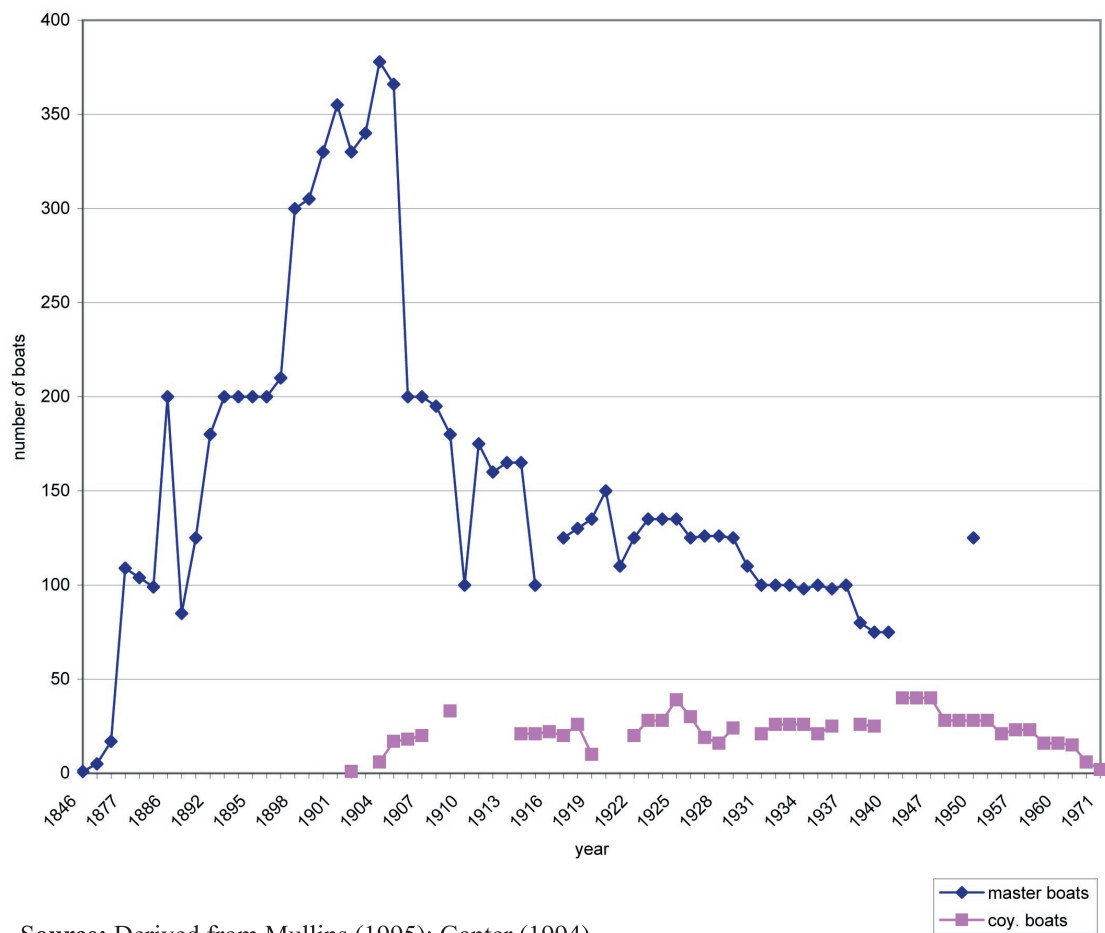
visit Sydney and other eastern ports, so beginning a connection with the mainland that more than likely influenced the pattern of post WWII migration discussed below and in Chapter 7 (Beckett 1987: 47).

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

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[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

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[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

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

[11]Though 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 then 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 1986[12] (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

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[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

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

[16] In 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).

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

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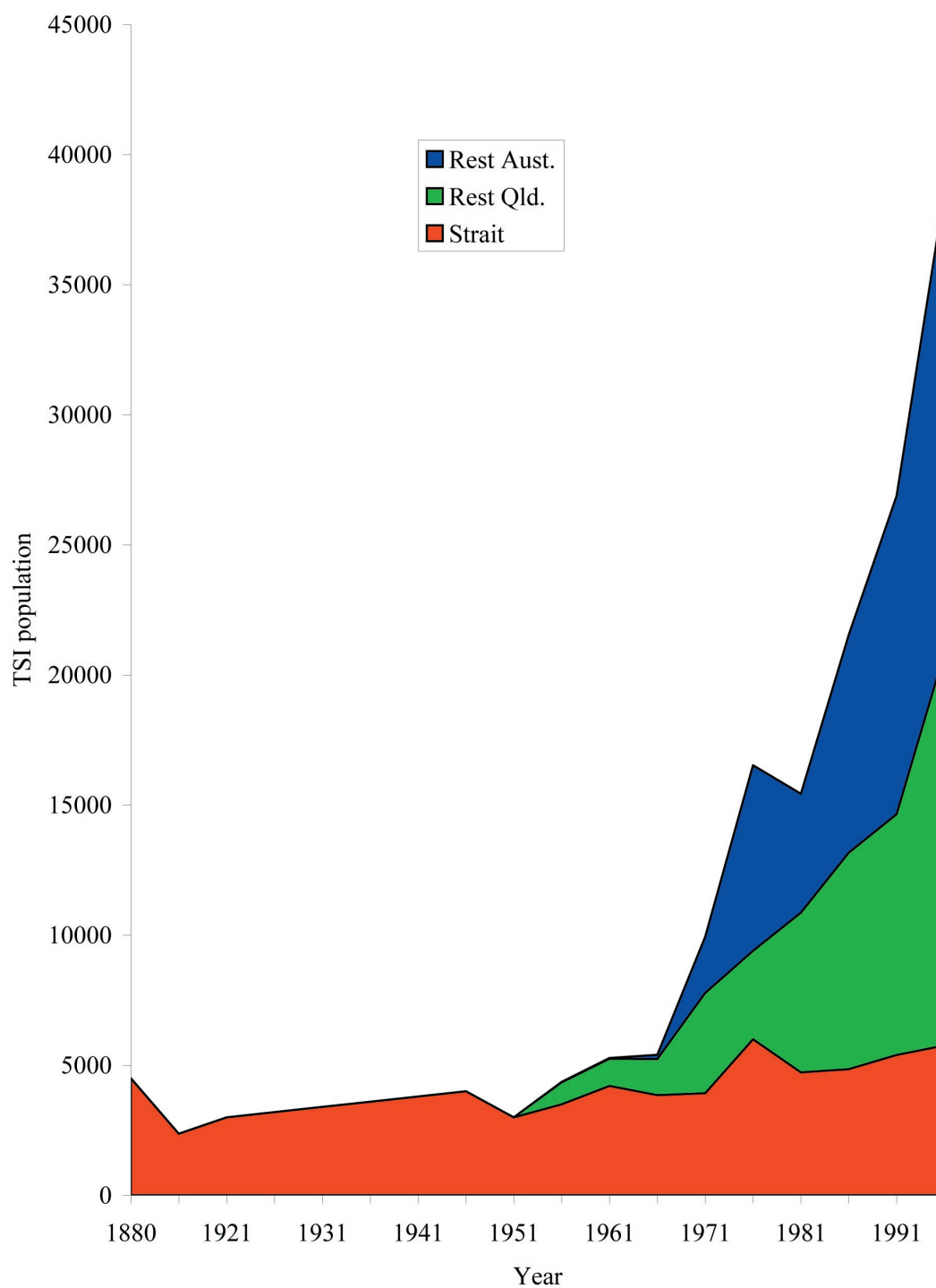
Note: (a) Where data are unavailable, particularly pre-1946, figures are estimates and averages.

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-facetted 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

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[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

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[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.
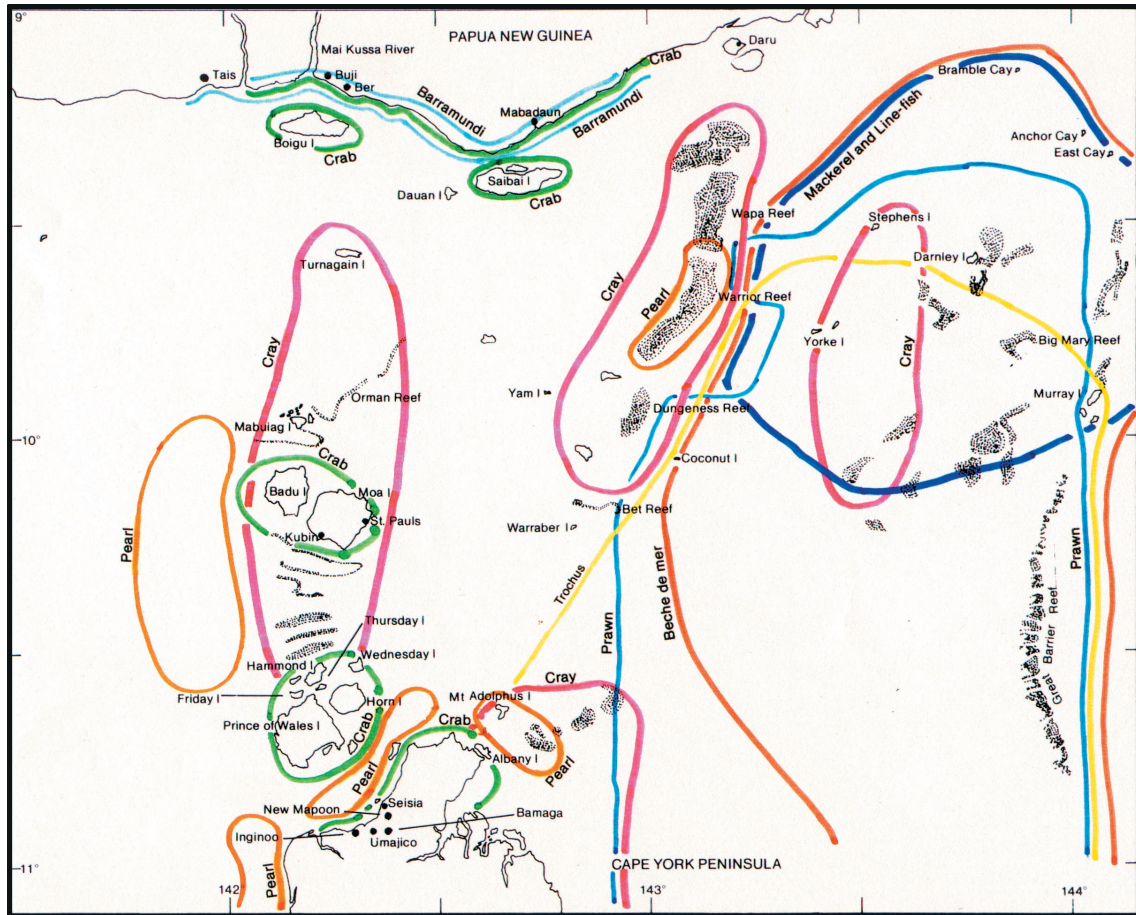
Source: Arthur (1990)
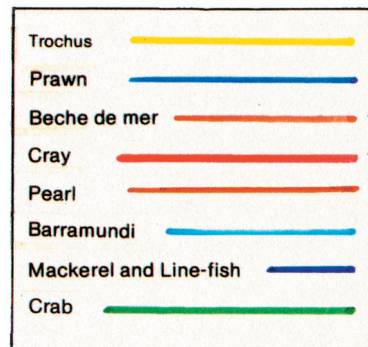
access to the services of Thursday Island including reliable freezer plants and fish buyers. Islands further afield have less access to these sorts of services (Arthur 1990). It is worth noting that trochus shell does not require freezing and so catches are not dependent on complex infrastructure. It 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 COMMUNITES				
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]

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[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

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[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

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[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;

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[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 for 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 the 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.

Chapter 5

Making the region: culture, the border and the Treaty

Torres Strait includes the international border between Australia and Papua New Guinea. In the Treaty between PNG and Australia that was ratified in 1985 a unique set of border arrangements were established. These arrangements have had, and continue to have, a significant impact on the region with implications for regional autonomy. In this chapter I will discuss some of these implications. I note some of the other features that mark Torres Strait off as a region and some of the ways that Torres Strait Islanders are able to identify with Torres Strait - making and legitimising links between the region and themselves. I also note how the Treaty arrangements have included Islanders in the management and sharing of the region's resources and have produced a unique set of cross-border relationships. I will argue how some of these features of the Strait make it both easier and more difficult for Islanders to argue a case for greater regional autonomy.

Regions and autonomy

I noted in Chapter 3 that UN Resolution 1541 proposes that regions that might wish to argue for some sort of autonomy from a parent state (for example to become a territory) would be advantaged if they could demonstrate a degree of geographic separateness, a distinctive ethnic and/or cultural distinctiveness and some history of subordination to the parent state in administrative, political and economic terms (Commonwealth of Australia 1991). Further, regional autonomy for a group of people is more logical if they can legitimise some special connections with that region (Hannum and Lillich 1988: 215-18, 249). Thus, part of the logic for a regional form of autonomy rests on the ability to define a region to the extent that it can be treated separately, and on the ability to make a link or links between that region and a people. Constructing such a regional identity is easier for

some groups than for others, and rests, to an extent, on the coincidence of geography and history. However, people may also draw on a set of symbols to form a regional identity.

Regions are constructs (Taylor and Bell 2004) and one or more factors can contribute to their creation. These factors can be geographic, political, economic, and cultural. Being an archipelago of small islands, the Strait has the form of geographic separateness noted by the UN Resolution and Chapter 3 makes some comparison between the Strait and the small-island states in the Pacific. However, the islands of Torres Strait are different from those of the Pacific in that they are contained within a Strait. This delineates them to a degree not found in the Pacific, and helps give them something of a regional identity. Straits can have their own political-geography economy and culture (see Kaye 1997[1]). This is particularly so for Torres Strait which encloses the international border between Australia and PNG. Australia and PNG are countries that differ markedly in culture, economy and political stability and so an additional defining characteristic of the Strait is that it sits on the boundary between two very different countries.

Connecting to the region

What are some of the regional identifiers, symbolic or otherwise, available to Torres Strait Islanders?

Demography

At about 11 per cent of Australia's national Indigenous population, Islanders are actually a very small part of the already small Indigenous minority; but they have managed to reconstitute this position as a positive political identifier when dealing with government, often claiming for themselves the status of the 'minority within the minority' in Australia. At a regional level they are the majority (80 per cent) of the Strait's population. This is similar to the level of Indigenous representation found in some of the world's independent nations (Chapter 3). Australia was divided into 36 regions (including Torres Strait) that made up the Aboriginal and Torres Strait Islander Commission (ATSIC).

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[1] This is one of a series of publications describing several international straits, including Torres Strait.

After Torres Strait, the next most Indigenous region in Australia was Jabiru in the Northern Territory where Indigenous people are some 67 per cent of the total. The region where Indigenous people are the smallest proportion of the whole population was Wangaratta in Victoria where they are only 0.5 per cent of the total. The average proportion of the Indigenous population to the whole population across all of the mainland former ATSIC regions is around 18 per cent. Therefore the Strait is the most Indigenous region in Australia to some considerable extent and this gives Islanders a significant regional presence. This demographic is noticeable when travelling by plane between Cairns and the Strait when commonly half to three-quarters of the passengers are Islanders. When first arriving in the Strait one is struck by the number of Islanders in the streets and in various mainstream jobs.

Culture

Culturally, Torres Strait Islanders are of Melanesian heritage, but with some sub-regional variations and including non-Melanesian influences. 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). These distinctions reflect to a degree earlier connections between the islands, the mainland and PNG. The distinctions are also sometimes part of the cultural markers which are used to divide the Strait into two subdivisions, the east and west. A more completely regional language is Torres Strait Creole, sometimes referred to as Torres Strait Broken (Shnukal 1983). This a pan-Strait language similar to the 'Pidgin' found in PNG and is thought to have been imported by South Sea Islanders (SSIs) in the mid nineteenth century (Davis 1998: 8). Many Torres Strait Islanders refer to their culture in Melanesian terms as *Ailan Kastom* which is in fact a blend of the original culture and that of these same South Sea Islanders who were brought to the region in the nineteenth century as part of the pearl shell industry and during the process of Christianisation (Mullins 1995; Ganter 1994) (see Chapter 4). The two words of the term *Ailan Kastom* allows Islanders on one hand to reinforce their connection with the islands of the Strait and on the other to make a clear

distinction between themselves, Aboriginal people and other Australians. I will discuss in more detail this application of the notion of culture and *Kastom* in Chapter 6.

Island culture in the form of dance, song, and customs is vibrant and is regarded as a cornerstone of contemporary Islander life in the Strait. For instance, Islanders, particularly those living in Torres Strait, are more likely to speak either Creole or a traditional language than are their Aboriginal counterparts across Australia. They are also more likely to identify with a clan or traditional grouping and to be active in cultural activities (see Tables 5.1, 5.2 and 5.3). Initiation of young men remains important with some being brought from the mainland to take part in initiation ceremonies (Davis 1998: 238). *Ailan Kastom* is also officially recognised in some government policies such as the *Queensland Land Act* 1991 (Davis 1998: 19). The importance of this culture is apparent in policy statements. In its second review of its Act in 1998, ATSIC noted that the TSRA's corporate plan states that its first function is:

…to recognise and maintain the special and unique *Ailan Kastom* of Torres Strait Islanders living in the Torres Strait area (ATSIC 1998: 9).

In a similar vein, the TSRA newsletter has as its banner:

Our Vision: Empower our people to determine their own affairs based on unique Ailan Kastom bilongTorres Strait from which we draw our unity and strength.[2]

Table 5.1 Languages spoken, 1994

Main language spoken	Homelanders	Mainlanders	Australian Indigenous
	Per cent	Per cent	Per cent
English	12	70	80
Creole	65	12	3
ATSI language	16	8	3
Not stateds	7	10	3

Source: Arthur (1997a).

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[2] 'Bilong' is a Torres Strait Creole word.

Fig. 5-1. The Torres Strait Islander flag.

Table 5.2 Cultural attachments, 1994

	Homelanders	Mainlanders	Australian Indigenous
	Per cent	Per cent	Per cent
Identify with clan, tribal or language group	72	59	60
Recognises homeland	93	79	75
Resides in homelands	70	12	40
Grew up in homelands	78	56	74

Source: Arthur (1997a).

Table 5.3 Attended cultural activities in last 12 months, 1994

	Homelanders	Mainlanders	Australian Indigenous
	Per cent	Per cent	Per cent
Funerals	82	77	54
Festivals and carnivals	62	46	43
Ceremonies	58	45	21

Source: Arthur (1997a).

Islanders also have their own flag officially proclaimed a 'Flag of Australia' under the Commonwealth *Flag Act 1953* in 1995 (Fig. 5.1). The flag is a symbol of both people and region. The blue represents the sea, black the people, and the green the land. Part of the central device is a *dari,* a traditional headdress.[3] Included is a white five-pointed star representing the joining of five notional traditional subdivisions of the Strait[4] and the importance of stars in mythical tradition (Sharp 1993). Aboriginal people also have their own flag, but this applies to all of Australia. Torres Strait Islander flag meanwhile, as well as identifying Islanders separately from Aboriginal people, makes a subtle connection between Islanders and the Strait as a region through the elements of its design.

Islanders also have their own particular body of traditional and contemporary songs, dances, art, musical instruments and set of creation myths, though some of these latter are also linked to those associated with the coastal area of PNG (Mosby 1998; Wilson 1988; Singe 1989). The region has its own radio station called the Torres Strait Islander Media

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[3] The flag's design is attributed to the late Bernard Namok of Thursday Island.

Association (TSIMA) which broadcasts daily in Torres Strait Broken and it has a regional newspaper, 'Torres News: The Voice of the Islands', which commonly includes a great many Islander political, economic and cultural articles.

Other contemporary cultural features that are unique to Torres Strait and Islanders include a form of dress, namely the *lava-lava* or *Kalako*. This is a garment a little like a sarong and it was also introduced by SSIs in the nineteenth century (Davis 1988: 269). Beckett (1987) notes how this was worn by an Islander leader as a symbol of ethnic and regional identity when meeting with the Government in Canberra in the 1970s. Similarly, uniforms such as those of the State run schools, and casual shirts often bear the *dari* and the colours of the Torres Strait flag (Fig. 5.2).

Having the same name as Torres Strait also acts as a regional identifier for Torres Strait Islanders. Although some now object to the colonial overtones of the name, as it derives from early European contact with the Strait, it provides Torres Strait Islanders with the same quality of regional identifier as that available to the residents of some more autonomous regions, such as Norfolk and Christmas Islands and of nation states. Few other Australian Indigenous people enjoy this same advantage. Outside Torres Strait, possibly only the Tiwi Islanders in the Northern Territory and the Pitjantjatjara people in central Australia are so readily identified with named regions, namely the 'Tiwi Islands' and the 'Pitjantjatjarra Lands'.

Christianity
The introduction of Christianity by the London Missionary Society (LMS) in 1871 has become a specifically Torres Strait Islander identifier. Although the LMS originally viewed the Strait as a stepping stone to Papua New Guinea, it remained in the Islands for some 45 years and had a considerable impact on all aspects of the society (Chapter 4). Despite the apparently strong traditional culture none of the population give their religious affiliation in the national censuses as 'traditional', while 92 per cent give it as

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[4] These are, Maiem: Western Islands; Kulkalag: Central Islands; Kaurareg: Inner Islands; Maluilgal: Badu, Moa and Mabuiag Islands; Gudhamaluilgal: Northern Islands.

Fig. 5-2. Shirt with Dari design, 2002.

Fig. 5-3. St Pauls church, Moa Island, 1990.

Fig. 5-4. Outside Sabai Island church, 1990.

'Christian' (Australian Bureau of Statistics 1996). Suggesting that traditional culture and Christianity are not exclusive of each other. Every island of Torres Strait has some form of church and several of these are extremely imposing buildings. Figure 5.3 is the community church at St Paul's Community on Moa Island. The arrival of the LMS on the 1st of July 1871 has also become a significant symbol for Islanders living in Torres Strait and on the mainland. The event is celebrated annually by all Islanders no matter where they live and is referred to as the '1st July' or the 'Coming of the Light' celebrations and forms a part of Islander cultural identity. The arrival of the LMS is also marked by a number of memorials throughout Torres Strait. Fig. 5.4 shows one of these in the grounds of Saibai Island church. It is a lighthouse (representing the 'coming of the light') superimposed on a traditional out-rigger canoe.

I would argue that all of the above provide a variety of devices that Islanders can and do utilise to legitimise their connections to the region of Torres Strait. The use of culture to legitimise Islanders' case for greater autonomy will be returned to in Chapters 6 and 7.

Islands and archipelagoes

At a less cultural level, islands are easier to identify as units than are land-locked regions. Although land-locked regions can be formed with respect to valleys, estuaries, mountains and so on, islands are without doubt easier to delineate geographically. Indeed, UN Resolution 1541 of 1966 (liberally interpreted) proposes that it is easier for a region to achieve the status of a non-self-governing territory if it is separated from its parent state by ocean. This is the so-called 'salt - or blue-water thesis' (Anaya 1996). The islands of Torres Strait are so separated from the mainland of Australia. This form of separation also allows Islanders to identify with other more autonomous island places such as the small island states of the Pacific and with Australia's own external territories of Norfolk Island, Christmas Island and Cocos Keeling (Chapter 3). On top of this, being fairly narrow, the Strait tends to enclose the islands within a bounded region giving it a particular unity and identity. This is a regional advantage which widespread

archipelagoes, such as those of the Pacific often lack. All these features help to delineate the region of Torres Strait, and to identify Torres Strait Islanders with this region. The international border between Australia and Papua New Guinea can be said to fulfil similar functions.

Borders and borderlanders

An international border is a legal and political boundary associated with issues of security and sovereignty (Babbage 1990; Wilson and Donnan 1998: 9). Such borders can separate countries with friendly or non-friendly relations, and with similar or dissimilar cultures and political and economic systems. Movement of goods and people across borders may be severely restricted (closed borders) or relatively relaxed (open borders) and the borders may lie on land or water, or, on both (Driessen 1998: 101).

Borders, demarcating the edge of a state's territory, are usually some distance from the state's centre, producing a core-periphery relationship between its major cities and places at or near its border. International relations also exist between the major centres or capitals of neighbouring states. However, relationships can also develop across borders, the intensity of these relationships depending on how open or closed the border is (Newman and Paasi 1998: 190). These conditions have led to the notions of 'frontier' and 'borderland' both of which describe an often dynamic zone or region surrounding the more static border line and which may represent special social domains reaching into the territory of each nation state (Prescott 1978, 1987; House 1981; Wilson and Donnan 1998: 9; Newman and Paasi 1998: 189; Kearney 1998: 118). The populations of these regions may also have particular characteristics and attitudes (Prescott 1978: 193, 203; 1987: 159-74; House 1981). The border population of one state may have close cultural ties with people in the neighbouring state and have to balance these with their allegiances to their national group (Wilson and Donnan 1998: 8-14). Furthermore, because borderlands often centre on notions of territory, borderlanders may seek to define a particular social and geographic territory as their homeland and then politicise this to

pursue their own particular goals, such as that of self-determination or autonomy (Wilson and Donnan 1998: 13; Knight 1994; Newman and Paasi 1998: 194).

Thus, the literature suggests that sets of political, economic and social relations can develop around and across borders, creating a particular kind of region or 'borderland'. The residents of this region then come to see themselves in a particular way and to identify as 'borderlanders', so establishing a link between themselves and this region. This has happened in Torres Strait where the form of international border between Australia and Papua New Guinea has created a borderland with which Islanders have come to identify. The form of this international border has arisen from the conditions of the Treaty between Australia and Papua New Guinea which was ratified in 1985.

The Torres Strait Treaty

Australia's maritime boundary with New Guinea (sic) is one of Coombs' greatest but least-known, achievements (Rowse 2002b: 343).

In 1905, the *Commonwealth of Australia/Papua Act* transformed Papua (formerly British New Guinea) into an Australian colony, German New Guinea was taken over by Australia in 1914 and the two were officially joined as the Australian Territory of Papua New Guinea in 1945 (Sullivan 1978). Papua New Guinea was granted self-governing status in 1973 and full independence in 1975. During this period access to the Strait's fisheries (its waters and reefs) was a feature of the associated negotiations with Australia over the location of the border and of the subsequent Treaty between the two countries. The Treaty was ratified (finalised) in 1985. Previous to PNG independence, the border was situated between the most northerly islands of the Strait and the southern coast of Western Province, a line determined when all of the islands were annexed by the colony of Queensland in 1879 (Mullins 1995). This earlier demarcation had given the colony of Queensland, and then Australia at federation, ownership of and control over all of the Strait's waters, islands and reefs. At one stage during the negotiations, the Commonwealth Government proposed that the border be moved south to the tenth parallel. This would have followed international convention which is to make a marine

border as close as possible to half way between neighbouring countries. This proposal was favoured by Papua New Guinea and would have put several of the Strait's islands and reefs inside Papua New Guinea. Despite the long-standing links between these Islands and Papua New Guinea (Singe 1989), Islanders strongly opposed this suggestion stating that they wished to remain part of Australia, and this remains their position today (see Lui 1994). To organize their opposition to this move, Islanders formed the Border Action Committee and took their grievances to Canberra (see Chapter 4). Research aimed at advising the government on policies regarding the Strait and the location of the border highlighted the relative poverty of the neighbouring Papuan villages and the need for these villages to have some continued access to the rich reef systems of the Strait (Fisk 1974). It was argued at that time that a border, in the sense of a barrier, would not be a fair and equitable outcome, and that what was needed was an arrangement which would provide some flexibility and which would allow the marine resources to be shared between the two countries (Fisk 1974; Fisk et al. 1974a: 19). It also noted the relative poverty of the Strait and the high degree of reliance by Islanders on the Australian welfare system (Treadgold 1974).

In an attempt to meet the various regional demands, the Treaty took a unique focus. In particular, it gave primacy to protecting the traditional way of life and livelihood of the traditional inhabitants of the region (on both sides of the border) and to the economic development of Torres Strait Islanders (Chapter 6). These included for Australia and PNG to jointly manage its environment and to share in its commercial fisheries (Pond, Bishop and O'Brien 1995: 11, 35; Arthur 1999a: 75). To further these arrangements the Treaty defined a complex border arrangement (Map 2.2). This border gave more of the region to Australia than to PNG and included a northern section (now called the 'top hat') which diverged to include those islands inhabited by Islanders lying near the PNG coast and their territorial seas. This ensured that all of the islands inhabited by Islanders (and their coastal seas) remained in Australia. Several other small islands of interest to Australia and Torres Strait Islanders (for example Bramble Cay and Deliverance Island) were also excised from the waters on the PNG side of the border and given to Australia (Map 2.2). In addition to setting the border and as noted earlier, the Treaty established the

Torres Strait Protected Zone (the Zone) (Map 2.2) and a managing body, Torres Strait Protected Zone Joint Authority (PZJA). The Authority has a number of committees which include representatives from Indigenous and non-Indigenous fishers and from the relevant government departments and from research groups. This appears to have given Indigenous people an entry into fisheries management. When the PZJA was first established it was composed of the relevant Commonwealth Minister and the relevant Queensland Minister. Lobbying by Islanders subsequently saw the PZJA modified to include the Chair of the TSRA, first as an observer, and later as a full member alongside the Ministers. This gives Islander representation at the highest level of the PZJA and it elevates the Chair of the TSRA to pseudo-Ministerial status.

In addition, the Treaty specified that meetings should be held between Indigenous representatives from Papua New Guinea and Australia to discuss the joint management of the fisheries in and around the Protected Zone and other cross-border arrangements (PZJA 1997: 12-13), as follows:

> The parties shall jointly establish and maintain an advisory and consultative body which shall be known as the Torres Strait Joint Advisory Council…to consider and make recommendations to the Parties on any developments or proposal which might affect the protection of the traditional way of life and livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights as provided for in this Treaty… (Torres Strait Treaty, Article 19, 1, 2(b))

The Joint Advisory Council (JAC) is made up of a maximum of 18 members drawn from those shown in Table 5.4. In this way, and because the Treaty facilitates on-going discussions between Torres Strait Islanders and Papua New Guinean nationals, the PZJA tends to raise the profile and status of Islanders and Torres Strait, giving them something of an 'international personality'. As noted earlier, Hannum and Lillich (1988) argue that that the formation of an international personality helps groups legitimise their claims for greater regional autonomy.

Table 5.4 The format of the JAC

A representative of Australia	2 minimum
A representative of PNG	2 minimum
A representative of Queensland Government	1 minimum
A representative of the Fly River Provincial Government	1 minimum
Representatives of the PNG traditional inhabitants	3 minimum
Representatives of the Torres Strait traditional inhabitants	3 minimum

Source: Torres Strait Treaty

Free movement provisions

Another important provision of the Treaty is that it allows free cross-border movement. Specifically, it permits Islanders and Papuans who have traditional affiliations to the area to cross the border, to move around within the Protected Zone and to visit and trade with one another without having to go through formal customs inspection, passport control or other formalities:

Subject to the other provisions of this Treaty, each Party shall continue to permit free movement and the performance of lawful traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other Party (Torres Strait Treaty, Article 11,1)

These are the so-called 'traditional visits' provisions of the Treaty. Trade goods are generally limited to non-food items to reduce the likelihood of transferring agricultural pests in the transactions. All of these Treaty arrangements, from the catch-sharing to the meetings between Indigenous representatives and the traditional visits, have resulted in the border being relatively 'open' and has facilitated certain forms of relationships across the border region.

When the Treaty was put in place, Papuans who were already living on some islands were given the choice of returning to Papua New Guinea or staying. Some stayed, so that there are now an estimated 500 Papua New Guineans living in the Strait. Much of the traditional visiting that occurs is thought to be between these residents and their kin in Western Province. Given that most Papua New Guinean residents are living on the

northern islands, which are only a few kilometres from Papua New Guinea,[5] this is where most traditional visits occur.

One reason that Papuans visit Torres Strait is to join - sometimes illegally - the commercial fishery on the Australian side of the border. Papuans like to work in the Australian rather than the Papuan lobster fishery as prices are higher, and they can earn valuable Australian dollars which can be used to buy Australian goods (see below). This fishery is centred around islands in the southern part of the Zone and so some of the visitors to the northern islands may in fact be Papuans passing through on their way to work in these other places (Maegawa 1994).

Another factor encouraging Papuans to make cross-border visits is the modern goods which are increasingly more available in the Island stores than they are in the Papuan villages. Evidence of this is the way Papuans utilise the money they earn from fishing. For example, the Australian dollars earned in the lobster fishery are invariably used to purchase goods from the island stores and these goods are then sent or taken back to their home villages (Arthur 1992b). In some cases Papuans fishing in the south of the Zone or even from Thursday Island, will remit their earnings to the stores on the northern islands. This money is later collected by relatives on traditional visits and then used to purchase goods. In 1989, it was estimated that around $30,000 was remitted in this way each year (Arthur 1992b: 27). It is interesting to compare these activities with the 'cross-border shopping' which occurs in some other regions of the world such as across the Spain-Morocco border. There however, the dynamic is rather different, with wealthy Spanish tourists travelling south into Morocco to shop for 'exotic' goods (Driessen 1998: 103).

Papuans also earn dollars by selling fish to Islanders. It is estimated that the annual per capita income in Western Province is around $860, while for Islanders in the Strait is $13,000, or some 15 times higher. This means that Islanders, though highly dependant on the welfare system when compared with the Australian average, are comparatively well-

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[5]It is estimated that Papuans make up 25 per cent of the population of one of the northern islands (Davis 1995: 5).

off and can afford to purchase fish from their Papuan neighbours. In one example of this exchange, the author observed Papuan canoes visiting a northern island to obtain flour and other goods for a celebration in Western Province (Fig 5.5). The Papuans arrived with crabs which they sold to Islanders, the money was then used to buy the necessary goods in the island store and then the canoes returned to Papua New Guinea.

This demonstrates one feature of the Australian welfare system which is that, because it is based on notions of equity and redistributive justice (Peterson 1985: 95) it is relatively efficient at distributing its benefits equally throughout the nation. In this way, people on the periphery (in remote border regions, such as Torres Strait) receive the same level of welfare entitlements as people living in central urban centres. On the other hand, without a similar system, there is no such redistribution to the people in Western Province, who are truly on the economic periphery of Papua New Guinea.[6] It is the combination of Australia's greater wealth together with its redistributive welfare system that makes the economic differences across the border so extreme.

Papuan villagers also use the access provided by traditional visits to take advantage of the medical services in the Strait (Arthur 1992b). There are very few medical services on the coast of Western Province whereas each Island has a medical aid post and in many instances these represent the closest medical facility for residents of the Papuan villages. Also, the northern islands of Saibai and Boigu have airstrips which makes it easier to transfer visitors with serious illnesses to the hospital on Thursday Island than to the one at Daru in Papua New Guinea, which must be accessed by boat. It is notable that a significant number of Papuan visitors are evacuated annually from the northern islands to Thursday Island for medical reasons (Arthur 1992b: 27). The Australia Quarantine and Inspection Service (AQIS) on Thursday Island now estimate that trips to access Australian medical services are now the principal *raison detre* for most 'traditional visits' by PNG citizens (AQIS pers. comm. 2004).[7]

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[6] On the other hand, Papua New Guineans residing in remote areas may derive benefits from resource development projects when these occur in their region, such as in the case of Ok Tedi (see Burton 1997: 48-50).

[7] The next most significant reasons are 'economic' and 'family visits', in that order.

Fig. 5-5. PNG canoe visiting a northern island for trade, 1990.

None of the above denies that Islanders and Papuans still visit each other to exchange and trade goods much as in former times and as envisaged by the Treaty. But even in these cases, the nature of this trading relationship reflects the different conditions across the border. For instance, to the best of my knowledge 'traditional goods' in the form of feathers, drums, mats etc. are all traded south from Papua New Guinea to the Strait, whereas it is only modern store goods, such as flour and petrol, that are traded north out of the Islands (Arthur 1992b). In 1985, many visits were from Torres Strait to Daru in Western province, as at that time services were reasonably similar. Now, as conditions in Torres Strait have improved and those in Daru have deteriorated, some 97 per cent of all traditional visits are from PNG into Torres Strait (AQIS pers. comm. 2004).

It has been suggested that Papua New Guinea was not entirely satisfied with the outcome of the Treaty and the location of the border, principally because this limited their outright ownership of the resource-rich reef systems (Arthur 1999a: 75). As noted above, Papua New Guinea favoured relocating the border to 10 degrees south which would have given them the several of the Strait's valuable reefs.[8] However, at a conference on 'policing the open border' in Canberra in 1998, the Assistant High Commissioner for Papua New Guinea indicated that the articles of the Treaty, which allowed for sharing of the marine resources and for the free movement of Indigenous nationals had, as he put it, 'established a balance of competing interests' in the border region. While catch sharing arrangements now appear to be well established (PZJA 1997: 11, 12), we can also speculate that Papua Guinea's satisfaction with current arrangements may derive, in part, from the access that their nationals have to the economy and services in the Strait. Australia is a substantial donor of aid to Papua New Guinea, but it is not clear how much of this aid, if any, finds its way to Western Province. Access to the Strait, may, to an extent, absolve the Papua New Guinea Government from developing Western Province. Taking this view, the access to the Strait provided by the border arrangements can be seen as *de-facto* Australian aid.

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[8] Much of the Strait's wealth, in the form of trochus shell, beche de mer and lobster, derives from its reefs.

The Strait and Australia are certainly attractive to PNG citizens. Fig 5.6 shows a group of PNG residents of a northern island after being made Australian citizens at a ceremony on the island in 1990. One of these had told me beforehand that he was keen to go to the Australian mainland; coincidentally I met him in Cairns a few weeks after the ceremony. The citizenship ceremony can also be seen as a statement of both the level of the Island council's autonomy and of its attachment to Australia. The council chair presided over the ceremony and issued the certificates of citizenship and no non-Islander officials were present, surely a statement of a form of autonomy. At the same time, links to Australia were part of the ceremony; the national anthem was played on a tape recorder draped with the Australian flag. Thus, the island council was bringing the PNG nationals into its national domain, namely Australia.

Torres Strait Islanders meanwhile do not always view the arrangements in the border region positively. For example, there is concern that increased contact with people from Western Province also increases the chance of introducing diseases which are prevalent in Papua New Guinea but which are absent in the Strait. These include Japanese encephalitis, tuberculosis and leprosy. It is also suggested that the visits put additional pressures on the Island medical aid posts and on the limited stock of goods in the Island stores. Certainly, in the early 1990s, there were an estimated 4,000 traditional visits to the northern islands annually, representing almost five times their resident population, in 1992 these visits had risen to around 20,000 (Arthur 1992b: 27) and by 2004 they had risen again to some 52,000 (AQIS pers. comm. 2004). This may indeed put pressure on resources that are designed only to cater for the resident population. Yet other concerns relate to Papuans fishing illegally in the Australian section of the Strait. In one incident in 1996, 37 Papua New Guinea nationals were arrested for fishing illegally for sea cucumber causing one Island leader to state 'poaching by foreign nationals is jeopardising one of the Torres Strait's potentially sustainable industries' (Torres Strait Regional Authority media release 27 February 1996). Some Papuan visitors attempt to stay permanently in the Strait and Islanders are also concerned about the additional pressure this puts on potable water and land, which are both scarce resources on many islands. In addition, in the longer term, any such illegal migration might, on some islands,

Fig. 5-6. PNG residents receiving Australian citizenship on a northern island, 1990.

threaten the Islander majority (Arthur 1992b). Indeed, commenting on the movement of Papuan nationals, one Islander leader has likened it to being 'invaded from the north and the south' (Kehoe-Forutan 1990: 165).[9] On the other hand, the former and long-standing links with PNG are evident and Islanders are no doubt in a position of some conflict. The free-movement provisions of the Treaty were set up in part due to Islander claims that they were connected to PNG and wanted to maintain this link. They now see that their 'kin' in the north are relatively poor (Singe 1989). Their dilemma is to balance obligations to their kin in PNG against their responsibilities for those in the Strait, and to Australia more generally.

Both Islanders and Papuans are also concerned that the open border facilitates the illegal movement of drugs and guns across the region (Torres Strait Regional Authority media releases 25 March, 2 April 1996).[10] These are problems that the Strait shares with other border regions joining developed and less developed nations, for example, the borderlands between Mexico and the United States of America (USA), and the border between Spain and Morocco (House 1981: 306; Chappell 1991: 253; Driessen 1998). The incentive for nationals to be involved in this trade is no doubt influenced by the economic gradients across the borders. For instance, Driessen (1998) has noted that moving drugs from poor Morocco to comparatively wealthy Spain can increase their value by a factor of four. It is possible that the direction of such illegal goods is influenced by the political environments and the legislation on each side of the border. For example, in the case of Torres Strait, it is thought that guns move from politically stable Australia northwards into the rather less stable Papua New Guinea where they are used for tribal warfare, urban crime and possibly, by break-away political groups (McFarlane 1998: 4). Drugs meanwhile, move south from Papua New Guinea where policing is minimal, to Australia where drug laws are more regularly enforced. This again mirrors, to a degree, the situation across the USA-Mexico border where drugs are moved north into the USA and guns are moved south into Mexico (House 1981: 306).

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[9] The reference to the 'south', is to non-Indigenous people.
[10] In September 2004, a Murray Island man was convicted and fined $10,000 for attempting to smuggle a gun and ammunition from Murray Island to Daru in PNG. The man was apprehended by an Australian customs officer (Torres News 22-28 September 2004).

Driessen (1998: 103) suggests that the presence of the Spanish Morocco border provides northerners with a constant reminder that there is a different economic world across the Strait of Gibraltar. It has been argued that this is also one result of the open border in Torres Strait (Arthur 1992b: 28). Historically and within the early pearl shell industry, Islanders always received higher rates of pay than Papuans and so came to feel that they held a superior position in the world (Chapter 4). As a result, it came as a shock to Islanders when Papua New Guinea and other Pacific Island colonies achieved independence in the 1960s and 1970s (Beckett 1987). However, the border arrangements have allowed Islanders to observe how they have benefited (in an economic sense) rather more by being part of the Australian nation-state than have Papua New Guineans from being independent. In fact, as noted earlier, prior to European contact Islanders may have been dependent on Papuans for the supply of their canoes (Beckett 1987); it is fairly clear that this situation has been reversed, with the Papuan residents of the border region becoming relatively dependent on Torres Strait. This no doubt helps explain why, when Islanders state the desire to achieve greater autonomy, it is usually within the context of remaining part of Australia (see Chapter 6) (Altman, Arthur and Sanders 1996).

The increasingly unstable nature of neighbouring regions has also increased security concerns in the wider context. In 1990 Babbage concluded that the Strait had little strategic significance for Australia. However, since that time the surrounding regions have entered a period of political unrest causing some to suggest an 'arc of instability' running from Indonesia through Melanesia and down to Fiji. Torres Strait is contiguous with this arc. It is noticeable that one of the most significant building projects in Torres Strait in the last couple of years has been a large defence facility on Thursday Island. Islanders are also concerned that the Strait is becoming an entry point for illegal immigrants (see McFarlane 1998: 2).[11] These factors are now recognised by Islanders as being associated with the border region and with their place in it, so that they sometimes now describe the Strait as the 'back door' to Australia, and themselves as the residents of

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[11]Between 1992 to the middle of 1997, 189 third country nationals attempted to enter Australia through Torres Strait.

Fig. 5-7. Quarantine card installed in seat pockets of flight between Torres Strait and mainland.

the 'buffer zone', or as Australia's 'first line of defence'. When commenting on the impacts of the border one Islander leader announced that he would 'call on the Commonwealth Government to conduct a high level strategic assessment of the Strait's defence capability following a warning from the Prime Minister that the unrest in Fiji and the Solomons could spread to Papua New Guinea.' The extent to which the Commonwealth and Queensland Governments might value their control over the Strait as a 'buffer zone' can be gauged from Fig. 5.7. This card is now a feature of flights between the Strait and the mainland, and is backed up by inspectors and 'sniffer dogs' in Cairns airport. On the one hand it is an indication of the open border and on the other of the concerns such an open border raises.

Conclusions

There are several unique aspects of geography and history that help one to view the Strait as a fairly discrete region. Aspects of history and culture further allow Islanders to demonstrate links between themselves and the region. Some of these aspects are applied by Islanders as devices to legitimise their identity as Islanders of the Strait. The application of these devices as they relate to the Inquiry is explored more fully in Chapters 6 and 7.

The international border running through Torres Strait marks a meeting place for the economies of First World Australia and Third World Papua New Guinea. Similar borders exist in other parts of the world and the asymmetrical relationships that have developed across them have been the subject of several investigations. For example, the border between Mexico and the USA (House 1981; Chappell 1991; Kearney 1998) and that between Spain and Morocco across the Straits of Gibraltar (Driessen 1998). In some cases, the wealthier countries are an attraction for those living in the poorer, resulting in a significant level of movement - both legal and illegal. Therefore, the border between Australia and Papua New Guinea is not entirely unique. However, in these cases, the borders are relatively 'closed'. This is not the case in Torres Strait. The Torres Strait

Treaty has actually facilitated cross-border contact and, in fact, has acted as something of a bridge between the economic system in the Strait and that in Papua New Guinea's Western Province. The Treaty has also involved Indigenous people on both sides of the border in the management and sharing of its resources and has allowed patterns of traditional movement and trading to continue. In this way the Treaty and the associated Protected Zone have helped create a 'borderland' with its own unique social, economic and political characteristics.

As described above, there are a number of features that together enable residents and outsiders, to identify Islanders with the region called the Torres Strait. This chapter has argued that Islanders have also come to understand their rather special position as residents of the borderland, or, to identify as 'borderlanders'. This additional link between the region and Islanders has, in part, come about because of the unique and open form of border that was designed under the Treaty. We can suggest that the formation of this additional link between Islanders and the region might further the cause of regional autonomy. However, another feature of an international border is that it also has a special significance for the central government and it forms a region with which they also strongly identify because, although a border is by definition on the geographic periphery, it is close to the 'political centre'. Therefore, while the border may help Islanders and their moves for regional autonomy, it may also limit the amount of control that the Australian Government would be willing to devolve to the region.

I will show that this is indeed the position of the commonwealth Government when I present an analysis of the 1996-7 Commonwealth Inquiry into autonomy in the following chapter.

Chapter 6
The Inquiry: Torres Strait

The Commonwealth Aboriginal and Torres Strait Islander Commission (ATSIC) was created under the *Aboriginal and Torres Strait Islander Commission Act* 1989 and as noted in Chapter 1, the base of the ATSIC structure was its 36 regional councils. One of these regional councils was created for all of Torres Strait, the Torres Strait Regional Council (TSRC). This created a Commonwealth regional body that sat alongside Queensland's ICC (see Chapter 4). ATSIC regional councils were also combined to form ATSIC zones with each zone providing a commissioner to represent it in Canberra. Notably, the Torres Strait was also made a zone as well as a region and so had its own commissioner, only the State of Tasmania was treated in the same way. Therefore the ATSIC structure further designated the Torres Strait as a particularly defined region.

In 1994, following a Commonwealth review of the ATSIC structure, the TSRC was upgraded to the status of a regional authority: the Torres Strait Regional Authority (TSRA) (Sanders 1995b). The TSRA was given powers similar to those of ATSIC itself, that is, of a Commission (Arthur 1999a: 69; Sanders 1994). It was the only such regional authority to be created in Australia and within ATSIC. However, though a regional body, the TSRA in fact represents only the interests of Indigenous people in Torres Strait.

As we noted in Chapter 4 Islanders have made claims for forms of greater autonomy for some time. In 1996, and following meetings with the chairman of the TSRA, the Australian Prime Minister committed his Liberal-National Country Party Coalition Government to giving greater autonomy to the region by the year 2000. As a result the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs directed a House of representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA) to inquire into the question of greater autonomy for Torres Strait Islanders. The Committee's terms of references instructed it to consider:

1. whether the people of the Torres Strait would benefit from a greater degree of autonomy;
2. if so, what forms should a greater degree of autonomy take; and
3. what implications would greater autonomy have for Torres Strait Islanders resident outside the Torres Strait region, including whether the Aboriginal and Torres Strait Islander Commission or the Torres Strait Regional Authority should represent the interests of such residents (HORSCATSIA 1997: xii).

The Inquiry called for written submissions from the public and also held a series of hearings across the country. Evidence was taken from Indigenous individuals and organisations in Torres Strait; from all three levels of government (Commonwealth, Queensland and Torres Shire); from Islanders on the mainland; and from the body representing the Queensland commercial fishing industry.[1]

In August 1997, the HORSCATSIA released its findings in a report entitled *Torres Strait Islanders: A New Deal* (HORSCATSIA 1997) (hereafter referred to as the Report). The Report suggested what form greater autonomy might take, the benefits that could accrue from greater autonomy, and the moves considered necessary to achieve this autonomy. The Report drew responses from government and from Indigenous people.

Using evidence taken by the Inquiry, this chapter of the thesis investigates what form of autonomy the various parties appeared to aspire to. The chapter looks at the evidence from Indigenous people, the non-Indigenous residents of Torres Strait, the Commonwealth and the Queensland Governments and the Torres Shire. I also note how Islanders' aspirations do or do not relate to the models already identified in Chapter 3. My analysis of the evidence follows the general structure of the thesis, which is to identify the political and the economic elements of autonomy and how people legitimise their case for these.

Political autonomy, Indigenous views

Autonomy as sovereign independence

As noted in Chapter 4, the TUP called for full independence for Torres Strait in the 1970s. As also noted in Chapters 4 and 5, the marine strike and border issue were factors in this move. However, such feelings were also stimulated by the decolonisation that was taking place elsewhere. Samoa, Tonga and Fiji had all been granted full

nationhood, causing one Saibai councilor to ponder whether all Pacific territories, including Torres Strait, would achieve the same status in due course (Beckett 1987: 102, 209). Islanders also observed decolonisation more locally when Papua New Guinea was granted independence in 1975. Beckett proposes that this political change came as a shock to Islanders who had considered that Papua New Guinea was less advanced or 'civilised' than Torres Strait, and this caused them to wonder if they were not beginning to 'lag behind' (Beckett 1987).

The next and most recent push for establishing the Strait as a sovereign nation was in the late 1980s. As noted in Chapter 4, a meeting on Thursday Island resolved to call for independence with the ICC stating that:

The Island Co-ordinating Council reconfirms its long standing resolution to claim sovereignty over the land, sea and air in the Torres Strait (O'Rourke 1988).

The ICC then laid out its requirements for this. These included it taking over the functions, staff and funding of the Commonwealth's DAA and ADC and for all of the resulting funds to be through direct grants to the ICC from Treasury without involving other departments. They also demanded the removal of the then DAA manager from the agency and from the Strait (O'Rourke 1988). This latter aspect can be compared with Islanders' successful move to oust the Queensland Protector (O'Leary) in the 1930s. Following Beckett (1987) I contend that this is a reflection of the fact that Islanders felt their regional administrators particularly overbearing because they treated the region as a fiefdom, as noted in Chapter 4. In turn I would argue that this administrative approach derives in part from an aspect of the region's 'blue-water' separation (see Chapter 5). That is to say, a region that is physically separated from its mainland is more likely to be treated as a fiefdom by its administrators than is one that is connected to a mainland. Some of the ICC's demands had been met by the time of the Inquiry, firstly with the advent of the TSRA and then with the provision of direct grants from Treasury (see below). However, this and the demands for the transfer of power from the DAA and ADC to the ICC are matters more associated with an Indigenous-specific political regional autonomy, than with sovereignty.

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[1]Some details of the Inquiry's submissions, hearings and the subsequent meetings that go to form the basis of this chapter are in Appendix D.

The ICC also said in 1988 that in taking over the DAA and ADC it should be funded to a level that would allow it to 'effectively control the affairs of the Torres Straits'. The ICC also demanded the right to raise its own revenue 'as would a State or Territory'. It included in this: imposing a tonnage levy on all shipping and a royalty on any minerals found, issuing all fishing licenses and company leases, charging for airline rights, and collecting fees from radio and television licenses. These issues can be related more to a form of regional economic autonomy that is not Indigenous-specific.

The ICC also wanted all existing crown land and leases on these to be vested in the ICC for the benefit of Torres Strait Islanders, and for all of the islands currently administered by the Torres Shire to be recognised by all governments as an integral part of the Torres Strait. Including all islands as part of Torres Strait seemed to be aimed at breaking down the Inner/Outer-Island distinction which, as I have already noted, equates with non-Islander/Islander domains. Taken together, these demands suggest a form of regionalism and of Islander sovereignty.

However other claims that were part of the same 1988 process suggest either other agendas or some ambiguity about the meaning of sovereignty. For instance, the ICC demanded that under sovereignty, all of the social welfare transfers and the provision of services would continue to be provided by Australia. In addition they wanted an inter-island shipping service that provided a service equivalent to that offered on the mainland, and for all islands to have electricity, sanitation, sealed airstrips and roads and proper jetties or wharves (O'Rourke 1988). These demands would suggest a continuing connection with Australia.

In fact, submissions to the Inquiry and subsequent hearings stressed that these earlier calls for independence should not be taken at face value but should rather be seen as an expression of Islanders' frustration with the level of services provided to the Strait and, as a strategy to gain the attention of the Commonwealth Government to have these services improved. For instance at the Inquiry hearing on Saibai Island the chairman pointed out that

a few years ago there had been talk in the islands about seceding from Australia and creating a separate nation in the Torres Strait ... this was just a way to get the government in Canberra to take notice of Islanders and their point of view (Hansard 1996, Saibai Island).

Similarly, at the Inquiry hearing on Murray Island the Inquiry was reminded that although there had been calls for Torres Strait independence this should not be taken

as an indication that Torres Strait intended to break away; it was more an outpouring of people's frustrations – frustrations about housing, roads, sanitation and health (Hansard 1996, Murray Island).

This mirrors Kehoe-Forutan's analysis, noted in Chapter 4, which suggested that the calls for independence in the late 1980s should be viewed as a reflection of Islanders' dissatisfaction with government policy and administration (Kehoe-Forutan 1988: 19). In any event, the Inquiry was able to note that 'nobody giving evidence to the Committee sought the establishment of a separate nation state for the Torres Strait region' (HORSCATSIA 1997: 38).

The fact that Islanders did not push for independence when given the opportunity may result from their experience of the PNG case. For example, the free movement arrangements of the Treaty discussed in Chapter 5 have allowed Islanders to observe first hand the lack of economic progress in Papua New Guinea since independence. Thus, they can consider that their standard of living might drop if they followed a similar path (Arthur 1992b; 1997b; 1998c; 1999a). A prominent and senior female Islander spokesperson indicated to the Ninth National Workshop on Thursday Island in 1999 that she had been willing to forgo her welfare entitlements in 1988 if it had meant becoming politically independent (notes from the Ninth National Workshop, October 1999). It is less clear that this would be the general approach now. This senior woman had been brought up in a different era before the welfare system became as widespread (see Chapter 4). Indeed by 1989 some younger people were expressing concern that any push for independence might endanger their welfare benefits (Arthur 1990).

In addition, as noted above, Islanders have tended to use calls for independence to complain – often with justification – of the level of services in the Strait. In doing this they have made explicit or implicit comparisons between the standard of their services and those on the Australian mainland. At the 1997 National Workshop one representative stated that what was needed was 'funding for infrastructure not just autonomy, but to get to mainland standards' (Notes from the Seventh National Workshop, September 1997) This form of comparison is easier to make if the Strait is part of Australia than it would be if it were independent. As shown in Chapter 3,

following complaints from Christmas Islanders about the level of their services, the Commonwealth Grants Commission was instructed to determine if these services were comparable with those in a similar location on the mainland (Commonwealth Grants Commission 1995). It was no doubt easier for Christmas Islanders to argue for such a comparison as an external territory of Australia than it would have been if they had been citizens of an independent nation.

Autonomy as self-government

Islanders have also in the past, made the more modest demand of self-government. One of the earliest bids that can be said to equate to this was in 1944 when a Murray Island councilor presented a Minister of the Queensland Government with a petition asking for the Strait to have some degree of self-control under the Commonwealth (Beckett 1987: 61-62). Similar aspirations were expressed in the 1970s when negotiations about Papua New Guinean independence were taking place. At that time it was felt that Islanders wanted an autonomous Torres Strait Territory within the Commonwealth (Rowse 1998: 7). Such a Territory, administered by a Council composed of the island chairmen, was seen as a possibility at that time (Rowse 1998: 6). The self-government theme continued and in 1996 the TSRA stated that:

> … without a form of regional self-government, a settlement of our aspirations will not be conclusive … The TSRA will continue to examine models for a form of self-government in the Torres Strait … (TSRA 1996: 2 in Arthur 1997b).

A form or model of regional self-government that has been advocated most often by Islander leaders is one similar to that in Australia's external territories - particularly those of Norfolk, Christmas and Cocos (Keeling) Islands (Lui 1994: 70 in Sanders 2000). And this was reiterated to the Inquiry (HORSCATSIA Sub 40, TSIAB). However, as we have seen in Chapter 3, the form of political autonomy provided in these models does not include any particular concessions to Indigenous culture or cultural appropriateness. Nor need they, as the Indigenous/non-Indigenous political divide is not an issue in Australia's external territories (Chapter 3).

Early submissions and hearings to the Inquiry made little reference to the desire for autonomy as a self-governing territory. The possibility of territorial status for the Strait was raised in one mainland submission and at one mainland hearing (HORSCATSIA Sub 10, Akee; Hansard 1997, Saam Kerem). It was also raised by only Murray Island in

Torres Strait (HORSCATSIA Sub 9, Murray Island; Hansard 1996, Murray Island).[2] It was not until a public hearing held on Thursday Island close to the end of the Inquiry process, that the notion of territorial status for Torres Strait was proposed in any forceful way. However, once raised, it was quickly taken up by several of those at the hearing. The chair of the TSRA first introduced the issue stating that it was the TSRA's continuing intention to look at the possibility of establishing a territory (of Australia) (Hansard 1997, Thursday Island). The concept was then adopted by the mayor of Torres Shire – a Torres Strait Islander – who moved a motion that this aspiration be specifically addressed by the Inquiry (Hansard 1997, Thursday Island). The chair of the ICC was not initially supportive of the territorial approach, or for adopting any prescribed model from the Pacific, arguing that any structure for the Strait should be unique to its circumstances. However, later in the hearing he also endorsed the proposal (Hansard 1997, Thursday Island). At the same hearing others also supported the idea but took the opportunity to reaffirm that this should not be taken as indicating that they wished to separate from Australia *or* from Queensland (Hansard 1997, Thursday Island).

In general then, none of the Islander evidence to the Inquiry advocated sovereign independence and only some proposed self-government as a form of autonomy. This may have been due to some insecurity or concern on the part of Islanders as to the reception that such a claim might get from government. For example, during a hearing on Thursday Island, the former chair of the TSRA stated that, although in the past he had proposed the concept of self-government, others had advised him to drop this approach in case it antagonised the Commonwealth (Hansard 1997, Thursday Island). A similar concern was voiced by the Islander mayor of Torres Shire; when forming Islander responses to the Inquiry's final report he was keen to ensure that they did not put any suggestions to the government that might be construed as 'outrageous or silly' (notes from a meeting on autonomy, Thursday Island, 6 August 1999). Islander leaders have also advocated a staged or cautious approach to self-government and this may have influenced their overall approach to the Inquiry. In this way, Islanders may have been overly conservative in their approach to the Inquiry. The mayor has also suggested to me that Islanders had not heard of the word 'autonomy' before the Inquiry, and that

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[2] As in other places, I note here that it was the people of the eastern islands that made this point most strongly.

they had been more used to words like independence, sovereignty and self-government and that the new word 'autonomy' tended to confuse many of them.

Competing units in political regional autonomy

Island versus region

Several Islander submissions to the Inquiry suggested that autonomy might apply to units other than the whole region. For example, in their submission, Darnley (Erub) Island (an eastern island) proposed self-government for itself within the greater Australian community (HORSCATSIA Sub 5, Erub Island). At its hearing it also argued for the autonomy of each island stating that prior to colonisation each island had been a 'sovereign entity' - a status which it claimed had never been relinquished (Hansard 1996, Erub Island). It argued against the universal notion of 'region' saying that in former days the world was the island and the language group, and that Torres Strait as a region really had no meaning as a single entity (Hansard 1996, Erub Island). This reflects a position taken by the chairman of Erub Island in 1986 when he claimed that, though Islanders from elsewhere might reside on Thursday Island, they should not be represented by any political body there, but by one centred on their home island (Kehoe-Forutan 1988: 13). However, this was somewhat contradictory to the approach taken when the Erub chair told the Inquiry that Islanders had begun to act regionally back in 1937 when, following the 1936 maritime strike, the island councilors gathered on Yorke Island to discuss the outcomes of the strike (see Chapter 4) (Hansard 1996, Erub Island). Others proposed to the Inquiry that they began to act regionally in 1943 when a regional conference some 37 island councilors voted collectively to try to get rid of the then Queensland departmental superintendent (HORSCATSIA Sub 3, Au Karem Le).

The feeling for island autonomy and the fear of losing this to a regional body has been noted in the past. A member of the Inquiry informed his parliamentary colleagues that as a former Queensland Minister for Indigenous affairs, he had been responsible for establishing the ICC. He noted that at that time the Island Councils stressed that they did not want the ICC to take any of the control that they already enjoyed at the island level (Hansard 1997, Katter).This confirms the point made in Chapter 4 that these councils stated in 1990 that they felt that the ICC was empowered to make certain decisions at the regional level but not to be involved in the day-to-day control of their

Fig. 6-1. An example of an island banner, c. 1990s.
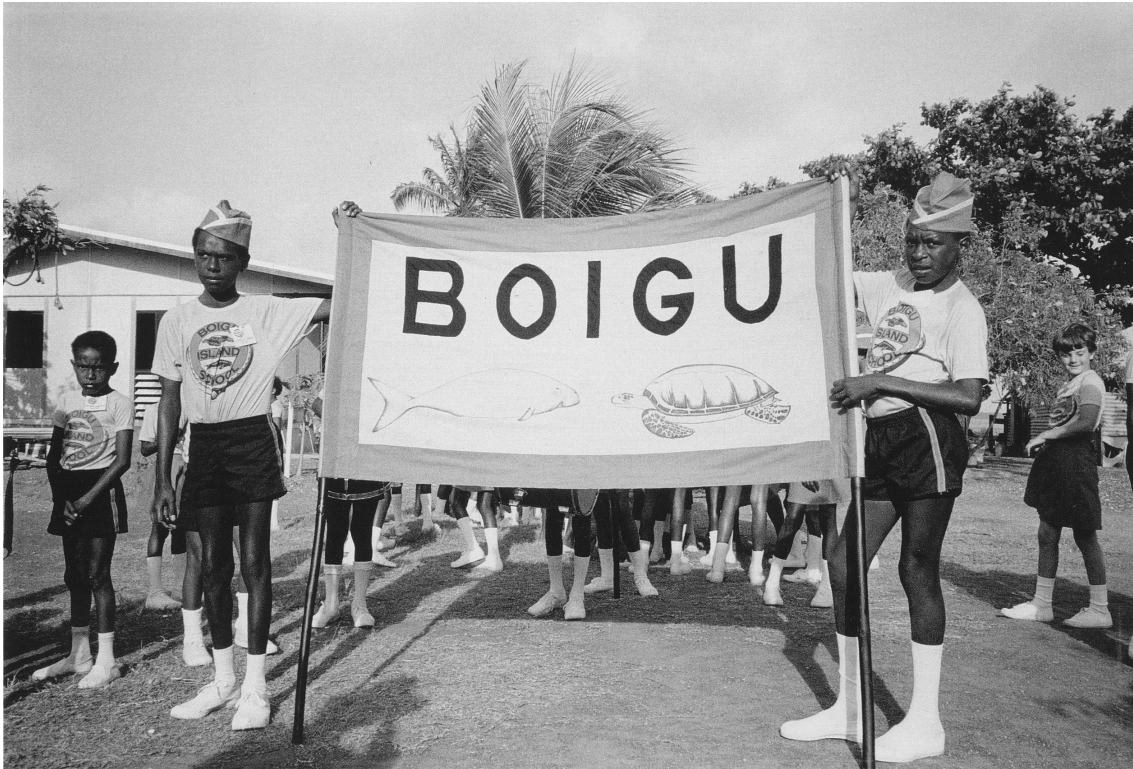
Fig. 6-2. A window decoration on Thursday Island embracing unity and diversity, 2002.

respective islands (Arthur 1990). This apparent tension between the autonomy of islands and regional structures can be seen in evidence to the Inquiry from Erub Island:

...the TSRA and ICC are pan organisations but their representativeness is limited to that given to them by the regions and autonomous communities (HORSCATSIA Sub 5, Erub Island).

Advocates and operators of a more regional approach, such as the TSRA, took some trouble in their submissions to assure their constituents that regionalism need not and would not jeopardise island autonomy. The TSRA argued that any proposed model of regional autonomy should be viewed as a 'confederation of Island Councils' in which Councils would make their own decisions at the community level while it (the TSRA or some equivalent body) would represent the whole region. The suggestion by the TSRA was that this approach was sanctioned culturally by *Ailan Kastom* (HORSCATSIA Sub 17, TSRA).

On the other hand, there is evidence of Islanders comfortably accommodating dual island and regional identities. It is common for Islanders to wear a variety of T-shirts carrying logos and messages extolling the virtues of their island's school, football team or some special event (Fig. 6.1) and signs at island airstrips may carry a motif or island logo. Island allegiance is also demonstrated in such annual events as the 'Island of Origin' football match (a mirror of the 'State of Origin' rugby matches held on the Australian mainland). It is also common for people to refer to themselves variously as a 'Saibai Island Man' or 'Badu Island Man.' However, these allegiances also sit alongside more regional or universal ones. People commonly people wear clothing which includes the colours and motif of the Torres Strait Islander flag and these colours can also be included in work uniforms. The notion of unity and diversity between the region and the islands is summed up to an extent by Fig. 6.2 which is a decoration for the window of an organisation on Thursday Island.

However, island level autonomy may be driven by more than feelings of identity. Those at the island level appear suspicious of those in control of resources at the regional level. Island submissions to the Inquiry questioned the equity of the distribution of government funding by the ICC and TSRA to each island, with some submissions suggesting that a feature of autonomy should be the channeling of funds from the government directly to each island (HORSCATSIA Sub 5, Erub Island; Sub 8,

Kaurareg/Horn Island; Sub 9, Murray Island; Sub 10, Akee; Sub 22, Saam Kerem; Hansard 1996, Seisia Island Council, Moa Island, Erub Island, Murray Island). This is something of a recurring theme in Islander affairs, and it can be characterised as their suspicion of the 'middle-man' as discussed in Chapter 4. In this case the middle-man would be the regional body, standing between the island and the government.

Sub-region versus region

Several submissions suggested that autonomy be based around sub-regions of the Strait. It was proposed for example that any future regional body should be made up of elected representatives drawn from five sub-regions within the Strait, as shown in Table 6.1 (HORSCATSIA Sub 5, Erub Island; HORSCATSIA Sub 16, Murray Island; HORSCATSIA Sub 10, Akee). The submissions which took this sub-regional approach were from the Eastern Islanders in the Strait, from an Eastern Island mainlander, and from a mainlander who had retired to his Eastern Island homeland. Erub Island legitimised this stance by stating that the five sub-regions:

represent political and geographic regions, based on culture and tradition representing federations of internally autonomous communities (HORSCATSIA Sub 5, Erub Island).

Table 6.1 Example of proposed sub-regions

Proposed sub-regions	Islands, communities
1. Maiem	Mer, Waier, Dower, Erub, Ugar
2. Maluilgal	Badu, Moa, Mabuiag
3. Kulkalag	Yorke, Poruma, Warraber, Lam
4. Gudhamamuilgal	Saibai, Dauan, Boigu
5. Kaurareg	Waiben, Keriri, Ngurapai, Muralug, Gialug
Undesignated (1)	Seisia, Bamaga

Source: (HORSCATSIA Sub 5, Erub Island).
Notes 1. The submission failed to include these two island communities in the scheme.

This five-part sub-regional structure is reflected elsewhere in Islander cultural and political life. It is apparent in the rationale for the design of the Torres Strait Islander flag (See Fig 5.1) and in Chapter 4 I noted that the ICC divides the Strait into similar regions for administrative purposes. There are other historical precedents for a sub-regional approach. As shown in Fig 4.1 the Torres Light Infantry in WWII was composed of companies drawn from four sub-regions across the Strait (Sharp 1993:

219) and the Islander Advisory Council, the first recognised regional body, was made up of representatives taken from three sub-regions (see Chapter 4) (Beckett 1987: 191).

As noted in Chapter 4, Beckett makes the point that being further from the lucrative lobster grounds than the other island groups, Eastern Islanders adopted political activity and migration to advance their individual autonomy and political 'freedom' during the 1950s and 1960s (Chapter 4). The submissions to the Inquiry suggest that Mainlanders from the Eastern Islands feel they have fulfilled this political role more than Homelanders have. For instance, one submission argued that it was the Mainlanders who had been instrumental in halting both the proposed changes to the border in the 1970s, and in having the concept of Native Title recognised (HORSCATSIA Sub 10, Akee). Eastern Islanders are to some degree justified on both of these counts as they were active in the border issue (Chapter 4) and Eddie Mabo, the successful initiator of Native Title, was a Mainlander of Eastern Island descent (Beckett 1994). These same submissions suggest a dissatisfaction with the form of regionalism practiced by the TSRA and the ICC. They claim for example, that the ICC did not support Mabo in his quest for native title and that the TSRA has not helped Mainlanders with land or funding matters because they are prejudiced against them (HORSCATSIA Sub 5, Erub Island; Sub 10, Akee). These same submissions complain that the TSRA is too bureaucratic and too close to the Commonwealth Government, noting that:

the TSRA ignores our real aspirations in favour of program management; the TSRA is an inward looking bureaucracy; the TSRA is too much like a clique; the TSRA cannot distribute funds as this will annoy *its members* (HORSCATSIA Sub 5 and Sub 26, Erub Island; Hansard 1996, Erub Island) (emphasis added).

It is true that the ICC and TSRA are made up of the chairs of the island councils, and have no representation from the mainland, however they have no real responsibility for distributing funds to mainlanders (see Chapter 7). As noted in Chapters 2 and 4, the ICC and the TSRA are not fully non-government organisations, as they are established under Queensland and Commonwealth legislation respectively and the sub-regional view of autonomy may be a reaction by the more politically active Eastern and mainland groups against the government-backed regional organisations of the TSRA and ICC. Alternatively, the sub-regional approach may reflect what appears to be a typically Melanesian or island-based suspicion of centralism (see Larmour and Qalo 1985). The generally uncertain or multi-layered nature of the unit of political autonomy

in the Strait, is illustrated in the submission from Murray Island Council in which they proposed that autonomy should cover all of the Strait, if this is not possible then it should be for the Eastern Islands and if not the Eastern Islands then just for Mer itself (HORSCATSIA Sub 9, Murray Island).

The above examples indicate that the notion of region and of regional unity for political purposes had not, at the time of the Inquiry, been fully resolved in Torres Strait. I have argued in Chapter 5 that there are factors that help form Torres Strait into a region. However, the Strait also suffers from the potential of fragmentation found in other archipelagoes such as Indonesia and the Solomon Islands, resulting in a tension between regional unity and separation. The tension between regionalism and localism has been noted elsewhere with respect to the island nations of the Pacific and to mainland communities in other parts of Indigenous Australia (Larmour and Qalo 1985; Martin 1997).

Culture in regional autonomy

Hannum and Lillich (1988) propose that one form of autonomy can be 'cultural autonomy' and they give as an example the Aland Islands where the Indigenous people have the power to control the use of their Indigenous language. As discussed in Chapter 3, some Pacific governments include culturally defined bodies within their structures and I have classified this as a form of cultural bicameralism (Chapter 1). By this I do not mean the form of bicameralism that exists in the Australian parliament between lower and upper houses. In that form of bicameralism the delegates have the same democratic status and do not have any privileged expertise. The notion of cultural bicameralism rather proposes that representatives are elected or chosen on the basis of their special status or expertise in cultural matters so as to give some input to government based on that status or expertise. I would argue that this is a form of cultural autonomy.

The Queensland legislation applying to Islanders at the community level already includes some concessions to Islander culture. The *Torres Strait Islanders Act 1939* that delegated to Island Councils the functions of local government indicated that it could be formed in accordance with island customs and practices (Sharp 1993: 214). Also, the Queensland *Community Services (Torres Strait) Act 1984* allows island councils to

make by-laws, control community police and hold community courts. In 1999 following lobbying from its council, the Queensland Government allowed Saibai Island to adopt a system for its council elections that reflected that island's tradition. In this new system the representatives elegible for election to council must be drawn form its major clans with each clan ensured of representation on the council. In addition, the system dictates that the role of chair of the island council must be rotated between the clans. This is similar to strategies discussed in Chapter 3 that are used to meet cultural imperatives in systems of government in the Pacific. However the system is not problem-free. The skills base in Torres Strait is not high and it is common for chairs of island councils to be re-elected over a number of years, thus retaining some skilled people in the post. In 2004 the outgoing, and long-standing, chair of Saibai (who could no longer be chair under the new rotating principle) lobbied the Queensland Government to be retained in some way as an advisor to the chair. Therefore, it is not yet clear if this culturally-based system will survive. No other island in Torres Strait has followed the Saibai example.

Saibai is an Outer Island in the Islander domain. Incorporating a cultural element in a regional government system – across the Inner and Outer Island domains – is more complicated. In 1996, the TSRA proposed that any form of regional self-government would have to be culturally appropriate, by conforming to the requirements of *Ailan Kastom*, the body of customs which gives Islanders their inspiration and strength' and it reiterated this condition to the Inquiry (TSRA 1996: 2; HORSCATSIA Sub 17, TSRA). What the expression 'culturally appropriate' actually means and what the requirements of *Ailan Kastom* might be, have never been clearly stated. However, other submissions to the Inquiry suggested that self-government could be made culturally appropriate by including a culturally defined body that would operate in conjunction with any democratically elected assembly. For instance, the Kaurareg Land Council and the Darnley Island Council proposed that there be a 'council of elders' to consider an elected body's decisions on land, culture and language (HORSCATSIA Sub 8, Kaurareg/Horn Island; Hansard 1996, Kaurareg; HORSCATSIA Sub 26, Erub Island). The TSIAB also suggested that such a council might operate as a house of review rather like the House of Arikis in the Cook Islands, and as discussed in Chapter 3 (Hansard 1997, TSIAB).

At a regional level the elected chairs of the island councils automatically become members of the ICC and TSRA. According to the TSRA, this follows the dictates of *Ailan Kastom* by allowing one person to speak for one community (HORSCATSIA Sub 17, TSRA). However, this form of representation is now criticised by some who favour separate elections for island and for regional representatives (Sanders 2004). In any event, the cultural features noted above have been limited mostly to the Outer Islands (the Islander domain) and have not applied to mainstream local government on the Inner Islands (the non-Islander domain). Adding a council of elders to oversee, even in an advisory capacity, the work of an elected fully regional body would introduce a form of cultural bicameralism over the whole region (the Islander and non-Islander domains). This raises the issue of the possibility or preparedness of people to incorporate Indigenous and non-Indigenous values in one regional system. Some consideration has already been given to this. For example, it has been suggested that a member of the Torres Shire be included in the TSRA. However, in its submission to the Inquiry the TSRA said that it would only support such a move if this representative was the present Mayor (an Islander) or another member of the Shire as long as they were also Torres Strait Islander (HORSCATSIA Sub 17, TSRA).

The above suggests some ambivalence for a regional system of government that would include all residents. Incorporating a cultural element into a regional body could be a way to allow it to represent all residents. This could be through a regional body elected by all residents attached to a parallel institution that deals with cultural affairs. In fact, as shown below, such a device was proposed in the Inquiry's final Report. However, the TSRA's statement that it would only favour representation from the Shire (the non-Islander domain) if the representative was an Islander suggests that it is some way from embracing the idea of Islanders and non-Islanders on one representative regional body. The proposals to the Inquiry from Islanders for forms of autonomy to be culturally appropriate tend to refer to a from of political autonomy for Islanders, and not for everyone in the region. I will return to this point again. Suffice to say here that this is an issue not encountered in the Pacific. There the forms of bicameralism are to give cultural effect to (Indigenous) government, not as a means of including Indigenous and non-Indigenous people in one system of government (see Chapter 3).

Accommodating other Indigenous groups

As I have noted in previous chapters, Islanders are not the only Indigenous groups in or near Torres Strait and the following section discusses these with respect to regional autonomy.

The Kaurareg

As noted in Chapters 2 and 4, the Inner Islands are the traditional home of the Kaurareg. The aspiration of the Kaurareg is to achieve greater autonomy at the community level and also to become part of any system of regional governance that comes into being. Despite the fact that they are the traditional owners of the Inner Islands the Kaurareg have been largely marginalised and excluded from the regional picture in the past, leading them to claim that they lost their original autonomy to a greater extent than did their 'Islander brothers' (HORSCATSIA Sub 8, Kaurareg/Horn Island; Hansard 1996, Kaurareg; Sanders and Arthur 1997: 7). Several factors have contributed to this marginalisation. One is the size of the Kaurareg population: in 1997 they themselves estimated there were only 50 adult Kaurareg on Horne Island and some 450 on the mainland (HORSCATSIA Sub 8, Kaurareg/Horn Island). Another factor is that, unlike most of those who identify as Torres Strait Islanders, the Kaurareg were dislocated from their home on the Inner Islands. They were removed from their traditional lands in the Muralug group (Inner Islands) first to Hammond Island, then to Moa Island (Sharp 1993: 138).

When I was a little girl we moved from POW (Prince of Wales Island) to Hammond Island ... When I was 13 years old (in 1922), some dinghies arrived to take us to Moa Island. There were 5 old men and policemen with guns telling us to jump up in the dinghies ... On the way to Moa Island we all looked back and started crying because we had left our home. I turned to my mother and said I shall remember this and when I get married I shall return home ... (Mrs E Newie, Muralug Tribal Corporation meeting Horn Island 1990: 7).

After changes to the Queensland legislation in 1965 the Kaurareg were able to return from Moa to Horne Island where they established the Ngurapai Community (HORSCATSIA Sub 8, Kaurareg/Horn Island; Sharp 1993: 138, 140; Beckett 1987; Arthur 1990). However, the Ngurapai Community on Horne Island is not on Deed of Grant in Trust Land (DOGIT) land and therefore they could not be given the same local government status as the Outer Island Councils under the *Community Services (Torres*

Strait) Act 1984. This lead the Kaurareg to complain to the Inquiry that although they 'owned' the biggest island in the Strait (Prince of Wales) they have no Island Council (HORSCATSIA Sub 8, Kaurareg/Horn Island).[3] One result of this is that the Kaurareg were never included in the membership of the ICC because this is made up of the chairpersons of the community councils. The knock-on effect of this is that Kaurareg were also excluded from any regional consultations between the ICC, the Queensland and the Commonwealth Governments and also from participation on the Torres Strait Protected Zone Joint Authority (PZJA) - the body which jointly manages the regions fisheries and the Treaty (Arthur 1999a).[4]

Islander organisations have tended to not view the Kaurareg as part of the Islander domain. In the 1990s the Kaurareg approached the ICC for assistance in obtaining land on Horne Island but were told that Horne and the other Inner Islands were outside the ICC's geographic area of responsibility and the ICC advised them that they should seek help from the Aboriginal Coordination Council (ACC), the mainland equivalent of the ICC (Arthur 1990). At the time of the Inquiry, the chair of the TSRA was still suggesting that Kaurareg should discuss their land matters with Torres Shire rather than the TSRA (Hansard 1997, Thursday Island). Traditionally, the Kaurareg islands appear to have been on the 'border' of the Aboriginal mainland and the outer Torres Strait (Sharp 1992; Moore 1972; Haddon 1935a) and so Kaurareg could possibly have identified either as Aboriginal people or as Islanders. Indeed, a prominent Kaurareg leader announced to the Inquiry that although his ancestry was Aboriginal, Torres Strait Islander, Papua New Guinean, and ni-Vanuatu, he had 'chosen' to identify as Kaurareg (Hansard 1997, Thursday Island). On the other hand, and by their own admission, the Kaurareg had also in the past identified as Aboriginal (HORSCATSIA Sub 8, Kaurareg/Horn Island) and this may have influenced the ICC's earlier approach to them. The possibility of the mixed heritage of the Kaurareg has some history. Early visitors named the people on Prince of Wales as the 'Kowraregas', and in the late 19th century Haddon hesitated to call them either entirely 'Papuans' or entirely 'Australians' 'so complete is the fusion between the two' (Haddon 1935a). Haddon noted that the people

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[3]As explained in Chapter 2, under the Queensland legislation, only communities on land designated as Deed of Grant in Trust can be made community local governments.

[4] As noted in Chapter 4, Indigenous representation on the PZJA is also drawn primarily from the membership of the ICC (see PZJA 1995: 46-47).

of Prince of Wales Island, ranked themselves (socially) with Islanders with whom they had 'friendly relations' (Haddon 1935b).

Following the ICC's advice to them in the 1990s, the Kaurareg became affiliates of the AAC and as a result their land and Native Title matters have been handled not by the ICC or TSRA but by the Cape York Land Council (CYLC) (HORSCATSIA Sub 8, Kaurareg/Horn Island). Both the ACC and the CYLC are located in Cairns. This has resulted in the somewhat extraordinary situation of traditional owners of the Inner Islands having their land and other matters dealt with, not by organisations on Thursday Island in sight of them, but by ones some 800 kilometers to the south. This orientation has tended to reinforce the exclusion of the Kaurareg from the Islander domain. We should also remember that historically, the colonial regime of the Queensland Government limited this Islander domain very much to the Outer Islands whereas the Kaurareg are Inner Islanders (Chapter 4). However, there are now signs that the Kaurareg are being incorporated into a new regionalism (Arthur 1999a). In 1991, Commonwealth legislation provided for Horne Island to elect a representative to the TSRA and a Kaurareg leader was successful.[5] Then, in the mid 1990s when the Kaurareg made Native Title applications over some of the Inner Islands, the TSRA invited the Kaurareg to be members of a proposed regional Native Title Committee (Arthur 1999a).

The Kaurareg's approach to autonomy and the Inquiry was to argue for their full incorporation into regional affairs. Their aspirations were to achieve the same status as other Island Councils and to be part of any structure of regional governance (Hansard 1997, Thursday Island). Their push for regional incorporation gained support from Torres Strait Islanders. The Kaurareg were acknowledged publicly as the traditional owners of the Inner Islands or Muralug group in submissions to the Inquiry, and at meetings held on Thursday Island during and after the Inquiry, there were invariably public affirmations by non-Kaurareg to this affect (HORSCATSIA Sub 9, Murray Island; Hansard 1997, Thursday Island). Islander submissions conceded that regional bodies such as the TSRA had largely ignored the Kaurareg in the past but that they should now be included in any regional governance structures (HORSCATSIA Sub 10,

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[5] However, this is de facto representation as it is to provide representation from Horne Island, not from the Kaurareg.

Akee; Sub 5, Erub Island; Sub 16, Murray Island). A statement by a prominent Islander leader made at the Ninth National Workshop captures the change in approach to the Kaurareg and the acceptance of the *realpolitik* of the situation with respect to the position of the Kaurareg:

We must acknowledge that they were chased away but that they are now back. All the infrastructure is on their land, we must acknowledge them (notes from the Ninth National Workshop, October 1999).

And, at a governance conference in April 2002 the Chair of the TSRA stated specifically that regarding autonomy the TSRA wanted a memorandum of understanding with non-Indigenous residents that would also incorporate the Kaurareg.

Prior to the Inquiry and Native Title, the Kaurareg's traditional affiliations with the Inner Islands coupled with their small numbers and their history of dislocation, tended to exclude them from forms of Indigenous regionalism, which were very much oriented on the Outer Islands. The Kaurareg Native Title applications over the Inner Islands and the process of the Inquiry, which extended regional considerations over both the Inner and the Outer Islands, seem to have acted to raise the status of the Kaurareg in the regional political scene, to reincorporate them and legitimise their aspirations to be players in regional autonomy. As a post-script however, we should note that the Kaurareg do not feel that this has yet happened. In 2004 a cultural centre and museum was completed on Thursday Island named *Gab Titui*. This is a demonstration of Islander identity in the Kaurareg heartland, built with TSRA (Commonwealth) funds. At the opening ceremony a group of Kaurareg held a mini-demonstration and made a speech complaining that the name (*Gab Titui*) was Islander not Kaurareg and reminding Islanders that the museum was on Kaurareg land. In an article in the Torres News (21-17 April 2004) covering this aspect of the opening and headlined 'We want respect: Kaurareg', the group demanded greater recognition in accord with their status as the traditional owners of the Inner Islands. Therefore, although the Inquiry and Native Title appear to have raised the profile of the Kaurareg in the region, their position within any form of regional autonomy is still unclear.

Aboriginal people on the 'Cape'
The Inquiry took evidence from the three Aboriginal communities on Cape York that are contiguous with the Torres Strait region, namely Injinoo, Umagico and New

Mapoon. All three communities stressed that although up to fifty per cent of their populations might identify as Torres Strait Islanders, and that there is a high degree of intermarriage between them and Aboriginal people, the communities were 'Aboriginal' and as such they were represented by the ACC and the then ATSIC, and not by the TSRA (Hansard 1996, Injinoo; Arthur 1997b). They further stated that, in the event that Islanders gained some greater level of autonomy, they would wish to continue to be represented by the ACC and by ATSIC. They felt that as they identified 'Aboriginals' these bodies were in a better position to respond to their needs (Hansard 1996, Injinoo). When asked by the committee if there was any possibility that the two groups could share a future, the deputy chair of one of the Aboriginal communities replied:

Not if I can help it. The Torres Strait Islands have different needs and look on the people of the Cape as mainlanders. If they had autonomy, they would see to their needs first. A community such as Injinoo would be outvoted (Hansard 1996, Injinoo).

Therefore, these contiguous Aboriginal communities appeared to feel that they would actually lose some autonomy if they were included with Islanders in one autonomy package. The Aboriginal community of Injinoo suggested that they had already lost some economic autonomy to Islanders. They informed the Inquiry that they were in dispute with the TSRA over its boundaries, which they felt were too close to the community's shores. They claimed that Islander fishing boats worked close to the Injinoo shoreline and that in the current circumstances, they had no authority to evict them. Injinoo wanted to be able to exercise more rights over what it saw as its waters so that they could expand their fishing industry and stimulate their own economic development (Hansard 1996, Injinoo).

The extent of the political and cultural separation between the two groups is also reflected in their approach to the use of some services. A member of Injinoo community stated to the Inquiry that:

Aboriginals and the Torres Strait Islanders are two totally different cultures ... the nearest hospital was at Bamaga, but Aboriginal people preferred to go to Cairns, where they were among their own people (Hansard 1996, Injinoo).

Bamaga (an Islander community) is seven kilometers to the east of Injinoo, whereas as noted earlier, Cairns is some 800 kilometers to the south.

The three Aboriginal communities contiguous with Torres Strait clearly place themselves in an Aboriginal, rather than an Islander domain. These Aboriginal communities tend to express a desire to be separate from Islanders in much the same way as mainland Islanders express the wish to be separate from Aboriginal people, as I will discuss in Chapter 7. Aboriginal people, at least those near the Strait, view Islander autonomy as a threat to their own autonomy reflecting a tension that has existed for some time between the two groups (Arthur 1990; 1997b). Clearly they would not see themselves as part of any greater Islander political autonomy. This could be a significant issue in future considerations of regional autonomy, principally because, as explained in Chapter 2, the two Islander communities of Seisia and Bamaga are contiguous with the three Aboriginal communities on the Cape. Seisia and Bamaga are presently part of the ICC and TSRA and so the administrative region of Torres Strait from an Islander standpoint, includes two Islander communities situated on land excised from the Cape. It is unclear how this apparent anomaly might be accommodated if there was some greater from of regional autonomy. However, it does seem the case that extending the Torres Strait so that it also encompassed the three Aboriginal communities would not be an option.

The PNG element

As noted in Chapter 5 the open border creates a special relationship between the Strait and PNG, and it is appropriate to note this when considering autonomy for Torres Strait or Torres Strait Islanders. Though PNG might have felt that the location of the border was a compromise it may now find some satisfaction with the present arrangements (Arthur 1999a; Rowse 1998: 25). In 1998, the PNG Assistant High Commissioner pointed out that when Queensland annexed the islands in 1879 it did so under a 'divine authority' which PNG was then in no position to refute or obstruct (notes from 'Policing the Open Border', seminar, Australian Defence Studies Centre, Canberra, February 1998). However, as noted in Chapter 5 he also added that the Articles of the Treaty, which allow for the sharing of the marine resources and the free movement of nationals, has since established a balance of competing interests.

As noted in Chapter 5 Islanders have concerns over the present arrangements of the open border with PNG and some of these were expressed to the Inquiry. Islanders

repeated their fear that contact with people from Western Province increased the chance of introducing diseases and pests which are prevalent there but are absent in the Strait, such as Japanese Encephalitis, spiraling whitefly, the Asian honey bee and the papaya fruit fly (HORSCATSIA Sub 17, TSRA). They also noted that traditional visits increased the potential for illegal fishing and for the trade in drugs and guns. They characterised the Strait as the 'front line' and 'back door' to Australia, and as a 'buffer zone' between the two countries (HORSCATSIA Sub 17, TSRA; Hansard 1996, Saibai Island). [Islanders were not alone in claiming this status for the Strait. Torres Shire also informed the Inquiry that not only was it the northernmost such local government in Australia, it was the only one which abuts an international border (Hansard 1996, Torres Shire Council).] Islanders argued that the characteristics of the border meant that they were playing an important role in the protection of Australia and used this to argue that they should therefore have more say in regional decision-making (HORSCATSIA Sub 17, TSRA). On the other hand, in pointing out their special circumstances Islanders also called for increased Commonwealth assistance to police the border (HORSCATSIA Sub 17, TSRA).

Though the position of the PNG Government was not directly sought by the Inquiry, it is possible that the granting of certain forms of autonomy in Torres Strait might warrant renegotiating the Treaty. When discussing the relationship with PNG the former ATSIC Commissioner for the Strait and chair of an Outer Island, specified to the Inquiry that Islanders, the TSRA and the ICC would not want to table the Treaty again, as it might destroy some of the privileges that it already provides to them (Hansard 1997, TSIAB). In addition, it is likely PNG would fear any form of regional autonomy that might result in Torres Strait being separated from Australia or Queensland. It is more likely they would favour maintaining the status quo which allows PNG citizens to access aspects of the Australian economic system and its services, as discussed in Chapter 5. Thus the border and the Treaty arrangements are additional factors for traditional inhabitants to consider within the notion of regional autonomy. The border and the Treaty arrangements also have a bearing on governmental approaches to autonomy and these are discussed in a later section of this chapter.

Although the foregoing sections of this chapter indicate some significant claims by Islanders for a form of regional political autonomy, the scope of this and who it might

involve was not altogether clear. In the main, the lack of clarity reflected a tension between notions of regional autonomy and autonomy at other levels below that of the region. In addition, the sections reveal that there is some uncertainty as to who might be included in a form of regional political autonomy, and especially whether it would apply only to Indigenous people or to all residents.

Inter-Indigenous corporate autonomy: Aborigines

Earlier in this chapter I noted that culture may play a part in the structures and procedures of political regional autonomy. Culture can also be a way of legitimising other forms of autonomy (Keesing and Tonkinson 1982; Tully 1995: 1-8). Inside Torres Strait, Islanders make the point that they are a separate 'group' with a distinct culture (HORSCATSIA Sub 32, ATSIC). This allows them to classify the Strait as a 'cultural region' and to legitimise claims for a political separation between themselves and Aboriginal people (HORSCATSIA Sub 40, TSIAB).

Most commonly, Islanders expressed to the Inquiry their aspiration for greater autonomy in terms of establishing their own national statutory organisation separate from the then ATSIC. In 21 of the 35 pieces of evidence (60 per cent of cases) Islanders called for their own statutory body separate from Aboriginal people[6] (HORSCATSIA Sub 17, TSRA). This approach to greater autonomy was put almost equally by Islanders in the Strait and on the mainland, and in most instances, the suggestion was that a new and separate body would oversee Torres Strait Islander affairs (but only Torres Strait Islander affairs) in both locations. Calling for their own Indigenous body represents a desire by Islanders to be autonomous from Aboriginal people and can be characterised as a form of inter-Indigenous corporate autonomy.

Islander perceptions of the difference between themselves and Aborigines is not new and as noted already in Chapter 4, in different periods Queensland legislation has either combined or separated the two groups. However, it is at the Commonwealth level that Islanders now most often express the desire to be identified separately. When the Commonwealth Government entered Indigenous affairs following the 1967 referendum,

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[6] These figures differ slightly from those in Sanders and Arthur (1997: 1) due to the fact that their work was carried out before the Inquiry was completed.

it made little distinction between Islanders and Aborigines in its principal Indigenous legislation and institutions. For example, there was no particular distinction made between the two groups within the DAA and the ADC. The same can be said of the National Aboriginal Consultative Committee and its successor the National Aboriginal Conference (NAC) set up in the same period. This is not to say that Islanders were excluded from these bodies. For instance, in 1982 an Islander was the chair of the NAC in Queensland and another was a Commissioner of the ADC (Beckett 1987: 170-200). However the Commonwealth largely considered Torres Strait Islanders and Aborigines as one group of Indigenous people.[7] The formation of ATSIC signified a move towards recognising Islanders as a separate and distinctive Indigenous group. Unlike in the former DAA, NAC and ADC, Islanders and Aborigines were both named separately in ATSIC. Submissions to the Inquiry did not however find this a satisfactory change:

> Everything that the Islander people has been landed with nationally has always been with aboriginal dominance … in spite of earnest pleadings by Islander people to go separately after the NAC days, they got landed with ATSIC, a change in name only (sic) (HORSCATSIA Sub 15, Erub Island).

However, as noted at the beginning of this chapter, the Torres Strait was given the status of both an ATSIC region and an ATSIC zone, and to powers similar to that of a Commission. This was unique within the ATSIC structure, and represented a significant concession to the distinctive interests of Islanders (Sanders 1994: 4). Thirdly, the ATSIC legislation set up an Office of Torres Strait Islander Affairs (OTSIA) and a Torres Strait Advisory Board (TSIAB) specifically to oversee Islander issues within ATSIC and to provide advice on these issues directly to the Minister for Aboriginal and Torres Strait Islander Affairs – there were no similar structures for Aboriginal people. It should be noted however that the powers of these bodies were limited. TSIAB was only an advisory body and OTSIA was given no discretionary budget to fund Islander projects (Sanders and Arthur 1997). In any event, these arrangements left Islanders within ATSIC and have fallen short of Islander aspirations which include a further separation from Aboriginal people. This was reaffirmed to the Inquiry by the Islander mayor of Torres Shire when he stated that:

> In 1987, the then minister for Aboriginal affairs, Gerry Hand, was presented with 11 grievances by the Torres Strait Islanders' representative. One of these grievances stated the recommendation of a separate

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[7] Since 1971, the Australian Bureau of Statistics has gradually made a distinction between Torres Strait Islanders and Aboriginal people in its publications (see Treadgold 1974; Arthur 1997a).

commission … This is still a major aspiration commonly upheld today, from politicians to grassroots people. Torres Strait Islanders still feel that they are a minority within a minority and seek a commission separate from ATSIC (Hansard 1996, Thursday Island).

Cultural legitimisers

At one level, Torres Strait Islanders expressed the desire to be viewed independently of Aborigines in cultural terms. They say they wanted:

…to manage own affairs, make decisions that affect their lives and maintain their culture, identity, values and traditions as a *separate race* of Australian people (emphasis added) (HORSCATSIA Sub 17, TSRA).

Similarly, the TSIAB argued for an overall definitional distinction between Islanders and Aboriginal people based on the distinctive Islander culture of *Ailan Kastom* (HORSCATSIA Sub 40, TSIAB).

This could be interpreted as a form of cultural autonomy (Hannum and Lillich 1988). However, it can also be seen as an example of culture being used to legitimise other forms of autonomy (Tully 1995; Keesing and Tonkinson 1982; Linnekin 1992). Islanders argued they should be given political separation from Aboriginal people because they are a distinct cultural group. In doing this they use the term *Ailan Kastom*. In the Pacific the concept and the term *Kastom* were often used during the struggle against colonial rule (Linnekin 1990; Keesing and Tonkinson 1982). There, people self-consciously highlighted cultural difference as a political strategy in the process of gaining autonomy from colonial powers (Linnekin 1990; 1992: 253). In Australia Islanders use 'culture' and the term *Ailan Kastom* in a very similar way and to legitimise the distinction between themselves and Aborigines as two separate Indigenous groups within the same nation. However, it has been noted that culture and tradition, far from being old and static, are dynamic and evolving concepts, leading some to propose that culture and traditions are being continually 'invented' (Hobsbawm and Ranger 1992; Arthur 2004). It has been suggested that *Ailan Kastom* may not be as widespread a concept in the Strait as many public documents indicate (Peterson pers. comm.) and it is certainly a term imported there from the South Pacific along with many other cultural traits (see Chapter 4). Nonetheless, the important factor here is that the cultural practices in Torres Strait do form something of a whole, and these and the use of the collective term *Ailan Kastom* allows Islanders to legitimise a fairly clear distinction between themselves and Aboriginal people.

The figures used to estimate the Indigenous population are derived from the five yearly censuses conducted by the ABS. In these censuses people are asked to indicate if they are Indigenous - more accurately they are asked to indicate if they are of Indigenous ancestry. Until the 1996 census, people could say if they were Aboriginal or Torres Strait Islander. In 1996, they were given a third option - Aboriginal *and* Torres Strait Islander (Appendix B). This created another category of Indigenous person that has been referred to as the 'boths'. The option to identify as both in the 1996 Census had been proposed by OTSIA who were responding to requests from Islanders on the mainland who were in, or the product of, mixed Aboriginal/Islander marriages. This issue was also raised with the Inquiry when some mainlanders objected to any suggestion that, for the purposes of political representation, they would have to chose between being either only an Aboriginal person or only a Torres Strait Islander person (Hansard 1997, Thursday Island).

One outcome of creating the third category has been to increase the number of people identifying as Torres Strait Islander (Arthur 2000). However, another outcome is that it diminishes to some degree the notion that Islanders are, as quoted above, 'a separate race of Australian people'. That is, it reduces the ability to argue for autonomy from Aboriginal people, based on cultural difference. Dual identification is extremely limited in Torres Strait, as one might expect as the Strait is the 'homeland' of Islanders. The issue of dual identification looms larger on the mainland amongst the *diaspora* of the migrants and the descendants of migrants, again as one might expect. While only 6 per cent of people in the Strait identified as both Aboriginal and Torres Strait Islander, 26 per cent did so on the mainland (Arthur 2000). The issue of autonomy for Islanders on the mainland (Mainlanders) as it emerged from the Inquiry is discussed in Chapter 7.

The notion of political autonomy from Aboriginal people was put to the Inquiry by many Islanders. As shown in Chapter 4, this has been a long-standing issue. With the advent of the TSRA and the separation of its budget from that of ATSIC's, this political autonomy would seem well developed. It can be said to represent a form corporate autonomy (autonomy for a people), in this case between two Indigenous people in the same nation-state.

Political autonomy: government views

The Commonwealth Government

The fact that the Commonwealth initiated an Inquiry into greater autonomy suggests some degree of support for the concept. No such other government investigation has been carried out for Indigenous people in any other part of the country. Indeed, the Inquiry in Torres Strait took place at a time when Commonwealth-Aboriginal relations over matters such as reconciliation and land rights were lukewarm to say the least and when the Commonwealth was reducing its commitment to the principles of self-determination (Dodson and Pritchard 1998). Commonwealth interest in Torres Strait affairs is evident in ways other than the Inquiry. For example, the Strait has received an unusually high number of visits from Prime Ministers, Ministers of Foreign Affairs and Ministers of Aboriginal and Torres Strait Islander Affairs. Indeed, the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs who initiated the Inquiry, had by late 1999, visited Torres Strait a total of 13 times, a point Islanders viewed as evidence of the Commonwealth's commitment to them (notes from the Ninth National Workshop, October 1999).

It is possible to see this apparent level of interest and support from the Commonwealth as a reflection of the Islander political style. An appreciation of the Islander style was alluded to during a visit by the then Liberal-Coalition Minister for Aboriginal and Torres Strait Islander affairs to Thursday Island in late 1999. In welcoming the Minister, the chair of the TSRA stated that in Torres Strait, Islanders would work with any colour of political party and invited the Minister to join them in the process of negotiating increased autonomy (notes from the Ninth National Workshop, October 1999). The Minister commended this approach indicating that the Commonwealth appreciated it. The Minister went on to compare the Islander style with that of Aboriginal people who he implied, would engage with left-wing but not right-wing governments (notes from the Ninth National Workshop, October 1999).[8] Beckett (1987)

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[8]The Commonwealth Government was a Liberal-Country Party coalition. In contrast to his statements about Islander political style, the Minister described a recent vote of no-confidence in him by ATSIC, his own bureaucracy at the time, as 'crazy' (notes from the Ninth National Workshop, October 1999).

has also alluded to this issue, indicating that while Aboriginal groups have generally adopted a confrontationist approach, Islanders tend to engage governments in a process of negotiation. At the same time Beckett (1987) has also proposed that Islanders have achieved various gains for Torres Strait through a form of political action in which they play off the Queensland and Commonwealth Governments against each other. In any event, the Commonwealth appeared to favour at least some from of autonomy for Islanders; the submission to the Inquiry from the Attorney General (and Minister for Justice) stated that:

> If greater administrative autonomy is thought to be desirable, this could be achieved through alterations to the arrangements for the delivery of programs and services, for example, by delegation of powers and functions to local authorities and local officials. Funds for Commonwealth programs could also be appropriated to local bodies, such as the TSRA. It would of course be necessary to ensure that any new arrangements were non-discriminatory (HORSCATSIA Sub 28, Attorney-General).

However, in the same submission, the Commonwealth Attorney General goes on to say that he would not at this stage '…favour any alteration to the constitutional position of the Torres Strait as part of Australia' (HORSCATSIA Sub 28, Attorney-General).

The Attorney-General seemed on the one hand to favour some increased local autonomy but also aimed to protect Australia's sovereign control over the Strait. Other submissions from the Commonwealth also stressed the need for the Commonwealth to retain a high degree of control in the region. Following my approach in Chapter 5, I argue that this is because Torres Strait is a border region. This desire to retain control of the border is evidenced in the submissions made to the Inquiry by the Commonwealth departments that are involved in matters associated with the Treaty. These include the Department of Foreign Affairs and Trade (DFAT); the Australian Quarantine and Inspection Service (AQIS); the Department of Defence; the Department of Immigration and Multicultural Affairs (DIMA); the Commonwealth Scientific and Industrial Research Organisation Division of Fisheries; Ausaid; the Australian Customs Service; the Australian Federal Police; the Australian Fish Management Authority; and Coastwatch (HORSCATSIA Sub 42, DFAT).

The Treaty is the ultimate and primary responsibility of the DFAT. The Department's evidence to the Inquiry suggested that it was comfortable with the notion of Islander autonomy as this might apply to such matters as the Indigenous-specific budget and the Department's staffing, but made it clear that it was opposed to any form of autonomy

that would lessen its own control over Treaty matters (HORSCATSIA Sub 42, DFAT). As I have already noted there is a sense in some quarters that PNG feels that Australia got the better of the deal over the Treaty, especially with regard to access to reefs for commercial fishing, and that it might therefore welcome the opportunity to re-negotiate the Treaty. The Commonwealth is nervous about any form of autonomy that might open the door to such renegotiations (Arthur 1997b: 15; 1999a: 61-62).

The Commonwealth's approach to regional autonomy is also influenced by its concern to ensure that the Strait provides an efficient quarantine buffer between PNG and the mainland. As noted above, there exists the danger of introducing exotic pests from PNG and so, to protect the mainland, AQIS manage Torres Strait as a designated quarantine zone (see Fig. 5.4). AQIS argued to the Inquiry that although their operations were already staffed entirely by Islanders, the zone is of such national importance that its final control should remain with Canberra (HORSCATSIA Sub 14, AQIS). Similarly, the Commonwealth is concerned to prevent the transfer of exotic diseases from Papua New Guinea to the mainland. Thus, while the Commonwealth appeared to support the notion of Islander control over health issues, it suggested that this would be conditional on a management regime that would prevent the spread of exotic pests and diseases to the south (HORSCATSIA Sub 13, Minister for Aboriginal and Torres Strait Islander Affairs).

Commonwealth perceptions of autonomy for the Strait were also influenced by concerns that the region is a point of high risk for illegal entry to Australia. The arrangements which allow free movement of nationals within the Protected Zone increase the risk of the illegal entry of Papuans to Australia and, in addition, illegal Indonesian fishers and other nationals are increasingly apprehended in the region (McFarlane 1998: 2). Such matters are the responsibility of DIMA. Though the Department has moved to Islanderise its local staff both on Thursday Island and on the Outer Islands, its evidence to the Inquiry suggests that it would be unlikely to support devolving any further responsibility for such matters to the region (Hansard 1997, DIMA). Coastal security also has a bearing on the Commonwealth's approach to regional autonomy. Australia's coastal areas are managed under a system of zoning which include the Australian Exclusive Economic Zone, the Australian Fishing Zone and the Territorial Sea. Coastal surveillance is carried out under a Coastwatch Civil

Surveillance Program which is a sub-program of the Australian Customs service. Presently the program is managed and controlled from Canberra. The Australian Defence Force was keen for this to remain the case and argued to the Inquiry that Islander autonomy should be limited to participation at the relevant meetings (HORSCATSIA Sub 23, Australian Defence Force).

As noted in Chapter 3, strategic concerns can influence government approaches to autonomy (Hannum and Lillich 1988). As a border region, the Strait potentially has strategic implications for the Commonwealth. In 1990 the Department of Defence commissioned a review of the strategic significance of the Torres Strait which concluded that this was negligible (Babbage 1990). However, at that time Papua New Guinea was more stable politically. Since then there has been civil war on Bougainville and unrest in Indonesia and in the Solomon Islands. A Commonwealth rethink of its position was apparent when the Australian Defence Force Academy in Canberra sponsored a conference in 1998 on strategic and policing issues in Torres Strait. Issues discussed at the conference included the illegal movement of people across the border and the apparent trade in drugs for guns. The conference recommended an increased Commonwealth presence in the Strait. In its submission to the Inquiry, DFAT stressed the importance of the Strait for issues of national security. Significantly, in recent years the Australian Defence Force's facility on Thursday Island has been significantly upgraded.

I have argued in Chapter 5 that being borderlanders allows Islanders to make some additional claims for greater autonomy. However, the above material also suggests that factors deriving from the geo-politics of Torres Strait can limit Commonwealth views of regional autonomy. This is because although border regions are on the state's geographic 'periphery' they are very close to its political 'core'. Issues associated with the border allow the Commonwealth to legitimise its position regarding relative autonomy and to argue for its continuing presence in the Strait:

... the Commonwealth Government must always have a continuing involvement in the region (defence, customs, quarantine etc.) and it is likely to remain a principal funder of the region for the foreseeable future (HORSCATSIA 1997: 39).

In Chapter 3 I noted that some models of autonomy, such as that of Free Association, gave people political autonomy over a region with the responsibility for defence and security remaining with the parent nation. However, in the examples noted, the parent and the autonomous region were often some distance apart. The Torres Strait meanwhile is contiguous with another country that is poor, unsettled politically and which contains dangerous diseases and pests. The foregoing suggests that in any form of greater autonomy for Torres Strait, the Commonwealth may wish to retain control over not just defence and security but also over matters of customs, immigration, quarantine and health.

The Inquiry's terms of reference directed it to explore notions of autonomy that were both about autonomy for a 'place' (Torres Strait) and for 'a people' (Torres Strait Islanders). In considering the people and the region it explored whether this should be for all of the people of the region or for Islanders only. In its final Report the Inquiry suggested some Commonwealth support for increased regional autonomy for all of the people in Torres Strait. To this end the Report recommended the establishment of a 22 member elected Torres Strait Regional Assembly (hereafter the Assembly) with the power to:

- formulate policy and implement programs for the benefit of all people living in the Torres Strait area;
- accept grants, gifts and bequests made to it;
- act as trustee of money and other property vested in it on trust and accept loans of money from both the Commonwealth and Queensland Governments or other approved sources;
- expend monies in accordance with the terms and conditions on which money is received;
- develop policy proposals to meet national, State and regional needs of people living in the Torres Strait area;
- advise the responsible Commonwealth and Queensland Ministers on matters relating to the Torres Strait area, including the administration of legislation and the coordination of the activities of all government bodies that affect people living in the Torres Strait area;
- undertake activities on behalf of one or more island councils for such purposes as are requested of it by the council or councils concerned;
- have power to delegate to and contract with Island Councils;
- establish and operate such businesses as the Regional Assembly thinks fit for the benefit of the people of the region; and
- have and discharge the functions of local government within the region, except in areas covered by the Community Services (Torres Strait) Act 1984 (Qld) and the Community Services (Aborigines) Act 1984 (Qld).

The final description and detail of these functions is to be negotiated by the Commonwealth and Queensland Governments and the people of the Torres Strait area (HORSCATSIA 1997: xix, 57).

Mainlanders or indeed anyone residing outside Torres Strait were not to have elected representatives on the Assembly and Mainlanders would have only observer status on it. The Report was also clear that the Assembly would represent all the residents of

Torres Strait and to achieve this, the Assembly would replace the existing semi-regional bodies (TSRA, ICC, and the Torres Shire) (HORSCATSIA 1997: 52–55, 57). Therefore, as well as being regional, the approach proposed was not Indigenous-specific, but included both Indigenous and non-Indigenous residents.

The Inquiry also attempted to include a cultural element to the approach by recommending that the Assembly would:

> sponsor a Cultural Council consisting of Torres Strait Islanders from the Torres Strait and the mainland. The Cultural Council should meet annually and advise the Regional Assembly on how to promote and maintain the *Ailan Kastom* of Torres Strait Islanders (HORSCATSIA 1997: 64).

This could be seen as a move away from a fully regional position because it included Mainlanders and because it included a device which, by its cultural nature, would have excluded non-Indigenous residents. In addition, no reference was made to the accommodation of the Kaurareg or any other Indigenous residents. In any event, the Council's proposed powers appeared to be limited to stimulating culture rather than to advising or directing policy and as such it would have been similar to some of the bicameral features found in the Pacific and discussed in Chapter 3. In its responses to the Report, the Commonwealth Government agreed that Mainlanders should not be part of the Assembly but should remain within ATSIC. However it did not accept that all residents should be part of an Assembly or that the Assembly would absorb the Torres Shire and its functions (Government response to 'Torres Strait Islanders; a New Deal', Commonwealth of Australia, 1998). In this way, the Commonwealth appeared to favour more a from of Indigenous-specific political regional autonomy leaving the representation of non-Indigenous people to be accommodated through the Torres Shire.

The Queensland Government

The Queensland Government's participation in the Inquiry was limited. It provided just two submissions to the Inquiry and attended one hearing in Brisbane. Its evidence was given collectively by several departments led by a representative of the Queensland Department of Premier and Cabinet, which at that time had the role of coordinating Queensland Government's activities in Indigenous affairs. Most of the evidence provided described the roles and expenditures of the various Queensland Departments active in Torres Strait rather than commenting directly on principles of Islander or

regional autonomy. However, an indication of the Queensland approach can be gleaned from a letter to the Inquiry from the Premier of the then Queensland Liberal-National Coalition Government in which he stated:

I would like to say that the Queensland Government is generally supportive of measures which will give Torres Strait Islanders increased control and involvement in managing the internal affairs of their region and in making decisions that affect their future. As a step in this direction, the Queensland Government encourages participation by Torres Strait Islanders in the development and implementation of policies, programs and services to ensure that such initiatives are appropriate in the provision of essential services in the Torres Strait area (HORCATSIA Sub 30, Queensland State Government).

On the other hand, the Queensland did not envisage that with greater autonomy, it would relinquish its control in the region:

The Queensland Government does not see increased autonomy as abrogating the role and responsibilities of the Queensland and Commonwealth Governments in the provision of essential services in the Torres Strait area (HORCATSIA Sub 30, Queensland State Government).

These statements would indicate some support for the concept of regional autonomy by the Queensland Government, but one that does not see authority passing totally from Queensland. However, it does appear to suggest a regional approach that would involve Islanders more in the design of policies and programs related to essential services for all residents of the region.

Queensland's somewhat limited involvement in the Inquiry could be interpreted in a number of ways. Firstly, the Inquiry was initiated by the Commonwealth and Queensland may have viewed this as a Commonwealth intrusion into State affairs. In some ways, this mirrors a tension that developed between the two governments during the border issue in the 1970s when the Commonwealth entered into discussions with PNG without first working out its constitutional obligations to Queensland (Rowse 1998: 25). On the other hand, Queensland need not have been overly concerned about the Inquiry as its 'sovereignty' is largely protected by the Australian Constitution which states that a new State or Territory cannot be created or excised from an existing State without the approval of a referendum of that State's population. I would argue that the approach of both governments is also influenced by the international border. We saw above how borders and border regions have special importance for state security and sovereignty, where both the powers and interests of the state are exaggerated (Wilson and Donnan 1998: 8-9). Ultimately these powers and interests lie with the

Commonwealth and this might help explain its approach to Queensland during the border dispute and during the Inquiry. Queensland meanwhile will be aware that, exactly because of the border's importance, the Commonwealth is unlikely to lessen its control and involvement in the Strait. In this regard it is necessary to note that while Torres Strait is part of both Australia and Queensland, it is the Commonwealth that has the final say over such border regions.

In its response to the Inquiry's Report, Queensland largely repeated the approach taken in its submissions. In general it approved of the Islanders having greater control of regional affairs. But it did not imagine Torres Strait breaking away from it or from the Commonwealth. Queensland was not averse to the idea of a new regional body but it had concerns about how this would affect the interests of the non-Indigenous residents. Therefore, like the Commonwealth, it did not support the recommendation that the Torres Shire be abolished and absorbed by a new regional body (Government response to 'Torres Strait Islanders; a New Deal', Queensland State Government, 1998). Queensland argued this on the basis of representation, and on administrative and economic grounds:

> … the Torres Shire Council has a rate base and its residents are entitled to equitable local representation in deciding how their rate revenue is distributed, as well as decisions about regulatory and other matters… It is difficult to imagine broad support within the Torres Shire for allowing a regional governing body, set up primarily to make decisions about regional issues, to have responsibility for local government functions currently provided by the Torres Shire Council. Additionally, it is noted that under the proposed system, the residents of Thursday, Horn and Prince of Wales Islands would elect 5 representatives to a 22 member Regional Assembly, which would mean that approximately 63 per cent of the regional population would elect roughly 23 per cent of the Assembly (Government response to 'Torres Strait Islanders; a New Deal', Queensland State Government, 1998).

The non-Indigenous people of Thursday Island and the Torres Shire took a similar view. They felt that Thursday Island should have the balance of power in any regional body as its residents were the ratepayers whom they saw as forming the region's economic base; while the Outer Islands provided no income from rates (notes from a public meeting of the Port Kennedy Association, Thursday Island, October 1999; HORSCATSIA Sub 29, Torres Shire Council). (In truth, this is inaccurate, as the region's economic base is its commercial fishery which is largely located around the Outer Islands.) This emphasises another difference between the Inner and Outer Islands: residents of the Inner Islands pay rates while those of the Outer Islands do not. As many non-Indigenous people live on the Inner islands, while the Outer Islands are an Islander domain, the economic issue of rates is conflated with the issue of

Indigeneity. These factors tend to militate against a fully regional approach and are reflected in Queensland's view noted above. A similar view was taken by Torres Shire as follows.

Mainstream local government

Rowse identified four groups which were involved in the debate over the border at the time of PNG independence: Torres Strait Islanders, Papua New Guineans, the Queensland Government and the Commonwealth Government (Rowse 1998: 26). The recent round of discussions over autonomy also included the Torres Shire.

The 1996 census indicated that there were 1550 non-Indigenous people residing in Torres Strait, making up 20 per cent of the regional population. As noted, this population resides almost entirely on the Inner Islands and is represented in large part by the Torres Shire and by the Port Kennedy Association, a community organisation established on Thursday Island in the 1980s. As the only mainstream local government with jurisdiction over the Inner Islands the Shire approached the Inquiry as the political voice of *all* of its residents (HORSCATSIA Sub 29, and Sub 34, Torres Shire Council). In the absence of any submissions from non-Indigenous residents or organisations the Shire's approach to the Inquiry is taken here as generally indicating the views of the non-Indigenous people of Torres Strait on the subject of autonomy.

In its submission to the Inquiry the Shire Council supported the concept of the TSRA or a similar body being given greater autonomy over Commonwealth and Queensland functions in the Torres Strait on the condition that:

(a) that body represents *all* of the residents of the Torres Strait and gives protection and support to non-Islander interests, and
(b) the existing local government powers and functions of Island Councils and the Torres Shire remain intact (HORSCATSIA Sub 34, Torres Shire Council) (emphasis in original).

The Shire noted that although the residents of the Inner Islands made up half the population of the Strait it had no official representatives on the TSRA (HORSCATSIA Sub 34, Torres Shire Council; Sanders 1994). This is because TSRA is made up of the elected chairs who must be descendants of the Indigenous inhabitants of the Torres Strait Islands (HORSCATSIA TSC Sub 29, and Sub 34, Torres Shire Council). To

ensure that any new regional body would represent all of the residents, the Shire proposed that the new body's members would be separately elected from all parts of the Strait on the basis of electoral wards: Eastern; Central; Western; and the Inner Islands (HORSCATSIA Sub 34, Torres Shire Council). These wards were similar to the sub-regions noted in Fig. 6.1. Also, the Shire envisaged that any regional body would supplement rather than replace the existing Shire or the Island Councils.

The Shire legitimised its argument that it should remain in place on the basis that its function was to represent all of the residents, Indigenous and non-Indigenous (notes from the Ninth National Workshop, October 1999). Until 1991 the Shire was run not by a council elected by the residents but by a non-Indigenous administrator in Cairns (Arthur 1990; Sanders 1999: 5). This system was replaced by council elections in 1991 when three Islanders and four non-Islanders gained office. This allowed Sanders to propose that:

From being an enclave or bastion of non-Islander interests in Torres Strait, Torres Shire appeared to be changing during the 1990s towards more of a balance of Islander and non-Islander interests (Sanders 1999: 5).

However, through the 1994 and 1997 elections Islanders gained a slight majority on the council and in addition one of their number was elected as Mayor (Sanders 1999: 5). Therefore, though the Shire may present itself as the political voice of *all* residents, it could be suggested that it had, at the time of the Inquiry, something of an Indigenous bias, and at the very least it may represent some competing interests. In fact, the Mayor himself has recognised this, stating to me that he experienced some personal tension between his role as Mayor of the non-Indigenous local government, and his position within the wider community as an Islander (pers. comm.). In any event, despite the fact that the Shire approached autonomy from a regional perspective and proposed that all residents should be represented, the extent to which some non-Indigenous residents actually felt themselves part of the autonomy process might be reflected in a question which several of them put me during 1997, which was 'do you think *they* will get autonomy?', where the 'they' referred to Islanders, and not to themselves. The final view of the Torres Shire however was to oppose the Assembly model proposed in the Inquiry's Report which would have seen them, along with the ICC and TSRA, absorbed into one regional body. Their rejection was, like that of Queensland, based partly on economic grounds: the Shire's domain of the Inner Islands had the rateable land while

the Outer Islands did not (notes from a public meeting of the Port Kennedy Association, Thursday Island, October 1999).

While the Commonwealth and Queensland Governments were fairly supportive of a form of regional political autonomy I suggest that for the Commonwealth this might always be conditional on its control over border issues. For all governments a major issue was the accommodation of non-Islander residents in any proposed form of regional autonomy. As I noted earlier in the chapter this remains an unresolved issue for Islanders.

Economic autonomy

The thesis seeks to explore the concept of autonomy with reference to its political and economic elements. If political autonomy has to do with the form that control might take and to whom it might apply, economic autonomy has to do with the resources that might come under this control and to the ability of those affected to increase their economic status.

Much less was said by Islanders during the Inquiry about the economic aspects of autonomy and I suggest this was because many were unsure about it. For example, a young Torres Strait Islander who was assisting Islander leaders at the time of the Inquiry said that his wife had asked him just what Islanders would get out of autonomy. He admitted to her that he was unable to identify these.

Control of funding

One aspect of economic autonomy that we can identify from Chapters 1 and 3 would be increased control of funds to the region. The TSRA felt that autonomy should give them the power to make policies on the development and management of resources such as fisheries and on services, but that the delivery of these services would remain the responsibility of the Commonwealth and Queensland Governments (HORSCATSIA Sub 17, TSRA). Table 6.2 shows the major funding to Torres Strait in 1999 and we can see that the TSRA already has carriage of a significant proportion of these funds. Of the

$68 million Commonwealth funding, the TSRA manages some $46.1 million. That is to say, it gets almost 68 per cent of the Commonwealth funds, and almost 32 per cent of all of the funds, to the region. Therefore, the TSRA is a significant player regarding fiscal matters in Torres Strait. Until 1997, the Authority negotiated its budget directly with the Chair of ATSIC and the Minister for Aboriginal and Torres Strait Islander Affairs. After this time the Commonwealth Government separated the TSRA's budget from the ATSIC process and funded it directly from the Department of Finance (HORSCATSIA Sub 17, TSRA). Arguably, this gave the TSRA greater fiscal control, at least from ATSIC.

The TSRA (in partnership with the ICC) has also negotiated large joint Commonwealth-Queensland infrastructure projects, and the TSRA receives and manages the funds for the projects, an achievement which has limited precedent nationally. In its newsletter No. 22 of 1998 the TSRA stated that:

Torres Strait Islanders moved one step closer to achieving their goal of greater autonomy when Queensland Minister for Aboriginal and Torres Strait Islander Policy …signed an agreement with the TSRA …. To provide $15 million towards a TSRA infrastructure program for the region … the $15 million Queensland Government grant would be combined with $15 million from the Commonwealth Government…

The Minister was quoted in the same article as saying:

I believe the TSRA is an efficient and effective manager and is better able to implement this particular project. We believe that infrastructure projects can be managed effectively and more efficiently and faster by people who are on the ground rather than by bureaucrats in Brisbane … (TSRA Newsletter No.22, 1998).

In fact, it is now quite usual for both Commonwealth and Queensland Governments to consult with the TSRA on a wide range of issues, treating them very much like a quasi-regional government. However, it should be noted that to date, the funds managed by both the ICC and the TSRA have been for Indigenous-specific services and programs and have not included the non-Indigenous people of the region.

Table 6.2 Indicative major Commonwealth and Queensland Government funding to Torres Strait, 1999 (millions of dollars)

Facility	Commonwealth Government (responsible body)	Queensland Government	Total
CDEP	25.5 (TSRA)		25.5
Housing, infrastructure, water	8.1 (TSRA)	31.6	39.7
Social and cultural	6.7 (TSRA)		6.7
Economic development	2.8 (TSRA)		2.8
Native Title and land	1.7 (TSRA)		1.7
Other	1.3 (TSRA)		1.3
Pensions disabilities	4.9 (DfaCS)		4.9
Family payments	4.6 (DfaCS)		4.6
Parenting payments	3.7 (DfaCS)		3.7
Other	1.7 (DfaCS)		1.7
Unemployment	1.2 (DfaCS)		1.2
Secondary, tertiary education and Abstudy	3.8 (DETYA)	14.8	18.6
Fisheries and associated matters	2.7 (PZJA)	0.6	3.3
Health		14.2	14.2
Policing		7.3	7.3
Minor departments and services		7.1	7.1
	66	75	141

Sources: Commonwealth Grants Commission unpublished data; PZJA (1995: 41).
Notes:
DFaCS = Commonwealth Department of Family and Community Services;
DETYA = Commonwealth Department of Education Training and Youth Affairs;
PZJA = Protected Zone Joint Authority

The ability and facility of Indigenous people to manage the funds of a region must in some way be related to their general skills. Tables 6.3 and 6.4 show the census data for the Torres Strait comparing Indigenous and non-Indigenous statistics. We see that, compared to non-Indigenous people, Indigenous people are poorly represented in the more skilled jobs as managers and as professionals while they are over represented in less skilled clerical work and in labouring (Table 6.3). This last point is related to their significant involvement in CDEP where much of the work is unskilled labouring (see Arthur and David-Petero 2000). Indigenous people in Torres Strait are also less skilled than non-Indigenous people and are much less likely to have a post-school qualification a degree, or a skilled vocational qualification (Table 6.4). The imbalance in managerial employment is even apparent in the TSRA. Table 6.5 shows that in 2003 the top executive and senior positions were filled by non-Islander staff. Viviani (1970) showed how Nauruans were also absent from senior administrative positions in the period immediately before they achieved political independence (see Chapter 3). These

employment and skills characteristics have implications for achieving, or at least managing, a higher level of autonomy. It has been noted that one factor affecting the ability of PNG and other Pacific nation states to administer their independence has been their lack of skills and administrative expertise (Larmour 2000).

Table 6.3 Occupational status of those employed, Torres Strait, 1996

Census categories and classifications	Indigenous Per cent	Non-Indigenous Per cent
Managers	2	8
Professionals	8	31
Associate professionals	9	15
Tradespersons	6	13
Advanced clerical workers	1	1
Intermediate clerical workers	14	11
Intermediate production workers	7	7
Elementary clerical workers	10	4
Labourers	37	7
Inadequately described and not stated	5	2
Total	100	100

Source: ABS 1996 Census.

Table 6.4 Educational status, Torres Strait, 1996

Census categories and classifications	Indigenous Per cent	Non-Indigenous Per cent
Attending tertiary institutions	2	5
Those with a post-school qualification	9	55
Total	11	60
Higher degree	0	1
Postgraduate diploma	9	3
Batchelor degree	1	15
Undergraduate diploma	1	8
Associate diploma	1	3
Skilled vocational	3	16
Basic vocational	2	2
Not qualified	78	40
Inadequately described	0	1
Not stated	15	11
Total	100	100

Source: ABS, 1996 Census

Table 6.5 TSRA employment profile, 2002-03

Position (ranked by seniority)	Number held by Islanders	Number held by Non-Islanders
Principal executive officer	-	1
Executive officer level 2	-	3
Executive officer level 1	2	3
APS level 6	6	5
APS level 5	4	1
APS level 4	7	1
APS level 3	2	-
APS level 2	6	-
APS level 1	3	-

Source: TSRA (2003)

Control of resources

As explained in earlier chapters, the Treaty already gives Islanders some rights over the exploitation and control of the fisheries. The Treaty, as shown in Table 6.6, designates three broad types of fishing. As the Treaty is aimed at protecting the traditional way of life and livelihood of traditional inhabitants and at increasing their economic development, legal opinion is that the types of fishing that traditional inhabitants are involved in are given priority over those exploited by non-traditional inhabitants as shown in Table 6.6 (Arthur 1998b; Menham, Skehill and Young 2002). That is to say, fishing activities by non-traditional inhabitants should not be to the detriment of those by traditional inhabitants. Furthermore it is PZJA policy that any growth in commercial fishing is reserved for traditional inhabitants and that their economic opportunities in the fishery are maximised (Menham, Skehill and Young 2002: 22; Appendix 3: 2, 8).

Table 6.6 Apparent prioritisation of fisheries under the Treaty

Given priority under the Treaty	Traditional inhabitant access	Non-traditional inhabitant access
1. Traditional fishing (subsistence)	Yes	No
2. Community (Islander commercial)	Yes	No
3. Mainstream commercial	Yes(1)	Yes

Notes:
(1) Islanders can participate here. However, they normally access the fishery through community fishing as the licensing requirements are less stringent.

In Chapter 4 I noted how the Treaty had also given Islanders a role in fisheries management. However, Islander submissions to the Inquiry asked for some greater control over the region's natural resources (HORSCATSIA Sub 17, TSRA; Sub 41,

ACT Torres Strait Islander Corporation). This is an ongoing issue in Torres Strait and following the Inquiry some changes were made in this regard. For instance, and as noted in Chapter 5, in 2002-3 the Chair of the TSRA was made a full member of the PZJA. As the PZJA was made up of the relevant Commonwealth and Queensland Ministers, this effectively gave the Chair of the TSRA Ministerial status, and increased the potential for a greater say by Islanders in fisheries management (TSRA 2003: 67). During the same period the fisheries management consultative structure was amended to give greater representation to fishers from each island. In the late 1980s, fishers had complained that they were not well represented to the PZJA as island representation was through their island chairs who automatically became their representatives on the ICC (Arthur 1990) (see Chapter 4). In 2002 this was changed so that each island elected a fisherman to represent their fishers on the Management Advisory Council, which is the body that makes management recommendations to the PZJA (TSRA 2003: 67). In summary then, by 2003 Islanders were well represented in the three levels of fisheries management as shown in Table 6.7. The PZJA is the final decision-making group, taking advice from the other two levels.

Table 6.7 Islander representation in fisheries management, 2003

Levels of fisheries management structure	Islander representation
Fisheries working groups, for each commercial species	Representative from each fishery
Management Advisory Committee	Representative from each island
PZJA	Chair of TSRA, (alongside Queensland Minister and Commonwealth Minister)

Control is enmeshed with that of exclusivity and of Islander/non-Islander access to the fishery and this was not widely discussed within the Inquiry process. However, the issue has emerged since the Inquiry, possibly as Islanders have had more time to articulate it and these later developments are noted below.

Islander and non-Islanders fishers effectively compete for the resource (Arthur 1990; Menham, Skehill and Young 2002: 23). This feeling of competition came to a head in 1999 when Islanders boarded a non-Islander boat involved in line-fishing in the east of the Strait and confiscated the catch (The Weekend Australian, Aug. 26-29, 1999). Though taken to court over this, the Islanders were later acquitted as the jury found that

they had taken what they rightfully believed to be theirs under those articles of the Treaty that gave priority to the protection of 'traditional fishing' (Table 6.6). Since then, suggestions for greater Islander control of the fishery have included increased involvement in management; and power over licensing under an new Islander/non-Islander consultative structure (Menham, Skehill and Young 2002: 32, 46; Appendix 3: 2, 5). The concept of greater Islander control of the resource has also included charging non-Islanders to fish in the region (Menham, Skehill and Young 2002: Appendix 3: 4, 8, 9). This would be the equivalent of extracting a resource rent similar to that that is charged on non-national fishers by some Pacific states (see Chapter 3). Other options that have been canvassed are to have exclusive Islander and non-Islander fishing zones or to retire non-Islander licenses from the fishery altogether (Menham, Skehill and Young Appendix 3: 4, 8, 9). These latter suggestions would see parts or all of the Strait reserved exclusively for Islanders, and is an approach I have heard voiced at fisheries meetings. Indeed, at one meeting in 2004, an eastern Islander continually used the phrase 'our economic zone' when discussing an area that he wished to see marked out in the east exclusively for Islanders. In this case the eastern Islander was delineating an 'economic zone' that would restrict access for all non-eastern Islanders (whether Indigenous or not). Therefore, as with the political autonomy, the notion of economic autonomy can have sub-regional elements. This accords with earlier research which showed that each Island was protective of its own waters and reefs and wished to be able to ban others from using these, no matter whether they were Indigenous or not (Arthur 1990; Johannes and Macfarlane 1991). In any event, the notion of 'economic zones' suggests a form of economic autonomy usually associated with territories and states that have greater political autonomy (see Chapter 3).

The possibility of making some or all of the Strait an exclusive Islander fishing zone is made difficult by the fact that longstanding non-Islander residents are also involved in the fishery (Arthur 1990). Indeed, closer examination of the situation suggests that some of the competition and tension in the fishery is between residents and non-residents (notes from Torres Strait fisheries Management Advisory Committee meeting, July 2004). In Chapter 4 we saw how a large part of the Strait's fishery is made up of non-Islanders from ports in the south. These commercial operators appear to approach the fishery in a different and more intensive way way than do residents. Residents feel this intensive approach reduces the sustainability of the fishery and makes it harder for

Map 6-1. Approximate area under native title application, 2001.
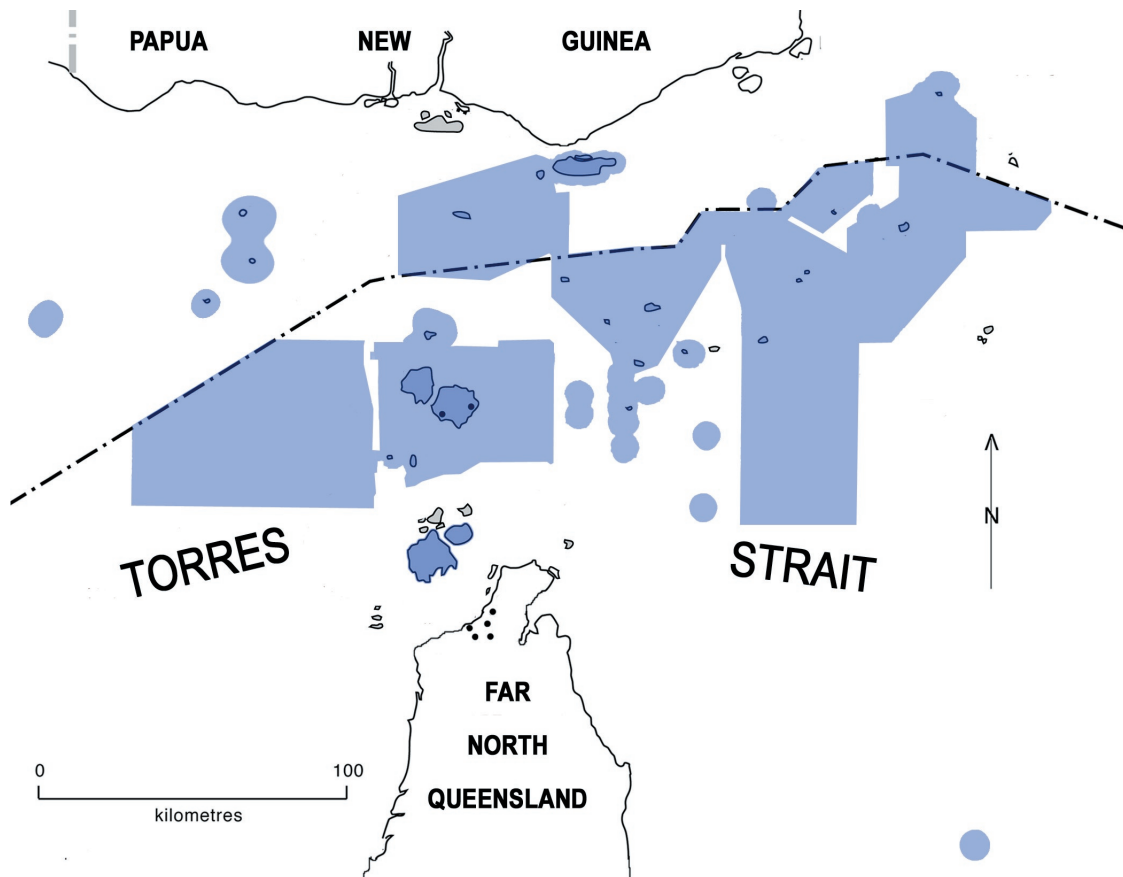
them to earn an income, and this results in bad feeling. Prawning for example, adds little to the regional economy as the operators are from the mainland of Queensland and are serviced by mother ships also from the mainland. In this way it can be likened to a 'raid' on the marine resources of the Strait. In addition, the 'trawl' destroys the habitat of other more Islander-specific species making them harder to win. In the lobster fishery, non-residents often fish more intensively than locals and with special breathing apparatus (hooka). This, locals claim, leaves fewer lobster for them.[9] Islanders have made calls for hookas to be banned in Torres Strait in the past (Arthur 1990) and were attempting to do so again in 2004 through the new form of representation in fisheries management noted above (AFMA pers.comm. 2004). The resulting tensions between local and non-locals within the fishery, which is a 'common property', is not unusual across the world (Ostrom 1990). Often the two groups have different economic demands and use different technologies and may approach the resource in different ways (Ostrom 1990: 188). In Torres Strait however, the issue of access to the resource is conflated with Indigeneity and also with the priority given to Islanders' rights via the Treaty. I will return to the point of exclusivity below, suffice to say here that, as in the Pacific, the issue of control of the fisheries resource involves people who do not reside in the region (Chapter 3).

At least one submission to the Inquiry proposed that Islanders should be given Native Title rights to the sea (HORSCATSIA Sub 17, TSRA), the assumption being that this would increase Islander control of the resource. A joint Native Title sea claim was being prepared at the time of the Inquiry. The claim extended over the blocked area on Map 6.1, some 42,000 sq. kms. covering the waters, reefs, sandbanks, shoals, seabed, and subsoil but excluding the waters around the Inner Islands (Menham, Skehill and Young 2002: 23). Given previous Native Title sea claims it is unclear what powers for Islanders such a claim might produce. For example, the Croker Island Native Title sea claim resulted in Indigenous people gaining exclusive rights to subsistence fishing and did not include the right to exclude non-Indigenous commercial fishers (Levy 1999). As I have shown, subsistence rights are already given priority as part of Islanders' rights under the Treaty (see Table 6.6). And so a Native Title determination, which was

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[9] Locals tend to restrict their effort to certain tides when conditions are ideal. Non-locals tend to take lobster on any tide and in any conditions.

limited to a subsistence right, would not be a great, if any, advance on the present situation.

However, it has to be reiterated that through the agency of the Treaty and the fact of an in-shore fishery, Islanders already access a significant section the fishery at the production level. As noted earlier, Islander access to commercial fishing has been assisted by making concessionary licensing arrangements under the PZJA. As shown in Table 6.8 and as noted in Chapter 4 Islanders make up a significant part of the commercial fishery. Islanders are also involved, but to only a limited degree, in the processing and export aspects of the fisheries.

Table 6.8 Estimated value of fisheries and percentage of catch, 1995

Fishery	Value $million	Percentage Islander	Percentage non-Islander
Prawn	15	0	100
Lobster	5.5	30	70
Cultured pearls	1.2 (est.)	0	100
Mackerel	0.5	20	80
Beche de mer (a)	0.5	100	0
Trochus shell	0.0	0	0
Live pearl shell	0.0	0	0
Reef fish	n.d.		

Source: Altman, Arthur and Beck (1994); HORSCATSIA Sub 25, CSIRO; Australian Fisheries Management Authority Thursday Island pers comm.
Notes:
(a) Also known as sea cucumber and trepang.

In summary, the foregoing suggests that some Islanders would like exclusive rights over the fisheries of the Strait. In the political realm I have made the distinction between regional autonomy that might apply to all residents, and to a form that might apply to just Islanders. At an economic level this could be compared to having control over program funding for all residents versus control over funding for just Islander services and programs. Although such a separation is not straightforward, it is not impossible: many of the Islander-specific funds are already identifiable, as shown in Table 6.2. However, the notion that Islanders might have exclusive control over the region's fisheries, moves the debate out of an Islander specific-realm, because it would represent Islander control over a resource that is presently shared, and hence would be more akin to full regional autonomy. As a final comment we should note that the TSRA also conceives of some middle ground, proposing that eventual control of the fishery

might be through a partnership between Islander and non-Indigenous fishers (Menham, Skehill and Young 2002 Appendix 3: 2).

Autonomy and socioeconomic status

Speaking at the Ninth National Workshop in 1999, the Islander Mayor of Torres Shire stated that Islanders' growth had been stunted because policies on economic development had been made from outside the region. He proposed that greater autonomy would give Islanders the chance to 'plant a tapper root like the bonsai tree' and this tapper root would allow them to realise their full potential (notes from the Ninth National Workshop, October 1999).

Certainly by standard measures, Indigenous people have a lower socioeconomic status that do non-Indigenous people in Torres Strait. Table 6.9, which is derived from the 1996 ABS Census, shows Islanders are less likely to be employed, or to own their own houses than are non-Indigenous people, and they have generally lower incomes. The rate of employment shown in Table 6.9 would be even lower if those on the CDEP scheme were excluded.

Table 6.9 Indicators of socioeconomic status, Torres Strait, 1996.

Category	Indigenous Per cent	Non-Indigenous Per cent
Rate of employment[a]	50	73
Employed in the private sector	26	63[b]
Employed by Queensland Government	16	29[b]
Housing owned or being purchased	14	26[b]
Median household income ($s)[c]	$116	$354

Source: Arthur (2000).
Notes:
a. Includes those in CDEP employment.
b. Available for Inner Islands only.
c. Corrected for household size.

The low level of employment in the private sector and the low incomes also result from Indigenous people gaining some of their livelihood from government transfers, such as CDEP. From the 1970s to the present time this general situation has led to the region being classified as dependent on government transfers (Fisk 1974; HORSCATSIA

1997). As noted in Chapter 4, this level of dependence led Beckett to characterise the relationship between government and Islanders as one of 'welfare colonialism' (Beckett 1987).

However, it is necessary to indicate that some of the official incomes in Table 6.9 are probably low as these are often supplemented by commercial fishing and subsistence activities that are not always recorded by people on their census forms. We have seen here and in Chapter 4 that Islanders now make up a significant proportion of the lobster fishery and they are also involved in the trochus shell and beche de mer fisheries and this can provide significant incomes (AFMA, Thursday Island, pers. comm. 2004; Altman, Arthur and Beck et al 1994). In addition, we have seen in Chapter 4 that subsistence levels are high. It has been estimated that whereas nationally 39 per cent of Indigenous people are likely to carry out subsistence activities, for Islanders this can be 61 per cent (Arthur 1999b: 26). Indeed, recent studies found that 93 per cent of young Islanders fished, hunted or gardened (Arthur and David-Petero 2000). Therefore, the income recorded by the ABS Censuses and shown in Table 6.9 is likely to be understated in real terms. As noted in Chapter 4, the situation where Indigenous people obtain their income from a combination of several sources and in particular from welfare, from the more formal labour market and from subsistence, has been described as the 'hybrid economy' (Altman 2001). In Torres Strait there is presently a symbiotic relationship between the elements of the hybrid economy and that this, as noted in Chapter 4, results not in welfare colonialism but in a form of welfare autonomy. As well as this, we should note again as we did in Chapter 4, that the in-shore nature of the commercial and subsistence fisheries together with the agency of the Treaty, helps provide some economic autonomy at an individual level.

Economic aspirations put to the Inquiry by Islanders included those for a 'sustainable economic base' and for 'economic independence' (HORSCATSIA Sub 4, Warraber Island; Sub 7, Coconut Island; Sub 11, Yam Island; Sub 17, TSRA). These aims however seem a little misplaced here as they suggest an economic status that can be granted by government as part of an autonomy package. This is hardly the case. As shown in Chapter 3 political autonomy can be given by parent governments but economic development is more elusive. The Commonwealth Minister for Aboriginal and Torres Strait Islander affairs at the time of the Inquiry seemed to confirm this at a

meeting on Thursday Island when he said of economic development that 'unless you do it yourself no one can do it for you' (notes from the Ninth National Workshop, October 1999).

Neither the Commonwealth nor the Queensland government made direct reference to the possibility of Islander control of the natural resources as part of economic autonomy. Rather, both took the line that greater political autonomy (certainly that of territory status) was conditional on economic performance. Both governments indicated that although territory status was a legitimate and achievable goal for the Torres Strait region, this would only occur if and when it became economically stronger and achieved a greater degree of economic self-sufficiency (HORSCATSIA 1997: 38-39; Government response to 'Torres Strait Islanders; a New Deal', Queensland State Government, 1998). Although what degree of economic independence would be required was not clarified, these statements suggest that the Commonwealth and Queensland governments view certain stages of political autonomy as being conditional on a degree of economic improvement. This reflects the conditional approach to political autonomy taken by colonial powers during the earlier period of international decolonisation in Chapter 3. On the other hand, as we have also seen in the examples in Chapter 3, political autonomy was eventually not conditional on economic status, including for the case of Australia's external territories. The government's 'conditionality' here could therefore be interpreted as a vestige of the welfare colonialism identified by Beckett (1987).

In any event, earlier studies have shown that there are insufficient resources in Torres Strait for it to significantly change its overall economic status (Arthur 1992b). The fishery is a renewable but fragile resource, with the potential to be over-fished. The fishery has a limited size and by 2004 this limit had virtually been reached. The possible expansion in each sector is shown in Table 6.10. This shows that expansion may only be possible in very few fisheries. Those where expansion is possible have a very small stock and and/or do not have a high market value (AFMA pers.comm.2004). The fisheries with the highest value–prawn and lobster–are already fully exploited.

Table 6.10 Potential for expansion in the fishery

Species	Expansion possible	Qualifier
Lobster	No	
Prawn	No	
Pearl shell	No	No present fishery, very limited stock
Trochus shell	Yes	No present demand
Line fishing	Possibly	Poor official data
Spanish mackerel	Possibly	Poor official data
Bech de mer	Limited	Fishery closed due to over fishing
Barramundi	Limited	No present fishery, very small stock
Crab	Limited	No present fishery, very small stock

Source: (AFMA pers.comm. Thursday Island, 2004)

The fishery, as explained above, has two sectors: Islander and non-Islander. Therefore if the overall catch is limited, the Islander sector (and hence Islander incomes) could be increased by decreasing the non-Islander sector. Indeed, this has been suggested (Menham. Skehill and Young 2002). Another possibility of increasing economic autonomy by expanding the fishery is to introduce new fisheries, say through aquaculture, possibly as practiced in Southeast Asia. Research into this possibility was already under way in 2004, with regards to sponges and lobster.[10] However, apart from the unknown commercial potential, there may be other impediments to such projects. For example, we saw in Chapter 4 that turtle farming failed in the 1970s. In addition, other research has shown that collective projects are more problematic in Torres Strait than are more individual types of fishing (Arthur 1990). Further, people working on aquaculture projects in southeast Asia do not also have access to a scheme like the CDEP, as do Islanders. Of course, it would be possible to remove the CDEP scheme and leave people to generate this income from other sources, including commercial fishing. However, again, the resource is limited and it can be argued that the fishery can support a number of fishers who also have access to CDEP or a smaller number of fishers who do not. An unspecified benefit of a fishery that includes CDEP is that the CDEP income may well relieve the pressure on the fishing stock. This would apply to both the subsistence and the commercial sectors.

Islanders could be less dependent on CDEP if they were to displace the non-Indigenous people from the private sector and government jobs (see Table 6.9). However, many of these jobs are on the Inner Islands and so such a change would probably require numbers of Islanders to move to the Inner Islands from the Outer Islands (Arthur 1990).

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[10] Through the Australian Institute of Marine Sciences.

Also, it would require Islanders to become more highly skilled so that their educational and skills profile was more similar to that of non-Indigenous people with whom they would have to compete for such jobs (see Table 6.4)

Industries that have been thought to have some economic potential outside the public sector, include tourism and the production of art. One or two Islander artists have flourished in recent years but in general terms production on Outer islands is limited by poor organisation and marketing (Arthur 1990). Several small tourism ventures have been attempted on some Outer Islands, often in conjunction with non-Islander operators. Earlier research indicated a low level of Islander interest in tourism and limiting factors include the shortage of land, and potable water and the relatively high transport costs (Arthur 1990; Horwath and Horwath 1991). The largest operation has been that at Seisia on Cape York (Altman 1995).

Thus, the prospect of Islanders or indeed the region becoming more 'economically independent' appears limited. More realistically, a former chair of the TSRA told the Inquiry that he felt while Islanders could become independent politically, they could only become semi-independent economically (notes from the Ninth National Workshop, October 1999). This latter statement can be said to reflect an aspect of this thesis which is the relationship between political and economic autonomy, in as much as it accords with Jackson's (1990) proposal that it is possible to have political autonomy without having economic autonomy (Chapter 1).

The Inquiry revealed less about economic autonomy than political autonomy. However several points emerge. Islanders have obtained a degree of representation in fisheries management and control. I argue that this has been possible or at least aided by the particular ethos and structure of the Treaty and the Torres Strait Fisheries Act. While this has not amounted to full control of the fisheries, it is significant. Islanders appear to wish to increase this control. This raises several problems. Control of Indigenous-specific funds to the region appear to come under the auspices of either or both the TSRA and ICC and further control here seems not hard to arrange as it represents a transfer of authority from government over a certain class of funding. In this case, non-Indigenous people lose nothing. However, fisheries are a shared resource and so increased Indigenous control or involvement means a reduction in non-Indigenous

control and involvement. In this case, non-Indigenous people would have to give up their present control and involvement in the resource. This would give Indigenous people in the Strait, a degree of control similar to that held by citizens of some Pacific nation states (see Chapter 3).

The Queensland and Commonwealth Governments made little reference to economic autonomy in the Inquiry. However, they did seem to suggest that the granting of certain levels of political autonomy (territorial) were conditional on Islanders achieving an associated but unspecified level of economic advancement. Given the shape of the regional economy this would appear to be hard to achieve. In any case, as noted in Chapter 3, it is not a condition made on other (Australian) regions or territories.

Conclusions

This Chapter has analysed some historical material as well as the evidence given to the Commonwealth Government's 1996 Inquiry to determine the shape that political autonomy might be taking in Torres Strait. The analysis has explained the position taken on autonomy by each of the interested parties and stakeholders and how this appeared to be legitimised by them.

Political autonomy

None of the evidence suggests that any of the parties, Indigenous or non-Indigenous envisaged political autonomy as independence. One condition that may have influenced the Islanders' approach is the relatively open international border with Papua New Guinea. This has allowed Islanders to see that political independence has not resulted in economic betterment for Papua new Guineans who in fact seem to have become heavily dependent on Torres Strait for services and goods.

Governments and many Islanders subscribed to a form of regional self-government, that is to say autonomy for the 'place' Torres Strait. However, it is not clear that Islanders have moved to the stage of accommodating non-Islanders in such an arrangement. All governments, Queensland, Commonwealth and Torres Shire, put the view that any fully regional autonomy must provide for all of the residents of the region. But the form of regional political autonomy that Islanders envisage appears to be one that is

Indigenous-specific, applying only to Indigenous people resident in the region. This would conflict with the models noted in Chapter 3, including the territory models.

A Commonwealth Government concern regarding regional autonomy was the control of the border with PNG. The Commonwealth's evidence to the Inquiry stressed the need for it to retain control over the Strait as a border region and in this it was reflecting its additional responsibilities towards Australian citizens in general. This can be said to be the state legitimising its special rights to the region by virtue of the region being on an international border and close to an increasingly unstable neighbour. As we have noted earlier, border regions are agents of state security and sovereignty where the powers and interests of the state are 'monumentally inscribed' (Wilson and Donnan 1998: 8,9). In Chapter 3 I noted that in other models of autonomy, such as free association and territory models, central governments are keen to maintain control of security. Therefore, although borders are on the state's geographic periphery, they are central to its political interests and may limit what it views as an acceptable level of regional autonomy. I suggest that the border and the associated security issues will always limit the degree to which the Commonwealth will cede control over security in Torres Strait to any regional body.

Although Islanders subscribed to some form of regional autonomy, there existed a tension between autonomy at this level and that at the level of each island and/or sub-region. This mirrors one finding of the Inquiry which was that some Islanders claimed that the Torres Strait is, and always has been, composed of a federation of internally sovereign island communities which have never yielded overall authority to any outside power (HORSCATSIA 1997: 224-47). This from of tension, between regionalism and localism, is found in other parts of Indigenous Australia and in the archipelagoes of the Pacific (Larmour and Qalo 1985; Martin 1997). In Chapter 5 I argued that being an archipelago was one of the features that helped delineate the Strait as a region. However, it can also be said that Islands have characteristics that also allow them to be easily identified as separate units, so generating a tension between regionalism and localism.

Islanders also subscribed to a form of corporate autonomy, in this case, political autonomy from Aboriginal people. This has been a long-standing issue with Islanders

(Chapter 4) and the evidence suggests that, with the formation of the TSRA and its separate funding from the former ATSIC, this autonomy had been won for those Islanders living in Torres Strait. The argument by Islanders for this form of corporate autonomy was based on their particular geographical conditions and on their distinctive culture, namely *Ailan Kastom*. The use of culture by Indigenous people to further their case for autonomy has been noted in other places including the Pacific. Whereas this strategy has been relatively successful for Homelanders, I shall show in Chapter 7 that it has not been so for Mainlanders.

Economic autonomy

Less was said during the Inquiry process regarding economic autonomy. During the Inquiry the TSRA was separated fiscally from ATSIC. This gave fiscal reality to the 'corporate autonomy' from Aboriginal people mentioned above, and seems to make the separation from Aboriginal people fairly complete.

A significant value of government funds already pass through either or both the TSRA and the ICC, giving them a fair degree of involvement with, if not control over them, and these funds make up a large part of all of the funding to the region. The TSRA and ICC also have portfolio areas which provide them with input to regional policies. In addition, I noted in Chapter 4 that Islanders are also involved in designing regional health and education policies and these policies apply equally to Islanders and non-Islanders. Therefore, it can be argued that Islanders already have some fair degree of economic autonomy as this might apply to funds and policies for the Strait.

Islanders are also well represented in the management (control) of the region's fisheries. Although it is true to say that this had increased somewhat since the Inquiry, the basis for this representation has been the Treaty and the *Torres Strait Fisheries Act 1984*. However, Islanders appear to wish to increase this control even more, possibly to the extent of having the power to exclude non-Islander fishers. This would be a considerable change to the present regime and would give them powers akin to that of some Pacific island states noted in Chapter 3.

The Queensland and Commonwealth Governments appeared to link economic autonomy to political autonomy. Although not opposed to the Strait achieving territorial

status, comments by both Governments suggested that this was conditional on some (unstated) economic advancement. This is hardly a valid position for governments to take; as I have noted in Chapter 3, other external territories of Australia are not subject to this condition. In addition, the Strait's productive economy is based on fishing and this is already fully exploited and it is unclear how much the economy could be expanded by other means.

In the following chapter I shall show how Mainlanders perceived autonomy during the Inquiry process.

Chapter 7

The Inquiry: the mainland

…what really made the streets of Townsville quite distinct from any others we'd walked along in Australia was the presence of blacks who neither looked like any of the Aborigines we'd seen before nor behaved like them…These were Torres Strait Islanders (Jacobson 1987: 321).

Jacobson was referring to the people I have called 'Mainlanders': those Islanders and their descendants who have moved from Torres Strait to the mainland.[1] The 'distinction' he noted was that, compared to other Australian Indigenous people he had encountered, these appeared self-confident and optimistic.

In the previous chapter I discussed notions of autonomy as these might apply to people living inside Torres Strait. However, 80 per cent of all people identifying as Islanders live outside Torres Strait (Sanders and Arthur 2001). The Inquiry's third term of reference directed it to find out:

what implications would greater autonomy have for Torres Strait Islanders resident outside the Torres Strait region, including whether the Aboriginal and Torres Strait Islander commission or the Torres Strait Regional Authority should represent the interest of such residents (HORSCATSIA 1997: xii).

In the light of this, this chapter will review what autonomy appeared to mean for Mainlanders.

Torres Strait Islanders began moving in significant numbers from Torres Strait to the Australian mainland in the 1950s (see Fig 4.3 Chapter 4) (Taylor and Arthur 1993). Several reasons, which largely follow the push-pull theories of migration, are given for this movement (Zhang, Zhang and Zhang 1997). They include that Islanders:

- were able to move because the Queensland Government relaxed its earlier restrictions on their movement out of Torres Strait;
- wanted to escape what they considered to be the oppressive control of the Queensland Government in Torres Strait;

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[1] In their submission to the Inquiry the Pasa Gab Te Torres Strait Islander Corporation said there were two groups of Islanders: Homelanders and Mainlanders (HORSCATSIA Sub 37, Pasa Gab Te). Mainlanders most often use these terms.

- wanted to gain their full citizenship rights - which they felt were being denied them in Torres Strait, characterising this as a wish to obtain their 'freedom'[2] (Chapter 4) ;
- moved to increase their access to services which were generally more available and of a better standard on the mainland than in remote Torres Strait (Taylor and Arthur 1994);
- moved to increase their access to education (HORSCATSIA Sub 40, TSIAB,) and
- because the pearl-shell industry in the Strait collapsed, employment for Islanders fell and so many moved to get work.

Initially, almost all lived in mainland Queensland (see Fig 4.3). They first worked there as sugar-cane cutters and when this work was mechanised, they found a niche laying tracks in the Queensland railways (Beckett 1987). Later they performed the same work on the construction of mine railways in Queensland and Western Australia. Nowadays they are found in many urban centres along the east coast and in the State and Territory capital cities (Map 7.1) (Taylor and Arthur 1994). The only exceptions to this are the small numbers of people who live in the Aboriginal communities on Cape York and in the north of Western Australia. Therefore Mainlanders are, like many non-Indigenous Australians, predominantly urbanites who potentially have access to a variety of mainstream labour market opportunities and general services (Taylor and Arthur 1994). Almost half live in Queensland (Table 7.1) and their numbers are small in other States where they are a relatively 'hidden' population.

Table 7.1 Distribution of Torres Strait Islanders outside Torres Strait, 1996

State/Territory	Number TSIs [1]	Per cent	No. of Islander organisations
Queensland (mainland)	11,633	48	13
New South Wales/ACT	5,595	23	1
Victoria	2,591	11	1
Tasmania	1,516	6	0
South Australia	1,161	5	1
Western Australia	1,102	4	3
Northern Territory	743	3	2
Australian mainland total	**24,341**	**100**	**21**

Source: ABS Census, 1996.
Notes:
(1). Those who identified as both Torres Strait Islander and Aboriginal have been allocated to each group on a pro rata basis (see Appendix B).

The mainland policy environment

As well as creating first the TSRA, the *Aboriginal and Torres Strait Islander Commission Act 1989* set up the Torres Strait Islander Advisory Board (TSIAB); and

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[2]This term is still used today by some Mainlanders when reminiscing on the earliest move after WWII.

Map 7-1. Distribution of Islander population, 2001.
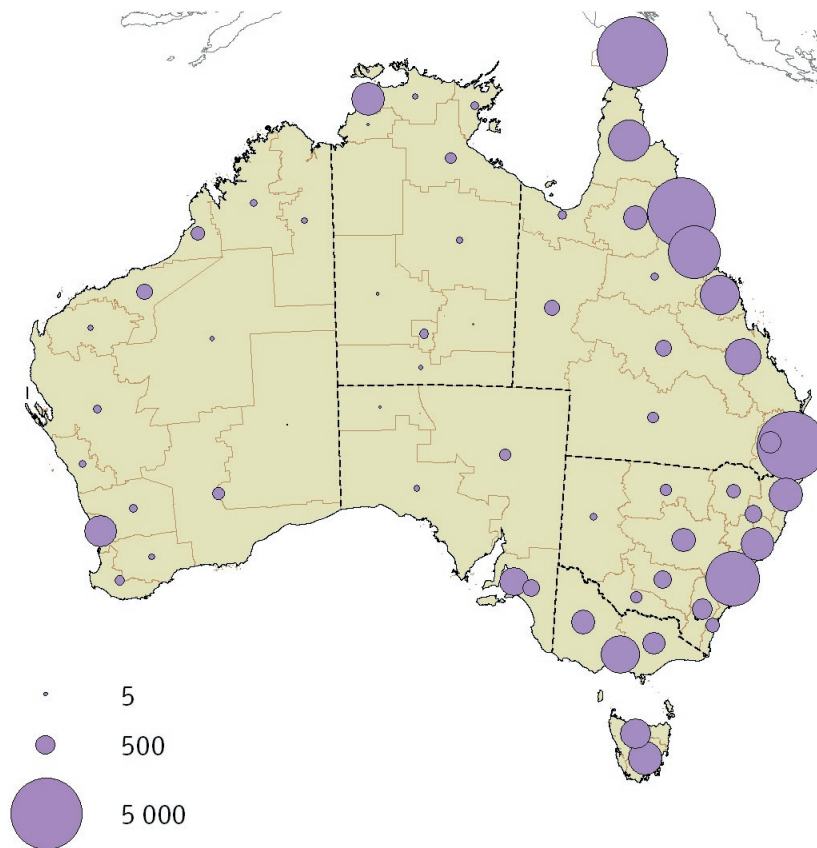
the Office of Torres Strait Islander Affairs (OTSIA) in Canberra. OTSIA had responsibility for monitoring Commonwealth, State and local government programs affecting Torres Strait Islanders, and for evaluating the extent to which these programs met the needs of Torres Strait Islanders living on the Australian mainland; its budget was very small and basically covered funding for annual national workshops.

TSIAB was responsible for advising the Minister for Aboriginal and Torres Strait Islander Affairs on issues affecting Torres Strait Islanders nationally. Under the ATSIC legislation the Minister appointed the TSIAB members. There was one from each of mainland Queensland; New South Wales/Australian Capital Territory combined; Victoria/Tasmania combined; South Australia; Western Australia and the Northern Territory. However, the Torres Strait zone commissioner also chaired TSIAB (Sanders 1994: 15) so making a political link between Islanders in Torres Strait and those on the mainland. The link between the two groups was also maintained through annual Torres Strait Islander workshops mentioned above. Though the vast majority of delegates to these were Mainlanders and the agendas focused largely on Mainlander issues, the chair of TSIAB and other Homelanders were invited.[3]

Islanders have also established their own non-government organisations in several major towns and cities from a variety of government funding sources (Arthur 1998a). The distribution of the organisations tends to reflect the distribution of the Islander population: there are 13 in Queensland, three in Western Australia, two in the Northern Territory and one in each of the other States/Territories except Tasmania which has none (Table 7.1). These organisations are generally small, with an average membership of around 50, several are fairly new, not all have an active membership, nor do they have substantial links with the wider mainland Island community (Arthur 1998a).[4] The organisations tend to focus on cultural activities though some attempt to diversify into areas such as employment and economic development.

In the remainder of this chapter I will explore how Mainlanders, Homelanders and the Commonwealth and Queensland Governments consider how autonomy might apply to Mainlanders. I will do this with reference to the general framework of the thesis noting

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[3] In 1997 those from the Strait who attended were the TSIAB Chair and Torres Zone Commissioner, two members of the TSRA, and one prominent Strait Islander leader.

how the parties involved legitimise their case for achieving political and economic autonomy. I will utilise data from the Inquiry and from a survey of Mainlanders carried out in 1997 (see Arthur 1998a).

Regional autonomy

National Workshops are organised by Mainlanders. The Ninth National Workshop in 1999 was hosted by the TSRA on Thursday Island and was organised by a newly formed National Secretariat of Torres Strait Islander Organisations (Ltd) located on the mainland (see below). The workshop title and banner is shown in Fig. 7.1 and, entitled 'Meriba Kaimel, Our Togetherness', it implied the unity of Homelanders and Mainlanders. This use of 'togetherness' in the title resonates with a Mainlander aspiration which was to be included in the autonomy of the region. Mainlanders felt they were being left behind or left out by those at home and wanted to be part of the homeland and have some representation there (notes from the Ninth National Workshop, October 1999; HORSCATSIA Sub 37, Pasa Gab Te). The concern that they might be left behind was evident in some mainland submissions to the Inquiry which argued that the Commonwealth should not give self-government to the Strait while ignoring Mainlanders in this (HORSCATSIA Sub 10, Akee).

A say in Torres Strait
Being part of this regional autonomy seemed for some Mainlanders to include having a say in the management and decision-making within Torres Strait. This would be similar to the non-residential regional representation enjoyed by Cook Islanders who live in New Zealand (see Chapter 3). For instance, some proposed that this might include a say in the way government monies would be allocated within the Strait, or in the design of regional policies for sea rights and for economic development (HORSCATSIA Sub 12, Townsville-Thuringowa TSI Action Group; Sub 36, Townsville Torres Strait Islander community; Hansard 1997, Au Karem Torres Strait Islander Interim Committee).

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[4]In the 1980s Beckett (1987) classified many of these organisations family concerns.

Fig. 7-1. The ninth national workshop banner.
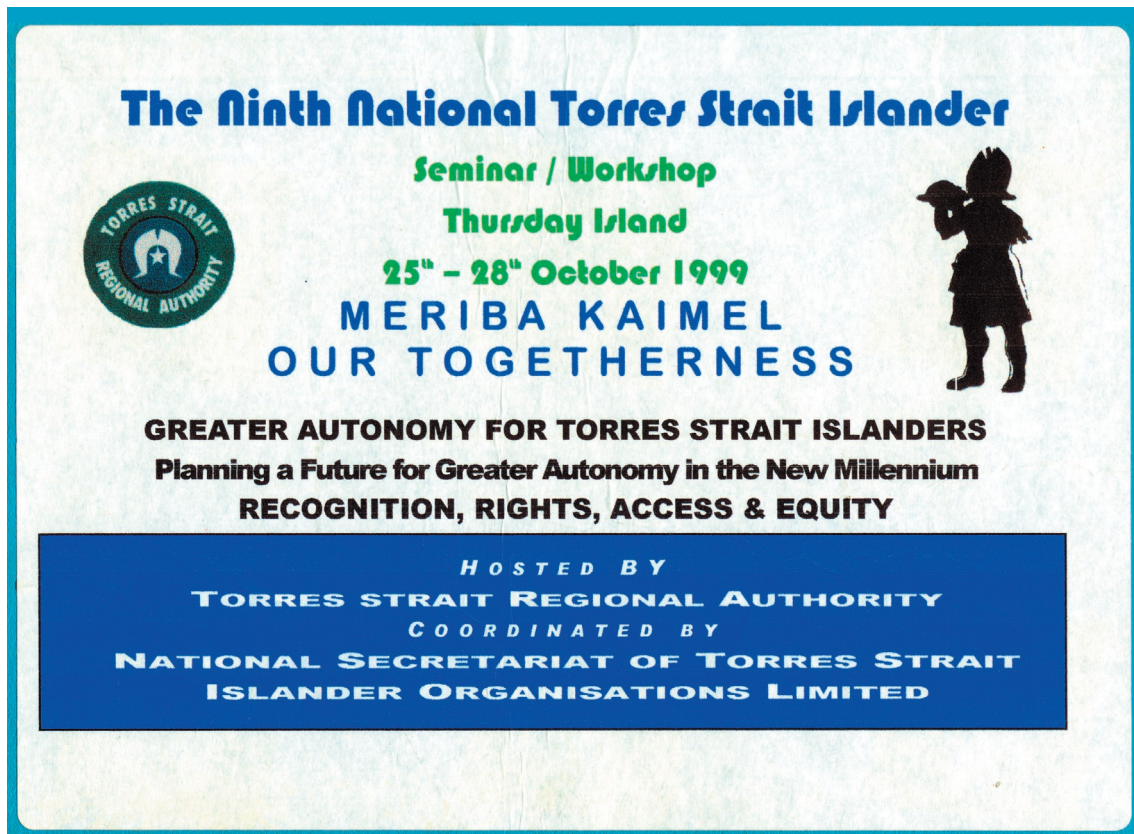
The wish to have a say in the Strait was also linked to concerns over land there.[5] As shown in Table 7.2, 79 per cent of Mainlanders who live in Queensland still recognise their homeland and many feel they are still traditional landowners. However, those giving evidence to the Inquiry indicated that they had difficulty pursuing Native Title claims in the Strait. There seemed to be a concern that without a say in a regional autonomy, they would lose whatever Native Title rights, or other rights to land they might have there (HORSCATSIA Sub 41, ACT Torres Strait Islander Corporation). Some Homelanders expressed sympathy for this point of view at the 1997 national workshop. In the past there seems to have been some ambiguity with regard to the rights in land of those who had left the Strait (Beckett 1987; Beckett 1994). Native Title should have removed this ambiguity as by law non-residents can make Native Title applications. In practice, people do this through their Native Title Representative Body (NTRB) in the region from which they originate. The NTRB in Torres Strait is the TSRA. However, it is easy to see how Mainlanders might feel more confident about pursuing such applications if they were also involved in a regional government body. We will return to the issue of Mainlanders and land in Torres Strait below.

Table 7.2 Cultural characteristics of Islanders, Queensland, 1994

Characteristic	Homelanders %	Mainlanders %
Identifies with clan or language group	72	59
Recognises homeland	93	79
Grew up in homeland	78	56
Main language is English	12	70
Main language is broken English/Creole	65	12
Involved in an organisation	25	25

Source: Arthur (1997a: 7)

Fiscal access

The desire by many Mainlanders to be part of any regionally autonomous body was also related to their belief that this would increase their access to Indigenous-specific funding. This is largely because they felt that they did not get access to their share of funding through ATSIC. As one person put it to the 1999 annual Workshop, 'we would stand a better chance asking for funds from here (The Strait) rather than from other "countrymen"' (namely Aboriginal people) (notes from the Ninth National Workshop, October 1999). Proposals put by Mainlanders to the Inquiry and at post-Inquiry

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[5] Beckett (1994) has proposed that to be an Islander one needs an island.

meetings included that a specific amount of money allocated to the Strait might be earmarked for Mainlanders based on their proportion of the total Islander population (Hansard 1997, Thursday Island; HORSCATSIA Sub 10, Akee; Sub 40, TSIAB). A concern of Homelanders, as expressed by the chair of the TSRA, was whether this would be covered by a corresponding increase in their regional budget (Hansard 1997, Thursday Island). Homelanders recognised that autonomy for Mainlanders was connected to their access to funding and they accepted that this could be overcome by reserving funds for them (Hansard 1997, Thursday Island). However, they felt that this should not happen through any regional body in Torres Strait but through OTSIA on the mainland (HORSCATSIA Sub 17, TSRA). In other words, although the Homelanders were sympathetic to the fiscal problems of Mainlanders, they were not necessarily keen for these to be solved through making Mainlanders part of a regional system and the funding of it.

The political and cultural case

Mainlanders used both political and cultural factors to legitimise their case for inclusion in the region. For instance, they put it to Homelanders that it was Mainlanders who had been instrumental in halting the proposed changes to the border in the 1970s (HORSCATSIA Sub 10, Akee).[6] They argued further that it was a mainlander, Eddie Mabo who had initiated Native Title and that this was won with little or no assistance from either the ICC or the TSRA (HORSCATSIA Sub 10, Akee; Sub 5, Erub Island). The suggestion was that this history of political activity now gave Mainlanders some right of say in regional affairs. It is pertinent here to note that the submissions to the Inquiry that took this line were mostly from the Eastern Islands and from Mainlanders from the Eastern Islands and it is mostly they who feel Mainlanders have fulfilled more of a political role than have Homelanders. This accords with Beckett's thesis that, being further from the lucrative lobster grounds than the other island groups, Eastern Islanders adopted political activity and migration to advance their individual autonomy and political 'freedom' during the 1950s and 1960s (Beckett 1987) (see Chapter 4).

Mainlanders also attempted to make a case for their involvement in the Strait's affairs in cultural terms by emphasising that they are part of the common Islander culture: *Ailan*

Kastom (Chapter 5). In their submission to the Inquiry the *Saam Keram* TSI Corporation in Broome said that they still identified with and maintained links to the Strait, while other Mainlanders stressed the 'oneness' of all Islanders based on their common descent and linguistic heritage (HORSCATSIA Sub 12, Townsville-Thuringowa TSI Action Group). The statistics might support this commonality. Though many were born and raised and live on the mainland, Mainlanders still identify strongly with Torres Strait and with Torres Strait Islander culture and they retain many attachments to the region (Arthur 1997a). As noted above 79 per cent of Mainlanders (in Queensland) still recognise their homelands and as shown in Table 7.2, twelve per cent spoke Torres Strait Creole and 59 per cent still identified with their clan. Though all of these rates are lower than for Homelanders, they still suggest a fair degree of attachment to the cultural heartland. Mainlanders also articulate Native Title as something that links them culturally to the homeland. As stated in one submission:

Mabo confers rights on all Torres Strait Islanders and obligations to the whole Torres Strait Islander domain, it is the sacred trust of all Torres Strait Islander people, Mabo has confirmed the existence of a universal Torres strait Islander interest and obligation (HORSCATSIA Sub 12, Townsville-Thuringowa TSI Action Group).

I shall return to other ways that culture is adopted as a legitimator in a later section of this chapter, suffice to say here that the data suggest that Mainlanders used culture to make a case for their inclusion in regional autonomy.

The view from the homelands

Some Homelanders supported the case that Mainlanders should have a say in regional matters and again this was based mostly on the notion that they were still viewed as land owners (Hansard 1997, Thursday Island; notes from the Ninth National Workshop, October 1999). The former ATSIC also supported this in general although it proposed that the participation of Mainlanders in the Strait's affairs should in fact be limited to only very broad issues such as Native Title but not to specific day-to-day affairs (HORSCATSIA Sub 32, ATSIC; Hansard 1997, ATSIC).

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[6]As noted in Chapter 4, at that time is was those in the eastern islands and their kin on the mainland who established the Border Action Committee and Torres United Party (TUP). The TUP also called for independence through the creation of the 'The Free Nation of Torres Strait' (Beckett 1987: 204).

However, only one submission from the Strait supported the idea that Mainlanders should be involved in decision-making in the Strait. Indeed, when asked by the Inquiry how Mainlanders should be accommodated within autonomy, one island chairman went as far as to suggest, rather pointedly, that they should 'get stuffed' (Hansard 1996, Yorke Island). In another case, it was proposed that Mainlanders could only have a regional voice if they returned to live in the Strait (Hansard 1996, Bamaga). These views reflect tensions noted in earlier times between those in the Strait and those who had moved to the mainland (Beckett 1987: 85). In general, despite at other times arguing the 'oneness' of all Islanders, many in the Strait appear ambivalent about the extent to which Mainlanders should be included in regional structures. Submissions to the Inquiry indicated that the preferred position of Homelanders was for the Mainlanders to be represented by structures outside Torres Strait, for example:

Mainlanders should be represented *only* through TSIAB (emphasis added) (Hansard 1996, Thursday Island).

Mainlanders are represented by ATSIC because they are on the mainland (Hansard 1996, Saibai Island).[7]

We are remote and different from the mainland, our programs are for here, not for the mainland (notes from the Ninth National Workshop, October 1999).

The case for including Mainlanders in the region also failed to gain much support from non-Islander residents. At a meeting of the Port Kennedy Association on Thursday Island, one non-Indigenous resident was emphatic that though he was not averse to the idea of regional autonomy for Islanders, he was against the ideas that Islanders from outside the Strait should be included in this (notes from a public meeting of the Port Kennedy Association, Thursday Island, October 1999). The Inquiry's final Report also failed to support the Mainlander position, concluding that if greater control passed to a regional body in Torres Strait, Mainlanders should only have observer status on it (HORSCATSIA 1997). This view was rejected by members of the 1997 Seventh National Workshop and Mainlanders subsequently presented a proposal for a structure that would ensure them representation on any regional-government and therefore a say in regional affairs. This proposal also received no support from either government or from Homelanders and later national workshops moved on to issues other than regional

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[7]Interestingly, the person making this statement was also the TSIAB chairman, indicating the potential for competing loyalties within the system.

autonomy (see below). In summary Mainlanders failed to make a case to be included in regional autonomy as this might apply in Torres Strait.

Migrant status?

The inability of Mainlanders to legitimise their case may stem in part from the way they are perceived. Some Homelanders view them as 'ex-Islanders' and in its submission to the Inquiry, the former ATSIC argued they should be treated differently from Islanders in the Strait on the basis that they were 'migrants', a status also given to them by Beckett (HORSCATSIA Sub 32, ATSIC; Beckett 1987; 1994: 11). Mainlanders however, do not necessarily want to be seen as migrants and would prefer to be known as the 'Torres Strait Islanders of the diaspora' (HORSCATSIA Sub 12, Townsville-Thuringowa TSI Action Group). Indeed, some maintain links with the homeland and have returned there to retire. Nonetheless, many have not; Cairns cemetery includes many Islander tombstones. One Mainlander attending the 1999 workshop on Thursday Island told me that he had not been in the Strait since he left there at the age of 15 in the 1950s. He left when the price of pearl shell dropped. In addition, Mainlanders evince some of the traits of South Pacific migrants to Australia. For instance they have established organisations which focus on cultural activities and have formed church-based groups (Beckett 1987; McCall and Connell 1993).

As already noted, people went to the mainland to gain access to educational facilities and to find employment and this is why some remain there (HORSCATSIA Sub 40, TSIAB; Sub 3, Au Karem Le). Beckett felt that by the early 1980s many Mainlanders felt that the 'dream of modernity' was not happening and so they began to think of returning home (Beckett 1994: 22). Certainly by the early 1990s some were returning to the Strait and this was because the economy on the mainland had taken a downturn and jobs had become scarce there (Arthur 1990). As noted in Chapter 4, it became harder to find employment on the mainland and easier to do so in the Strait; services were also improving in the Strait and the (relatively) new lobster industry was proving lucrative (Arthur 1990). In the 1970s the Strait was classified as a remittance economy with inputs from Mainlanders as well as from government (Fisk 1974; Beckett 1987). By 1990, fiscal flows had changed somewhat with some Homelanders sometimes fishing commercially to meet requests for cash from relatives on the mainland (Arthur 1990).

Although since the 1960s some Mainlanders have returned to the Strait to retire, both Mainlanders and Homelanders noted that few others could return permanently unless there was some very large-scale economic development. Even then it was recognised that this could put insupportable pressures on the levels of infrastructure in the Strait and on the natural resources, such as land and potable water (HORSCATSIA Sub 40, TSIAB; Sub 12, Townsville-Thuringowa TSI Action Group; Hansard 1996, Kubin; Hansard 1997, Alice Springs).

Mainlanders aspired to a form of regional autonomy which would have included them in Torres Strait. This took the form of being part of the decision making in the region and seemed to be connected to concerns over Native Title rights, and their access to Indigenous-specific funding. They argued their case for their inclusion on the basis that they share a common culture with Homelanders. This view of regional autonomy was not widely supported by Homelanders. The rhetoric of 'oneness' did not appear to stretch to including Mainlanders in any form of regional autonomy.

Corporate autonomy

Despite what I have described as a desire for involvement in some form of regional autonomy, Mainlanders focussed during the Inquiry more on a form of corporate autonomy, or autonomy for them as a people. This was principally to break free from being included with Aboriginal people in ATSIC and in other areas of Indigenous affairs. Some believed that being included with Aboriginal people denied them access to Indigenous political structures and the associated Indigenous-specific resources.[8] Thus the form of corporate autonomy they favoured had to do with political separation from Aboriginal people. To achieve this required them to make a case not to Homelanders but to ATSIC and to governments generally. I shall first discuss separation or political autonomy from ATSIC.

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[8]Indigenous people could access three categories of services and funding: those within ATSIC; those provided by all levels of government but specifically for Indigenous people; and those provided for all citizens.

Autonomy from ATSIC

In 1993, the Commonwealth Government reviewed the ATSIC legislation. This review noted that all Islanders were dissatisfied with being within ATSIC but proposed different solutions to address this for the Strait and for the mainland. The review suggested that consideration should be given to advancing the autonomy of the Torres Strait by creating a regional Torres Strait Authority (TSA), though this was to remain within the ATSIC structure. However, it also suggested that the representative structure of ATSIC gave Mainlanders the same and adequate opportunities for representation as it did for Aboriginal people. Indeed, far from proposing any increased autonomy for Mainlanders, the review claimed that even the existing 'special provisions' for Islanders within the ATSIC legislation, such as the OTSIA, were already 'inequitable and unnecessary' (see Sanders and Arthur 1997: 5). A further review of ATSIC had proposed that OTSIA be abolished (notes from the Ninth National Workshop, October 1999).

Subsequently, the *Aboriginal and Torres Strait Islander Commission Amendment Act 1993* created the Torres Strait Regional Authority (TSRA). As noted earlier, this substantially increased the autonomy of Torres Strait Islanders in the Strait by giving the TSRA powers similar to those of the Commission itself (Arthur 1997b). Mainlanders were left attached to the Aboriginal system and their political status was unchanged. Mainlanders felt this was not adequate and at the 1995 national workshop, and then in a submission to ATSIC, they called for the formation of a Torres Strait Islanders Commission separate from ATSIC (Sanders and Arthur 1997: 8). This was characterised as 'taking the TSI out of ATSIC'. This theme continued into the Inquiry where, as noted in Chapter 6, sixty per cent of submissions expressed greater autonomy in terms of establishing a national Islander statutory organisation or Commission separate from ATSIC (HORSCATSIA Sub 17, TSRA). This point was most forcibly made by Mainlanders and by the TSIAB. In most instances, the suggestion was that this separate body would oversee Torres Strait Islander affairs in both the Strait and the mainland. Mainlanders who took this approach repeated their earlier claims that they were not receiving equitable treatment within the ATSIC system and that it was failing to meet their needs (Hansard 1997, Alice Springs; HORSCATSIA Sub 22, Saam Keram; Sub 15, Erub Island; Sub 41, ACT Torres Strait Islander Corporation).

The political or economic case?

Autonomy from ATSIC is largely a political matter. However, the reason Mainlanders wanted to be separate from ATSIC hinged on their perception that being in it restricted access to what they considered as their proportion of its Indigenous-specific economic resources. A group of Mainlanders from Brisbane and Townsville rallying outside Parliament House in Canberra in 1996 protested at the 'imbalance of funding' for Torres Strait Islander organisations and programs (TSIAB News, July 1996: 5).

Mainlanders continued to make this point to the Inquiry saying that they were unable to access business grants and other funding while part of ATSIC (notes from the Ninth National Workshop, October 1999). This was because they felt they could not compete successfully with Aboriginal people in the Regional Council application system.[9] As already noted, in ATSIC the mainland was divided into 35 regions each with an elected regional council. Each council had discretionary powers over a proportion of their budgets that they could allocate to incorporated organisations and communities. These funds were accessed through applications to the regional councils. Mainlanders claimed that they were unable to access this system adequately because they are the minority of the Indigenous population in each of the regions, have relatively little voting power and cannot get Islanders elected as councilors (Arthur1998a). They claimed that their applications were mostly unsuccessful (HORSCATSIA Sub 36, Townsville Torres Strait Islander community; Sub 41, ACT Torres Strait Islander Corporation; Hansard 1997, Darwin). Evidence to the Inquiry to this effect included such statements as:

we cannot get on the regional council (HORSCATSIA Sub 22, Saam Kerem);

we have to compete with Aborigines on the regional councils (HORSCATSIA Sub 36, Townsville Torres Strait Islander community);

we get nowhere, we have to speak through the Aboriginal voice (Hansard 1997, Au Karem Torres Strait Islander Interim Committee).

Around the period of the Inquiry, 15 of the 371, or 4 per cent of the mainland councilors were Islanders. As Islanders are about 10 per cent of the mainland Indigenous population (Arthur 2000) it can be argued that statistically they were indeed underrepresented on regional councils. Also, Islander councilors were concentrated in

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[9]Others argued that this also meant they were unable to establish their own CDEP schemes and so had to join Aboriginal schemes (Hansard 1997, Darwin).

only seven of the 35 regional councils (Keys Young 1998: 27). Both of these factors may have negatively affected their access to ATSIC funds.

Mainlanders also argued that their access to funds was affected by a perception by Aboriginal people and regional councils that the TSRA is resourced to fund all Islanders no matter where they live in Australia (Hansard 1997, Darwin; Arthur 1998a). This is factually incorrect as the TSRA has responsibility only for Torres Strait Islanders in Torres Strait and has neither the charter nor the resources to meet funding applications from Mainlanders. This misunderstanding had apparently resulted in Mainlanders being advised by ATSIC regional councils that they should apply for funding not to them, but to the TSRA (Hansard 1997, Au Karem Torres Strait Islander Interim Committee; Arthur 1998a). As some Mainlanders put it to an Inquiry hearing:

> We are told to get our share from Torres Strait cake … we are pushed back and forth between ATSIC and TSRA for funding ending up like the meat in the sandwich (Hansard 1997, Au Karem Torres Strait Islander Interim Committee).

One further outcome of this was a perception by Aboriginal people that Torres Strait Islanders actually have *too much* access to funding. Mainlanders commonly said they were accused of getting or attempting to get 'two bites of the cherry' and of 'double-dipping' (Hansard 1997, Kain Marep; ACT Torres Strait Islander Corporation). This had, some claimed, created animosity between Aboriginal people and Torres Strait Islanders breaking earlier political alliances and causing one exasperated Mainlander to propose that what was now needed was a memorandum of understanding or Treaty with Aboriginal people (HORSCATSIA Sub 10, Akee; notes from the Ninth National Workshop, October 1999).

In addition to seeking their own statutory Commission, Mainlanders also claimed that their autonomy would be increased if they had a national non-government body in the form a Secretariat (HORSCATSIA Sub 37, Pasa Gab Te). This was intended to act as an umbrella organisation for the various Mainlander organisations (HORSCATSIA Sub 40, TSIAB; Hansard 1997, Cairns; Au Karem Torres Strait Islander Interim Committee). Such a Secretariat was established in 1997 as a public company with ATSIC funding and it took on the role of organising the national workshops but it is unclear at this stage how effective it will be in furthering Mainlanders' aspirations.

Autonomy within ATSIC?

Not all Mainlanders saw autonomy in terms of a separation from ATSIC with some proposing that if they wanted more from ATSIC then they should increase their political activity within it (HORSCATSIA Sub 41, ACT Torres Strait Islander Corporation). Others felt that they should remain in ATSIC but that it should be modified to cater more for their representation by for example increasing the number of Torres Strait Islander officers within the ATSIC administration, by establishing a Torres Strait Islander advisory committee for each regional council or by being allocated reserved seats on regional councils (HORSCATSIA Sub 41, ACT Torres Strait Islander Corporation; Sub 40, TSIAB; Sub 37, Pasa Gab Te; Hansard 1997, Cairns; notes from the Ninth National Workshop, October 1999). The latter strategy would be akin to the special form of representation found in the governments of parts of the South Pacific as explained in Chapter 3.

The desire to stay in ATSIC may have acknowledged the affinal links between Aboriginal people and Mainlanders. For instance, a resident of Cairns indicated that Mainlanders were both Aboriginal and Torres Strait Islander and was concerned about placing too much emphasis on separation. She indicated that many if not most on the mainland were in mixed marriages and while acknowledging their Torres Strait Islander heritage they also accept their Aboriginality (notes from the Ninth National Workshop, October 1999). In fact, the statistics show that 'dual identification' is common on the mainland. As noted in Chapter 6, the option to identify as both an Aboriginal person and as a Torres Strait Islander was first given in the 1996 ABS Census as a response to requests from those Mainlanders married to Aboriginal people. In 1996 some 9,600 Mainlanders identified as both Torres Strait Islander *and* as Aboriginal people, presumably as a result of intermarriage. While only 6 per cent of Islanders did this in the Strait the figure was 26 per cent on the mainland (Arthur 2000). Dual identification may also have implications for the funding issues discussed above. A 1997 survey of Mainlanders found that those with dual identification experienced better access to Indigenous-specific programs and services (Arthur 1998a). On the other hand, this access also applied to those who worked in Aboriginal organisations or who networked with Aboriginal people suggesting that access may not rest solely on issues of dual identification.

Map 7-2. Islanders and Aboriginal population by ATSIC regions, 1996.

5741 (95%)
323

551 (6%)
8441

30 (<1%)
7716

16 (<1%)
6985

569 (10%)
5066

87 (1%)
7035

18 (<1%)
3940

12 (<1%)
4076

12 (<1%)
3437

3484 (24%)
11228

47 (1%)
3376

133 (2%)
6525

3414 (23%)
11264

189 (4%)
4109

17 (<1%)
7501

29 (1%)
4420

849 (7%)
10483

24 (1%)
2664

71 (1%)
5817

322 (4%)
8482

2862 (10%)
24773

46 (1%)
4960

74 (1%)
7270

242 (2%)
10469

587 (3%)
17411

113 (2%)
6091

65 (2%)
3087

24 (1%)
1843

627 (3%)
17420

1497 (6%)
23561

2778 (8%)
31508

378 (4%)
8745

1066 (8%)
11623

1357 (12%)
9722

1233 (12%)
9162

Legend

1066   **Torres Strait Islanders**

11623   Aboriginal persons

(8%)   Torres Strait Islanders as percentage of
total Indigenous population

1516 (11%)
12357

Source: Arthur (2000).

The cultural case

Like the Homelanders, Mainlanders legitimised their case for separation from ATSIC and for their treatment as distinct group on the mainland (their corporate autonomy) in a number of ways. One of these is to argue that they are part of the distinct Torres Strait Islander culture *Ailan Kastom* (HORSCATSIA Sub 36, Townsville Torres Strait Islander community; notes from the Ninth National Workshop, October 1999; HORSCATSIA Sub 12, Townsville-Thuringowa TSI Action Group). They affirm their cultural connection with people in the homelands 'we are one people not you and us down south' (notes from the Ninth National Workshop, October 1999) and this was reflected in the theme for the 1999 national workshop 'our togetherness', a theme determined by the mainland organisations (see Fig. 7.1). I noted in Chapter 5 that Islanders have a distinctive form of dress and it is noticeable that many Mainlanders who attend the national workshops wear this. In Chapter 4 we saw how the annual 'coming of the light' celebration is a cultural marker for Islanders and this is held by all mainlander organisations across Australia. Similarly, Mainlanders perform tombstone openings and are very active in traditional dance performances (Beckett 1987). Indeed, a principal activity of mainland organisations is giving public performances of Islander dancing (Arthur 1998a). A further cultural link is maintained when young boys are taken back to the Strait to be initiated (Davis 1998: 248).

The demographic case

One submission to the Inquiry seemed to suggest that Mainlanders should have greater autonomy from Aboriginal people because they were the majority of the Torres Strait Islander population (Hansard 1997, Au Karem Torres Strait Islander Interim Committee). This is statistically correct but hard to sustain as an argument for separation from Aboriginal people. Mainlanders are only around 10 per cent of the total Indigenous population. Although they are 13 per cent of the Indigenous population in mainland Queensland, in other states this proportion is much lower. For instance, they are only 2 per cent of the Indigenous population of the Northern Territory and Western Australia. A similar variation was found across many of the ATSIC regions. They were less than 1 per cent in some regions of Western Australia and the Northern Territory and around 23 and 24 per cent in the Townsville and Cairns regions (see Map 7.2). Therefore although they are the majority of all Islanders, Mainlanders would find it

hard to justify a case for political autonomy from Aboriginal people based on their demography.

The rights case

Some Mainlanders legitimised their call for greater autonomy in terms of redressing the wrongs that they felt had been perpetrated on them by the Queensland and then the Commonwealth Government (see Chapter 4). For example, they argued that they had been subject to exploitation because they were poorly paid during the pearl shell period and then when they were in the TSLI in WWII (HORSCATSIA Sub 12, Townsville-Thuringowa TSI Action Group; Sub 3, Au Karem Le). They felt that in these periods they had contributed to building Australia and that this now warranted some special support from government as a from of recompense. As one submission put it:

We helped you in the past and now you must help us. We have struggled and now we want something for our children (HORSCATSIA Sub 3, Au Karem Le).

We could say that here they were using the moral imperative of 'colonial exploitation' to argue for a form of compensation. As shown in Chapter 4, Islanders were indeed paid at a low rate during these earlier periods. However, governments in Australia have strongly resisted entering into negotiations over compensation for former Indigenous policies and it is unlikely that this argument would hold much sway with them. Only a few submissions made a claim on autonomy based on their earlier treatment by governments.

Autonomy in non-ATSIC Indigenous affairs

…we are not on a bed of roses in the south but on a bed of nails as we do not get fair access to resources (notes from the Ninth National Workshop, October 1999).

Mainlanders also aspired to be more autonomous from Aboriginal people with regard to Indigenous-specific services provided outside ATSIC, that is to say, in those Indigenous services provided by Commonwealth and Queensland departments. Again, this was based on the perception that by not being considered separately from Aboriginal people, they were denied access to services and programs, such as those

related to health (HORSCATSIA Sub 37, Pasa Gab Te; notes from the Ninth National Workshop, October 1999). Certainly, there is little evidence to show that Mainlanders are considered as a separate group by governments. The overall approach of all levels of government to Torres Strait Islanders on the mainland is to make no distinction between them and Aboriginal people and to encourage them to participate in all of the programs and services that are available to everyone (Arthur 1998a).

Islanders were recognised by name in the *Aboriginal and Torres Strait Islander Commission Act 1989* and in the former ATSIC. The distinctive position of Mainlanders was also acknowledged when OTSIA was given responsibility for monitoring Islander affairs on the mainland. However, Torres Strait Islanders were not separately identified in many mainstream and general Indigenous program areas (Commonwealth of Australia 1992: 1). For example, the Commonwealth's rental housing program was referred to as the Aboriginal Rental Housing Program. Nor had the Commonwealth maintained statistics specifically on mainland Torres Strait Islanders. At the time of the Inquiry, the only major ABS publications had been analyses of the 1994 National NATSIS and the status of Torres Strait Islander health, and these publications were both limited to the State of Queensland (see Arthur 1992a; Arthur1996; 1997a). Although ATSIC had its own statistical division, it had not produced any statistical publications specifically on Torres Strait Islanders.[10]

Only the Queensland Government made separate provision for Mainlanders, primarily as a result of its historical relationship with them as described in Chapter 4. Islanders are part of its Department of Aboriginal and Torres Strait Islander Policy and Development. The Mackay Health District had an Islander language program and reserved positions for Islanders on its advisory committees and the Townsville Health District maintained records specifically on Torres Strait Islanders as did the Queensland Aboriginal and Torres Strait Islander Housing unit. The Queensland Government had also gone some way to officially recognising Islander traditional adoption practices. Nonetheless, Queensland had legislation specific to Islanders only for those who resided in Torres Strait.

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[10]The issue of the provision of Torres Strait Islander statistics had not been entirely ignored (see Arthur 1992a; Arthur 1996; Barnes 1996; ABS 1996). The Commonwealth, primarily through the agency of the ABS, was currently attempting to establish a standardised method for recording Torres Strait Islanders

Outside Queensland, Islanders are not recognised in State/Territory government programs and policies for Indigenous people, nor are statistics kept of them. Indeed, most other States/Territories are uninformed about even the number of Torres Strait Islanders within their jurisdiction (Arthur 1998a). Therefore, just as the policy approach to Islanders differed between Torres Strait and the mainland, it also differed between Queensland and the other States/Territories. This difference was highlighted at the annual meeting of the State ministers of Indigenous affairs in 1999. At that meeting the Queensland Minister backed a proposal that all State/Territory governments officially recognise Islanders as a distinct people when implementing their programs and policies, this was rejected by the other State/Territory ministers (*Townsville Bulletin* 13 September 1999). Because of this situation Mainlanders felt excluded from State/Territory Indigenous policies and programs, particularly those outside Queensland (Arthur 1998a).

Mainlanders were also disadvantaged in terms of accessing land on the mainland. The mainland is not their traditional territory, and so unless they marry into an Aboriginal land-owning group or can make some other arrangement with local Aboriginal land-owners, they cannot access land by recourse to traditional ownership under land rights-type legislation. In one case, despite protracted negotiations with landowners a Torres Strait Islander group in Western Australia had been unable to obtain any form of rights to either land or the sea for commercial purposes (Arthur 1998a). Mainlanders also experienced difficulty accessing land through the Indigenous Land Corporation (ILC) (HORSCATSIA Sub 16, Murray Island; Arthur 1998a). The ILC was established as part of the Commonwealth's Native Title legislation in 1992. Its specific role is to purchase land for those groups whose social and cultural links to their land have been disrupted to the extent that they cannot meet the requirements of Native Title applications. To avoid causing conflict and tension at the regional level, the ILC will only assist traditional owners (or people with traditional links to the land) to obtain land (ILC 1996: 15). Mainlanders cannot meet these ILC criteria because, although they may have fairly long-standing historical connections with certain areas, they are not on land with which they have traditional links.

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both in its own administrative/departmental data-bases, and in those of the States/Territories (see for example ABS 1996).

The 'other' view

Mainlanders were unsuccessful in making their case for autonomy from Aboriginal people. The Report recommended that they remain part of the ATSIC system but with a strengthened position. For example, the Report recommended that each ATSIC regional office should have an Islander staff member as a contact point, and that ATSIC regional councils should report annually on the measures they had taken to meet mainlander concerns (HORSCATSIA 1997: 107-09). The Report also recommended that ATSIC should encourage governments to develop partnerships and joint ventures with Torres Strait Islander community groups to increase assistance for them (HORSCATSIA 1997: 106). Mainlanders were also unsuccessful in gaining support from governments for special consideration in Indigenous programs. The Queensland Government noted that:

the government's perspective here, is about providing services on an equal basis for these people across the state, no matter what ethnic (or) indigenous backgrounds (Hansard 1997, Queensland State Government).

There are several reasons why Mainlanders failed to make their case successfully to government. One was the mainland demography. Governments felt that there are simply too few Islanders to make it efficient to provide such programs and services (Hansard 1997, Cairns). This perception is to some extent understandable, because, as noted above, there are very few Islanders outside Queensland and as these mostly live in urban centres, they are thinly spread, hard to service as a group, and are relatively 'invisible' (Arthur 1998a).

Also, all levels of government believe that Torres Strait Islanders *can* access Indigenous programs and services and that, therefore, they have little need to provide programs and services specifically for them. In 2000, a Commonwealth Grants Commission inquiry could find no evidence to suggest that Mainlanders were disadvantaged with regard to access to programs and services (CGC 2001). There is little other evidence to substantiate their claims of disadvantage and inequitable access either inside or outside ATSIC, and those data that are available suggested that access was relatively good (Arthur 1998a; Keys Young 1998). Table 7.3 shows the number of approaches that organisations made to State/Territory departments in 1997, predominantly for funding for cultural purposes. Of 21 approaches for which there were

results, 16 or 76 per cent were successful. However, this does not detract from the fact that Mainlanders perceive that they are disadvantaged by being considered along with Aboriginal people and it has been argued that Aborigines in the former ATSIC needed to respond to this perception so as to be consistent with

…the general claim of indigenous people that dominant majorities need to respect and accommodate the rights and points of view of numerically dominated cultural minorities (Sanders and Arthur 1997: 18)

Table 7.3 Approaches by Mainlander organisations for funding, 1997

State/Territory	Approaches	Successful	Failed	Pending	No data
Queensland	25	10	3	2	10
Northern Territory	2	2	0	0	0
Western Australia	9	2	2	2	3
South Australia	1	1	0	0	0
New South Wales	1	1	0	0	0
Australian Cap. Territory	0	0	0	0	0
Total	38	16	5	4	13

Source: Arthur (1998a)

The theme of the 2001 national workshop was access to mainland health services. Participants of a working group that I personally took part in, while advocating a separate health service, could not articulate one problem they had with the existing system. Also, a study in 1997 showed that though Mainlanders stated they could not access the Aboriginal health services, when they failed to do this they went to the mainstream (non-Indigenous) system which they were able to access (Arthur 1998a). The perception from the available data suggests that this is still the case and that Mainlanders manage to access services without programs and services specifically for them. A young Islander working in the Aboriginal legal service in Brisbane indicated to me that in the time he had been in his job, he had not been approached by a single Torres Strait Islander client, suggesting either a lack of need, or that Islander accessed the mainstream.

Economic autonomy

In addition, standard indicators suggest that Mainlanders are achieving a level of economic autonomy when compared to Aboriginal people. Table 7.4 shows that while they have a lower socioeconomic status than non-Indigenous Australians it is generally higher than that of Aboriginal people (Taylor and Gaminiratne 1992; Arthur 1997a). They are more employed and qualified than Aboriginal people and are more likely to be

buying their own houses (Table 7.4). As well as this, Table 7.5 shows that Mainlanders have a higher socioeconomic status than do Homelanders. This suggests that they are achieving one of their initial goals for moving to the mainland: some greater degree of economic autonomy. It can also be argued that they are doing what the government wants, which is to see Indigenous people increase their socioeconomic status and so reduce their dependence on the welfare system (see the Commonwealth *Indigenous Employment Policy 1999*). These factors may help explain why governments do not feel that Mainlanders require special consideration, separate from Aboriginal people.

Table 7.4 Socioeconomic status on the mainland, 1996

Characteristic	TSIs %	Abgs %	Non-Indig %
Rate of employment	56	38	57
Rate of self employment	4	3	9
Rate of employment in State/Territory Govt.	15	18	12
Rate of employment in private sector	69	60	79
Those renting government housing	18	23	5
Those owning or buying a house	36	29	70
Those attending tertiary institutions	4	4	6
Those with post-school qualifications	9	6	25

Source: Arthur (1998a)

Table 7.5 Islander socioeconomic status: Torres Strait, mainland Australia, 1996

Characteristic	The Strait %	Mainland %
Rate of employment	50	56
Rate of self-employment	4	4
Rate of employment in State/Territory Govt.	16	15
Rate of employment in private sector	26	69
Those renting government housing	20	18
Those owning or buying a house	14	36
Those attending tertiary institutions	2	4
Those having post-school qualifications	9	9

Source: Arthur (1998a)

Political and economic autonomy

It is also important to note however, that the socioeconomic status of Mainlanders varies across States/Territories. Table 7.6 shows the status Torres Strait Islanders when compared to that of non-Indigenous people for selected socioeconomic characteristics to indicate the extent to which they are reaching parity in each location. For example, the rate of Islander employment has been divided by the rate of non-Indigenous employment, giving a ratio of 0.85. A ratio of 0.70 and over has been arbitrarily chosen to suggest where Mainlanders are coming close to parity with non-Indigenous people and where this is the case, cells are shaded in Table 7.6. The following observations can be made for 1996.

Table 7.6 Mainlander parity with non-Indigenous people, 1996

Location	Employ-ment	Self employ-ment	Private sector employ-ment	State govt. employ-ment	Renting govt. house	House owners/ buyers	Attend. tertiary inst.	Tertiary quals.	House-hold incomes
SA	0.85	0.80	0.96	0.76	2.20	0.66	1.00	0.40	0.59
Vic.	0.85	0.75	0.96	0.55	3.66	0.65	0.66	0.45	0.67
WA	0.81	0.50	0.91	1.00	4.20	0.49	0.71	0.33	0.62
NSW	0.77	0.71	0.93	0.83	3.00	0.48	0.50	0.29	0.62
ACT	0.93	n.d.	0.75	0.72	1.50	0.43	1.00	0.52	0.51
Qld/mnld	0.68	0.22	0.77	1.66	5.50	0.37	0.66	0.28	0.67
NT	0.54	0.33	0.75	1.36	2.38	0.53	0.57	0.19	0.45
Torres Strait.	0.68	n.d.	0.41	0.55	n.d.	0.54	0.40	0.16	0.32

Source: Arthur (1998a).
n.d.= no data

In all States/Territories Mainlanders were far from parity with non-Indigenous people with regard to buying their own homes and as a corollary to this, were heavily dependent on government housing. Regarding tertiary qualifications, the situation was poor in all States/Territories though attendance at tertiary institutions was close to parity in South Australia, Western Australia and the Australian Capital Territory.

In waged-employment, Mainlanders were close to parity with non-Indigenous people in the southern and more populated States but not in Queensland or the Northern Territory. A similar pattern applied for self-employment. They were approaching parity with non-Indigenous people in private sector employment everywhere on the mainland,

but also appeared dependent on public sector employment in all locations except Victoria. (Employment rates were probably overstated by the fact that they included those working in the CDEP scheme and so are not a completely true reflection of the labour force status of Islanders.)

When taken together, the data tend to suggest some connection between location, policy and parity. In this pattern, Mainlanders appeared to be doing best in the southern States such as South Australia and Victoria and least well in the Northern Territory and Queensland. The result in the Northern Territory can be explained by the limited opportunities for socioeconomic advancement there. The situation in Queensland is less easily explained as many Islanders there live in urban settings (as they do in other States) where there *are* opportunities; the data suggest that Mainlanders in Queensland were less able to, or did not wish to, take advantage of these opportunities.

We have noted that the policy environment for Mainlanders was different in Queensland from that in all other States and Territories. Queensland was the only State which took any particular account of Islanders in its policies and programs. This stems from the twin facts that Queensland is the mainlander 'State of origin' and that a significant number of Islanders live there. In all other States Islanders were aggregated with other Indigenous people and were generally ignored by government. The impression gained from the data in Table 7.6 is that Mainlanders remained more dependent on government in Queensland than they were on other State governments on the mainland. Put differently, the data suggest that Mainlanders seemed to be doing less well in Queensland where they received most attention by the State Government and better in the other places where they were largely ignored by State governments and were treated like other citizens. This further suggests that where Mainlanders have become politically autonomous from government they have prospered, at least in standard socioeconomic terms.

I have identified two forms of corporate autonomy that Mainlanders appeared to subscribe to. Both have to do with their political autonomy from Aboriginal people and were associated with their access to economic resources. One form was represented by autonomy from ATSIC. This was rationalised by Mainlanders largely on the basis that they were not able to access their share of the economic resources within the ATSIC

system and was legitimised with reference to their cultural distinctiveness from Aboriginal people. The other form also had to do with autonomy from Aboriginal people but with respect to other Indigenous-specific programs, services and resources. Again Mainlanders felt that because they were not treated as a separate Indigenous group, they were denied access to Indigenous-specific services. They have been unable to legitimise either of these stances to governments. There are several reasons for this. They could not show that they were disadvantaged within ATSIC; they appeared to be doing quite well otherwise socio-economically and so were not seen as problem group requiring special government treatment; and they are a small and dispersed population largely hidden from government view.

Conclusions

Mainlanders cannot easily make a cultural region as they do not reside on their homelands but on Aboriginal lands. The Strait is so obviously an Islander domain while the mainland is so obviously not. Mainlanders aspired to be included in a form of regional autonomy in Torres Strait. They wanted to be part of any regional decision-making system to gain access to Indigenous resources, but also so as to have a say on land matters and on the general direction that Torres Strait might take politically and economically. Despite claims, even from the Strait, of a 'oneness of all Islanders' Homelanders were not enthusiastic about including Mainlanders in the Strait and became less so as the Inquiry progressed (HORSCATSIA Sub 17, TSRA). During the Inquiry and at the 1999 national workshop there was talk of a memorandum of understanding between the Strait and Mainlanders to cover certain matters. By 2001, the paper put forward by the Chair of the TSRA on 'Torres Strait Regional Government' included no mention provisions of Mainlanders (notes from the Eleventh National Workshop 2001). One gains the impression that Homelanders were keen to maintain a political and economic space between themselves and Mainlanders.

Though related to some extent to the above, of greater interest to Mainlanders was a form of autonomy for them as a people, similar to what Ghai (2000: 9, 11) refers to as 'corporate autonomy', or Elkins as 'self-government without a territory' (Elkins 1995; Watts 2000: 40). In this they principally wanted to be treated as a separate group of

Indigenous people. There are Indigenous-specific departments or programs/policies in the States and Territories and I have argued in Chapters 1 and 6 that Indigenous people had achieved a form of corporate autonomy through the former ATSIC. However, in neither of these cases were Mainlanders differentiated from Aboriginal people. They appeared to feel that this had only given them partial corporate autonomy and they desired a fuller autonomy by having their own Commission, programs and services. The principal rationale for such a move was to remove a perceived blockage to funds, services and programs cause by being 'lumped in' with Aboriginal people. This mirrors a long-standing desire to be recognised as a separate Australian Indigenous group discussed in Chapter 4 but could also be related to the Islander trait of not wishing to deal through 'middle-men' who in this case are Aboriginal people (see Chapter 4).

Mainlanders could not legitimise this form of corporate autonomy to government for several reasons. Firstly, as noted, they are a small dispersed and hidden population and so have little political clout. Also, on grounds of purely fiscal efficiency, being such a small, dispersed population made it harder for them to justify their own Commission or bureaucracy. They did not, as did the Homelanders, have the political leverage afforded by being on a sensitive international border (see Chapters 5 and 6). As well as this, any argument for corporate autonomy from Aboriginal people based on cultural distinctiveness was weakened by the fact that some 26 per cent of Mainlanders appear to identify as both Torres Strait Islander and as Aboriginal people.

Further, Mainlanders seemed to be achieving some of the economic goals for which they moved from Torres Strait in the first place. In this they are doing what governments want of Indigenous people, namely improving their socioeconomic status and becoming individually autonomous within mainstream society. In this way, they have been unable to present evidence to governments that they are a problem group requiring separate attention. In fact, the data suggest that as they have disengaged from government and so achieved some political autonomy, they have also gained some greater economic autonomy. Therefore government will see them as something of a success. Establishing a new and separate Islander Commission would therefore be seen as perpetuating or even returning to a form of dependence that governments are keen to break down. Mainlanders made strong representation about autonomy to the Inquiry and to the 1998 and 1999 national workshops. However, workshop themes in 2000 and

20001 have focused on economic development and on health, respectively suggesting that political autonomy has declined in importance for the moment.

Chapter 8
Conclusions

Autonomy has to do with degrees of control rather than total control. Autonomy is also relative to the parties involved and its shape and content will depend on to whom it is to apply. It is an elusive and vague concept that can be better understood if it is broken into some of its constituent elements (Chapter 1). In considering these different elements I have found it useful to make a distinction between the political aspects of autonomy and the economic aspects (political autonomy and economic autonomy).

In considering new states formed in the period of post WWII decolonisation, Jackson adapted Berlin's distinction between negative and positive autonomy to propose a relationship between the political and the economic elements of control. In broad terms, Jackson equated political autonomy with negative autonomy and economic autonomy with positive autonomy. The former represented the power to stop others from interfering in a state's affairs, the latter represented the power for them to be proactive in their affairs. I have followed this general distinction and have considered both the political and economic aspects of autonomy as these might apply to Torres Strait Islanders and to Torres Strait. I also found it useful make a distinction between regional and corporate autonomy, that is, between autonomy for a place and autonomy for a people, respectively (Chapters 1 and 3). Further, I indicated that although it was possible to approach autonomy as a 'right', it was realistic to treat it as a status that had to be negotiated and this led me to consider factors that might legitimise a case for autonomy. These views of autonomy, namely the distinctions between the political and the economic; the regional and the corporate, and the idea that people must legitimize their case for autonomy, have formed my analytical framework for the thesis. The focus has been on autonomy and Australia's Torres Strait Islanders. However, on the basis that autonomy must be legitimized, the views of the non-Islander residents of Torres Strait, the Commonwealth Government, Queensland Government and the Torres Shire were also considered. The data used are from the historical development of the Torres Strait, my research in Torres Strait since 1989, and the submissions to, and meetings surrounding, the Commonwealth Inquiry into autonomy held over 1996-7. Models of

autonomy applying elsewhere, particularly in island situations, were also reviewed (Chapter 3) to consider their applicability and relevance to Torres Strait.

In the remainder of this chapter I will discuss how my approach has furthered an understanding of autonomy as it applies to Torres Strait and Torres Strait Islanders. I also note what this tells us about the issue of autonomy when applied to other Australian Indigenous people.

Despite the fact that a number of Islanders may continually move between the Strait and the mainland, they must be seen as two groups. One group is those Islanders who consider their place of residence as Torres Strait – the group called Homelanders, and the other group is those who reside more or less permanently on the mainland of Australia – the group called Mainlanders. As noted in Chapters 6 and 7, these two groups live in very different social, political and economic circumstances and this results in different notions of autonomy for each of them. In broad terms, Homelanders have been able to legitimize a case for a form of regional autonomy, but Mainlanders have not been able to legitimise that they should be a part of this. Indeed, Mainlanders have been unable to make a case for obtaining any form of autonomy. This is proof of the proposition that a group's social, political and economic circumstances will affect its ability to legitimise, or make a case for, its increased autonomy (Chapter 1). I will discuss the two groups in more detail separately.

Homelanders

Political autonomy

In Chapter 1 I introduced two notions of autonomy, namely corporate autonomy (for a people) and regional autonomy (for a place). Homelanders submitted to the Inquiry that they wanted to be treated by the Commonwealth Government separately from Aboriginal people (Chapter 6). This amounts to a form of corporate autonomy that I have called inter-Indigenous corporate autonomy, where one group of Indigenous people wish to be separated politically from another in their dealings with government (Chapter 6). By the end of the Inquiry Islanders had achieved this status to a large extent. Autonomy from Aboriginal people became a reality when the TSRA's funding was channeled directly from the Department of Finance rather than through the ATSIC

board. The separation between ATSIC and the TSRA continued right up to ATSIC's demise in 2004, when ATSIC's annual reports no longer carried any data about the TSRA or Torres Strait; the principal source of such data had become the TSRA's own annual report. The Queensland Government also conformed to this separation to a degree, installing legislation for Torres Strait separate to that applying to Aboriginal people in the remainder of Queensland. In addition to this, Islanders in Torres Strait were more autonomous than Aboriginal people in their dealings with the Commonwealth Government. The Torres Strait Regional Council was the only ATSIC regional council in Australia that was made an 'Authority' and given powers similar to that of a commission itself (Chapter 6). In addition, unlike any other Indigenous group in the country, Islanders have an 'international personality' as they are formally involved in discussions with PNG nationals over Treaty and border issues. This status was accorded to them by virtue of their location on an international border and also by the somewhat progressive nature of the Treaty in its treatment of the region's 'traditional inhabitants' (Chapter 5). It is notable that Hannum and Lillich (1988) give an 'international personality' as a marker of a peoples' autonomy. I will discuss some of the factors that have helped Islanders achieve or legitimise this status in a later section.

Homelanders also aspired to a form of regional autonomy. In Chapter 3 I looked at models and examples of autonomy including some of those that apply in the islands of the Pacific. I mainly considered examples of sovereignty, free association and territorial status. Sovereignty or political independence has been proposed by Islanders in the past, however, there is little evidence that they now seriously aspire to this status (Chapters 3, 4 and 6). Whatever form of autonomy they may achieve, the evidence is that they will want to remain part of Australia, in part for economic reasons. I argue that this is due in part to their everyday experience with people from PNG; they can see at first hand that since its independence PNG's socioeconomic position has deteriorated while theirs has improved (Chapter 5). In addition, being part of Australia ensures access to its services and its welfare system. Remaining part of Australia allows Islanders to negotiate for the same level of services as that enjoyed other Australian citizens, something that would not be possible if they were an independent state, or a place in free association (Chapters 3 and 6). Indeed, in Chapter 3 we have seen that many Pacific-island-states also wish to retain some attachment to their former colonial

powers for economic reasons (Chapter 3). In any event, it is unlikely that Australia would consider granting complete regional political independence to Torres Strait as it wishes to retain control over the border area, particularly while the political situation in PNG, Indonesia and the Pacific, remains unstable (Chapter 5 and 6).

Similarly, there is little evidence that Islanders aspire to be in free association with Australia. Free association is almost the equivalent of statehood, with the exception that access to the parent country for work is often allowed and the parent state retains control over matters of defence. I suggest that being in free association would make too great a political distance between Islanders and Australia from an Islander point of view. For example it would make it harder for Islanders to argue for their services to be at the same standard as those in other parts of Australia.

The most comprehensive form of regional autonomy discussed by Islanders during the Inquiry was that of an Australian External Territory (Chapters 3, 4 and 6). Several factors make it comparable with other territories that we looked at in Chapter 3. Islands are easy to conceive of as a separate unit (being away from a mainland). In addition, these particular islands are gathered in a fairly narrow strait which forms a natural regional boundary to them. The Queensland Government has always treated the region as an administrative unit and the international border and the attendant Treaty have reinforced this notion (Chapters 4 and 5). The population is not too small to be an impediment, it is larger than New Zealand's Tokelau and larger than all of Australia's present external territories. These features combine to make the concept of regional autonomy as a territory generally plausible. The region has a high rate of economic dependency and the Commonwealth Government view suggested to the Inquiry was that political autonomy for Torres Strait, in the shape of territorial status, would be conditional on a reduction in the level of income from welfare. However, we have also seen in Chapter 3 that this was not a pre-condition for granting political independence to Pacific-island-states nor is it a feature of Australian federalism. Also, of Australia's external territories, only Norfolk Island has been relatively economically self-sufficient, they others are quite economically dependent on government. Thus, improved economic status should not be an impediment to increasing political autonomy in the form of territorial status for Torres Strait. On the other hand, the material in Chapter 3 indicates that territorial status does not necessarily lead to increased economic wealth.

In the case of island territories this has as much to do with their natural resources and their access to markets. Here I should point out that the major natural resource in Torres Strait is its fisheries – this is a renewable but fragile resource with limited potential for expansion.

More problematic to achieving territorial status is the constitutional constraint. To become a Commonwealth territory the Strait would have to be excised from Queensland. This requires approval through a State referendum, and though untested, it is not certain that this would succeed. The Strait is a buffer against the migration of diseases and agricultural pests from PNG and it is likely that non-Indigenous Queenslanders, including those involved in producing fruit and farming livestock, would be nervous about any suggestion that the governments' control over the buffer was lessened through the Strait becoming more autonomous. Similarly, Queensland fishers would be nervous that territorial status would endanger their rights of access to the Strait. I will discuss this further below.

In addition, although I argue that the Strait can be easily identified as a region, the notion of regionalism amongst Islanders is not totally complete and there are some internal divisions. For instance, individual islands seem nervous about relinquishing their own political autonomy to a regional body. An archipelago situated in a strait leads to the notion of a region, but the individual islands also provide their own logic for localism. Thus, the qualities that makes islands easier to identify as units acts both for and against regional autonomy.

Another aspect that acts against regionalism includes the Inner Island/Outer Island distinction and the associated political alignments. The Inner Islands are more of a non-Islander domain than are the Outer Islands. The Inner Islands are, and have historically been, represented by the Torres Shire, the Outer Islands (and the Cape Island communities) by the Indigenous bodies. Similarly, the Inner Islands are the traditional lands of the Kaurareg and their incorporation into a regional grouping with Islanders is not complete. In these ways, the historical, cultural and political geography of the region tends to confound the possibility of a regional political system that can embrace Islanders and all other residents.

A major impediment to achieving territorial status is that Islanders seem unable to conceptualise a political system that would embrace both them and non-Indigenous residents. All levels of government - Commonwealth, Queensland and Torres Shire - seem adamant that a regional model would have to do this (Chapter 6). In addition, all of the territories noted in Chapter 3, including Australia's external territories have systems which do include all of their residents. Therefore, it is extremely hard to see how Islanders can move to territory status or indeed to any other form of full regional political autonomy without finding a way to incorporate all of the region's residents in a regional representative system. This is a major finding of this thesis. The Inquiry's report proposed that this might be handled by including a council of elders acting alongside a democratically elected regional body. This would be similar to the devices in the Pacific that I have characterized as cultural bicameralism (Chapters 1 and 3). Islanders by-passed this issue when proposing territorial status to the Inquiry as they have done in their subsequent proposal for a TSRA Bill. All of these features act against the possibility of achieving full territorial status. The form of regional political autonomy that Islanders appear to have in mind in the immediate future would be a 'regional-Indigenous' autonomy, limited to forms of representation and to control of government funding and services that apply only to Indigenous people (Chapter 6).

Economic autonomy

Taking the view that participation in the formal economy is part of economic autonomy, then Islanders have some economic autonomy through their participation in commercial fishing. This form of autonomy is largely individual, as fishers operate to all extents and purposes as self-employed people. This has been facilitated to a degree by their history of involvement in the marine industry. Other factors are also important here. One is the nature of the past and present fisheries, in particular their relatively high profit margins, and their in-shore nature (Chapter 6). Another is that it is easier for a fisher society to maintain its links with its marine economy during the process of colonisation. Or, put another way, it is harder for colonizers to separate fishers from their means of production. Though Islander life was disrupted by colonisation, this process exploited the sea not the land, leaving Islanders more or less in possession of their islands and their waters (Chapters 4 and 6). In the contemporary period the Treaty has given Islanders preferential access to the fisheries. This has been further boosted by the welfare regime of CDEP as this provides a form of regional subsidy for Islander

involvement in the fishing industry (Chapter 6). This welfare regime has other benefits such as allowing Islanders to reside in the Strait despite the low level of formal employment there. The articulation of the welfare system and the marine economy can be said to provide Islanders with a form of welfare autonomy. This would be a different interpretation of the situation from that suggested by welfare colonialism, as discussed below (Chapter 6).

In the past and during the Inquiry, Islanders indicated the desire for increased control over fisheries, a form of economic autonomy. The Treaty has given Islanders some degree of control in the marine economy through the structures of the PZJA. Recent developments have seen Islanders increase their levels of representation in the PZJA, but this has been coupled with increased tensions between Indigenous and non-Indigenous fishers regarding access to the fishery. An additional dimension to this tension is that it includes non-Indigenous residents and non-residents. By early 2005 the tension between Indigenous and non-Indigenous fishers had reached a critical state and the PZJA had put in place a process to help resolve the issue; at the time of writing it was unclear what the outcome will be. However, it seems very likely that Islander notions of increased economic autonomy in Torres Strait in the future will centre on increasing their control over the marine resources. Although this may well have an inter-island dimension it is predominantly an Indigenous/non-Indigenous issue. This suggests a difference and a possible contradiction between Islander notions of political and economic regional autonomy. That is to say, whereas the political autonomy might have only Indigenous representation and cover Indigenous funding issues (be Indigenous-specific); the notion of economic autonomy would include control over non-Indigenous fishers and their fishing. This takes economic autonomy out of an Indigenous-specific domain. We can imagine that non-Indigenous interests would be relatively sanguine about Islanders having more autonomy over Indigenous programs policies and funding, simply because these are Indigenous already. They would be less sanguine about Islanders having control over fisheries as this is not an Islander-specific resource, but a shared or common resource. As discussed above and in Chapter 6, Islanders are playing an increasing role in fisheries management but this occurs alongside non-Indigenous fishers and the relevant government agencies; that is to say, in a system of co-management. Suffice to say that any form of economic autonomy that includes full Islander control over the natural resources is qualitatively different from

one that is based on them having more control over Indigenous funding and programs. Indeed, the former is akin to the degree of economic control enjoyed by the citizens of small Pacific-island-states (Chapter 3) and would be unlikely to result unless Islanders and non-Islanders were part of the same regional political structure, as noted earlier (Chapter 3).

If Islanders and non-Islanders are not included in the same political structure, a more likely scenario for the control of fisheries might be one similar to that found in New Zealand and as discussed in Chapter 3, where *Maori* were granted a quota or allocation of the national commercial fishery. This agreement was based on the *Treaty of Waitangi*, and while different in its format and logic from the Torres Strait Treaty the latter may well provide some leverage for Islanders to increase their control of the fishery further. Islanders now commonly table the Treaty as a way of legitimising their claims to the fishery. However, we should note that the *Maori* solution formed part of an agreement in which the *Maori* agreed to give up further claims to the fishery, and they were granted an allocation, not the rights to the entire fishery.

Summarising the above, Homelanders appear to aspire to a form of regional political autonomy that might be Indigenous-specific but to a form of economic autonomy that would give them control over the whole fishery. None of the models in Chapter 3 embrace these features, and it is not easy to see how they could be easily accommodated within a Commonwealth territory model. However, it may be a mistake to place too much emphasis on the present models. It may be more appropriate for Islanders and governments to consider approaches that suit the fairly unique circumstances of the Strait. Thus, Islanders could continue to develop a form of regional political autonomy even if this is limited to forms of Indigenous-specific representation. At the same time they can utilise the power of the Treaty to negotiate greater control over or a share of the fishery.

Mainlanders

Mainlanders aspired to two forms of political autonomy. They wanted to be part of a regional autonomy with Homelanders and they also wanted a form of corporate

autonomy. They have been unable to legitimise a place for themselves in either form. Others, as noted in the examples from the Pacific in Chapter 3, have utilized devices that allow 'migrants' to have a say in homeland affairs but despite appealing to a sense of oneness with Mainlanders, Homelanders now exclude Mainlanders from any considerations of regional autonomy. Mainlanders made a forceful case for being included in the region but were unable to ligitimise this. In 1994 Jeremy Beckett proposed that to be an Islander – even on the mainland – one must have an island, and to have an island one must own a piece of it (Chapter 7). This has some resonance here, but I would add that to gain a voice in regional affairs, Islanders must reside in the Strait (Chapter 7). For the purposes of local decision-making, Homelanders tend to view Mainlanders as people who have left the Strait as far as regional autonomy is concerned.

Prior to the Inquiry, Mainlanders had a degree of representation separate from Aborigines, principally through OTSIA, TSIAB, and Mainlanders' own organisations (Chapters 4 and 7). However, they aspired to a greater autonomy that would have increased this separation, in the shape of their own Islander Commission. As noted above, this is a form of inter-Indigenous-corporate autonomy, and although political, for Mainlanders it has an economic rationale (Chapter 7). To be more precise, Mainlanders felt they were disadvantaged economically by having to compete for Indigenous-specific resources within the former ATSIC regional councils (Chapter 7). They felt that having their own Commission would rectify this.

The Commonwealth and Queensland Governments appeared unsympathetic to the aspirations of Mainlanders for this, or indeed any other form of autonomy. There are several reasons for this. Mainlanders are a tiny part of the Indigenous population, they are quite widely dispersed and so are largely invisible to governments. Also, although they are culturally active in dance performance, this is likely to reinforce the notion to others that they are from another place, Torres Strait as much as it is likely to legitimise autonomy from Aboriginal people. In addition, they are doing relatively well by the standard socio-economic measures. In this they appear to be achieving what they wanted by moving to the mainland (a form of economic autonomy), and are doing what the government wants in general for Indigenous people (obtaining jobs and accessing services like other people) (Chapter 7). These factors combined to make it impossible

for Mainlanders to legitimise a case for greater autonomy, even if only from Aboriginal people.

Legitmisers

I have pointed out that Mainlanders have been unable to legitimise a case for greater autonomy while Homelanders have been more successful. The position of Homelanders is, in part, due to the nature of the Strait and their particular relationship to it. I have already noted the features that help legitimise the Strait as a region. Several factors also combine to identify Islanders with that region. They are the majority of the population and they share the region's name, a highly symbolic link (Chapters 3 and 5). They have been classified as Australia's Melanesian people and despite being suffused with numerous South Sea Islander traits; they can present to the rest of Australia a fairly unique regional culture *Ailan Kastom,* which includes Creole as a regional lingua franca. In addition, the Treaty identifies them officially as the region's 'traditional inhabitants' and they are able to self-identify as borderlanders (Chapter 5 and 6). All these features help legitimise connections between the Indigenous people and that region and so help to make plausible the notion of regional-Indigenous autonomy. However, international borders and their surrounding borderlands are politically sensitive regions, making governments nervous about their security. Thus while the border with PNG helps make the region; it also probably inhibits the transfer of full control to the region (Chapters 5 and 6). This would apply whether Torres Strait Islanders lived in the region or not.

The conjunction of place and people makes regional-Indigenous autonomy for Torres Strait much more logical than that for Mainlanders and for other Indigenous people on the mainland. That is to say it *legitimises* it. Features do not apply and compound in same way in other regions of Australia, making regional autonomy unlikely or harder to achieve elsewhere. Homelanders are able to legitimise their case for some political autonomy based on a unique combination of regional conditions. Other Indigenous Australians will find it hard to replicate all or many of these. The fewer legitimising elements they can identify, then the less likely will be their chance of obtaining some form of regional autonomy. Homelanders have achieved some political and economic

autonomy at the regional level. However, in Torres Strait the economic aspect of autonomy is very much a feature of the unique marine resource, and the functions of a benevolent Treaty. It is not easy to see how other Indigenous people are so well placed to achieve the same level of economic autonomy as these conditions do not apply elsewhere. Thus, although others may be able to gain some form of regional political autonomy, it is less likely they will be able to gain economic autonomy. This leads me to some concluding comments about the approach of negative and positive autonomy.

Negative and positive autonomy

Jackson's application of the concepts of negative and positive autonomy focused very much on the fact that many politically autonomous states (often small, Pacific-island-states) have remained economically dependent on larger wealthy states, resulting in the so-called MIRAB economies (Chapter 3). As we have seen in Chapter 3, this situation of economic dependency applies not only to small island states but also to those places in free association and to those that are territories. In these places, political autonomy, in the shape of having the power to make decisions, has not automatically led to economic autonomy (Chapter 3). In Chapter 1 we noted that the work of Cornell in the USA suggested that certain conditions were necessary for the economic development of American Indian groups. One of these conditions was the ability of the groups to make their own decisions, or, to have political autonomy. However, this was a necessary but not a sufficient condition for economic development, or, autonomy. Were Torres Strait to become more politically autonomous, it is not a given that it would necessarily develop more economically and become less economically dependent, or put another way, become more economically autonomous (Chapter 6). Apart from government transfers, the Torres Strait regional economy is dominated by commercial fishing which is a renewable but limited resource and one that is easily over-exploited. Being far from markets, and with relatively high labour costs, the Strait has, like many of the archipelagoes noted in Chapter 3, a poor competitive advantage in other fields. Therefore, Torres Strait would seem to fit Jackson's thesis: it may obtain negative autonomy in the form more political autonomy, but not positive autonomy in the form of economic autonomy.

It is not uncommon when analysing the political and economic relationships between Indigenous people and the governments of settler-states, to focus on the notion of welfare colonialism. Welfare colonialism is the idea that a high, though unspecified, level of dependence on welfare by Indigenous people results in a power relationship, possibly unintended, with settler-state government(s) that mirrors the one that existed in the earlier colonial period. That is to say, the government, because it controls welfare funding, continues to control many other aspects of Indigenous people's lives as it did in the colonial period. Thus, like negative and positive autonomy, welfare colonialism suggests a relationship between economic and political status. However, welfare colonialism tends to present this relationship as an absolute; that is, welfare (economic) dependency *is* welfare (political) colonialism. In this way welfare colonialism dissuades any investigation of the relative relationship between dependency and autonomy. Jackson's application of negative and positive autonomy opens up other analytical possibilities.

Although Jackson is somewhat critical of the dependent nature of small states, his approach does highlight that two forms of autonomy–the negative (the ability to stop people interfering with one, politically) and the positive (the ability to be pro-active, economically)–can exist side by side. Indeed it allows that people may have some political autonomy while they are also economically dependent. This leads to a more open ended and non-deterministic investigation of the political and economic aspects of life. This approach has allowed me to explore levels of both political and economic autonomy as these might coexist. In doing this I have found that alongside some dependence on government welfare, Islanders have achieved some economic *and* some political autonomy. What is more, there is the suggestion that judicious use of the welfare regime, in particular the CDEP, allows Islanders some economic advantage or, indeed, some welfare autonomy, although this is assisted by the nature and accessibility of the local marine resource and the facility of the Torres Strait Treaty.

I have argued that greater autonomy is something that has to be negotiated and I have highlighted certain conditions which I believe have allowed Islander to legitimise, or not as the case may be, these negotiations. In this regard, although it has been useful to characterize autonomy as either for a people or a place, it is necessary to consider both

people *and* place in any analysis. Similarly, dividing the concept of autonomy into its political and economic components has proved a useful analytical device.

Appendix A: Glossary of terms and abbreviations used

ABC	Australian Broadcasting Commission
ABS	Australian Bureau of Statistics
ACC	Aboriginal Coordinating Council
ADC	Aboriginal Development Commission (Commonwealth Government)
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AIB	Aboriginal Industries Board (Queensland Government body)
AFMA	Australian Fisheries Management Authority
AQIS	Australia Quarantine and Inspection Service
ATSIC	Aboriginal and Torres Strait Islander Commission
BPC	British Phosphate Commissioners
CAEPR	Centre for Aboriginal Economic Policy Research (ANU)
CAR	Council for Aboriginal Reconciliation
CDEP	Community Development Employment Projects (Commonwealth program)
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DAA	Department of Aboriginal Affairs (Commonwealth Government)
DAIA	Department of Aboriginal and Islander Advancement (Queensland Government)
DDRP	Draft Declaration on the Rights of Indigenous Peoples
DFAT	Department of Foreign Affairs and Trade
DIMA	Department of Immigration and Multicultural Affairs
DNA	Department of Native Affairs (Queensland Government)
DOGIT	Deep of Grant in Trust
EEZ	Economic Exclusion Zone
FSM	Federated States of Micronesia
HORSCATSIA	House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs
HREOC	Human Rights and Equal Opportunity Commission
ICC	Island Coordinating Council (Queensland Government body)
IDC	Interdepartmental Committee (Commonwealth Government)
IIB	Island Industries Board (Queensland Government body)
ILC	Indigenous Land Corporation
JAC	Joint Advisory Council
LGC	Local Government Council
LMS	London Missionary Society
NAC	National Aboriginal Conference (Commonwealth body)
NT	Northern Territory
NTRB	Native Title Representative Body
OEA	Office of Evaluation and Audit
OTSIA	Office of Torres Strait Islander Affairs
PIL	Papuan Industries Limited
PNG	Papua New Guinea

PZJA	Torres Strait Protected Zone Joint Authority
QMS	Quota Management System
RC	Regional Council of ATSIC
SBS	Special Broadcasting Service
SDA	Service Delivery Agreements
SSI	South Sea Islander
TRAWQ	Tamwoy, Rosehill, Aplin, Waiben, Quarantine
TSA	Torres Strait Authority
TSAC	Torres Strait Advisory Council (Queensland Government body)
TSC	Torres Shire Council
TSIAB	Torres Strait Islander Advisory Board
TSIMA	Torres Strait Islander Media Association
TSLI	Torres Strait Light Infantry
TSRC	Torres Strait Regional Council
TSRA	Torres Strait Regional Authority (Commonwealth body)
TUP	Torres United Party
UK	United Kingdom
UN	United Nations
USA	United States of America
USSR	Union of Soviet Socialist Republics
WGIP	Working Group on Indigenous Peoples
WWI	World War One
WWII	World War Two

Appendix B: A note on the population data for Torres Strait Islanders

In the 1996 Census, and for the first time, Indigenous people were given the opportunity to identify (a) as an Aboriginal person (b) as a Torres Strait Islander and (c) as someone who identifies as both a Torres Strait Islander *and* as an Aboriginal person. For the purpose of analysing the census data, groups (b) and (c) are combined as 'Torres Strait Islanders'.

The Torres Strait Islander 1996 population is distributed across the country as shown in Table A1. More than half of all Islanders live in Queensland. Of all Islanders, 77 per cent live in just two States, Queensland and New South Wales. The number living in all other States/Territories is very small and this factor influences the quality of the data. As an example of this, the 1994 National Aboriginal and Torres Strait Islander Survey (though a sample survey not a census) could confidently produce data only for those Mainlanders in Queensland (see Arthur 1997a).

Table A1. Distribution of Torres Strait Islanders in the States/Territories of Australia, 1996 (1)

State/Territory	Number	Per cent
Queensland (Torres Strait)(2)	5,741	19
Queensland (mainland)	11,633	39
New South Wales/ACT	5,595	19
Victoria	2,591	9
Tasmania	1,516	5
Western Australia	1,102	4
South Australia	1,161	4
Northern Territory	743	2
Australian mainland	24,341	81
Australia total	30,082	100

Source: Australian Bureau of Statistics (ABS) Census, 1996.
Note:
(1) Those who identified as both Torres Strait Islander and Aboriginal have been allocated to each group on a pro rata basis.
(2) Within the jurisdiction of the TSRA.

Although the 1996 Census revealed a population of 1,516 Torres Strait Islanders in Tasmania, it is thought that not all of these people are Torres Strait Islanders, and some may be be descendants of Aborigines who were relocated to the islands off the north-east coast of Tasmania in the early 19th century. (For example, Aboriginal people were moved to Cape Barren Island under the *Cape Barren Island Reserve Act 1912*.) These people often refer to themselves, and have been referred to in government policy, as 'Straitsmen' or 'Islanders' and it is thought that they are incorrectly marking the 'Torres Strait Islander' box on the census forms (Arthur 1997a: 30). Data problems may not, however, be limited to Tasmania. During a survey of Mainlanders in 1997 (see Arthur 1998a) a prominent Mainlander in South Australia suggested that the census estimates of Islanders in that State were inflated. Concerns about the accuracy of population numbers are not new. In 1987 Beckett noted that:

There is no doubt that there are sizeable numbers in Western Australia and the Northern Territory, but the large populations 'discovered' in the major urban centres of New South Wales and Victoria are problematic. According to Islanders I have questioned, Townsville and Cairns, the original points of entry, remain the principal centres (Beckett 1987: 180).

An additional concern regarding the data is the high rate of increase of the total Islander population, from around an estimated 4,000 people in 1956 to almost 31,000 in 1996. This has been represented by large and erratic increases over the last few censuses. For example, there was an increase of 40 per cent between 1981 and 1986; of 25 per cent between 1986 and 1991; and of 12 per cent between 1991 and 1996. Some of the increase may be due to the errors in self-identification noted above. On the other hand, some of the increase could be the result of intermarriage between Mainlanders and other people, including Aboriginal people. This possibility is supported by the data for whereas in Torres Strait only 6.3 per cent of people identified as both Aboriginal *and* Torres Strait Islander while across the mainland the average was almost one-third, varying from 18.5 per cent in Victoria to 60 per cent in the Northern Territory.

Appendix C

Table C.1 Part-ancestral origins of a selection Torres Strait island populations

Torres Strait island	Part origin
Darnley	Vanuatu, Solomon Islands, Cook Islands, Niue Island, Rotuma Island, New Caledonia, Lifu Island, Malu Island, Fiji, Malaysia,
Yam	Vanuatu, Rotuma Island, Tanna Island
Mabuiag	Vanuatu, Eastern Samoa, Tanna Island, Pitcairn Island
Yorke	Vanuatu, Tanna Island, USA
Badu	Vanuatu, Eastern Samoa, Western Samoa, Ware Island, Mare Island, Tanna Island, Indonesia
Saibai	Vanuatu, Aoba Island
Hammond	Malaysia, Philippines
Stephen	Lifu Island, Philippines
Murray	Western Samoa, Rotuma Island, Lifu Island, Jamaica
Coconut	New Caledonia, Scotland
Thursday Island	Niue Island

Source: A notice on Thursday Island TAFE College notice board, 1992; Wilson (1988).

Appendix D: The Inquiry structure

The Inquiry took a total of 44 written submissions and held 28 public hearings. Some witnesses made submissions and also attended hearings while others only attended hearings. The evidence from the submissions is contained in documents prepared by the Inquiry committee and these are referenced as (HORSCATSIA, Sub No.) in the thesis. The evidence from the hearings was documented by Hansard and is referenced as (Hansard).

In Torres Strait, two large public hearings were held on Thursday Island, and 18 other submissions and hearings produced evidence from the Outer Islands and the Torres Strait Regional Authority (TSRA). Mainland Torres Strait Islanders from Cairns, Brisbane, Townsville, Alice Springs, Broome and Canberra also made submissions and gave evidence at hearings. Therefore, given the population distribution noted in Chapter 2, Islander views were quite well represented, at least geographically.

However most of the evidence from Islanders was from organisations, island communities, the TSRA and the TSIAB and only three submissions were from private individuals. This is a significant point as - especially on the mainland – it is not clear how representative the Islander organisations are. Research has shown that some Islander organisations are relatively new and that many have a very small membership (Arthur 1998a). This has led to them being described in the past as family based, and even Island based organisations (Beckett 1987). Indeed some Islanders question their representativeness. In a letter to the Torres News in October an Islander resident of Cairns said:

The members of these organisations are more or less family oriented…The number of memberships in these organisations barely has a total of 100 plus. I think the representatives speak for itself regarding the *lack of* representation (sic) (emphasis in original) (Torres News 9-15 October 1998).[1]

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[1] Similar comments about the nature of the representativenes of Islander 'leaders' appear to have been made at an independence meeting on Thursday Island in 1988 (see Kehoe-Forutan 1988: 24). The suggestion was made that this may be a feature of Islander cultural political processes. However, it may also be due to the generally limited formation of Islander political life where 'political expertise was esoteric to an Islander elite ostracizing most Islanders from the political process' (Beckett 1987: 200).

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HORSCATSIA Sub 9, Murray Island
HORSCATSIA Sub 10, Mr. Akee, Townsville
HORSCATSIA Sub 11, Yam Island
HORSCATSIA Sub 12, Townsville-Thuringowa Torres Strait Islander Action Group
HORSCATSIA Sub 13, Senator John Herron, Minister for Aboriginal and Torres Strait Islander Affairs (Commonwealth)
HORSCATSIA Sub 14, AQIS (Australian Quarantine Service) Canberra
HORSCATSIA Sub 15, Erub (Darnley) Island
HORSCATSIA Sub 16, Murray Island
HORSCATSIA Sub 17, TSRA (Torres Strait Regional Authority) Thursday Island
HORSCATSIA Sub 20, Professor Jon Altman, Director, Centre for Aboriginal Economic Policy Research, Australian National University.
HORSCATSIA Sub 22, Saam Kerem, Broome
HORSCATSIA Sub 23, Australian Defence Force, Canberra
HORSCATSIA Sub 25, CSIRO (Commonwealth Scientific Industry Research Organisation)
HORSCATSIA Sub 26, Erub (Darnley) Island
HORSCATSIA Sub 28, Attorney-General (Commonwealth) Canberra
HORSCATSIA Sub 29, TSC (Torres Shire Council) Thursday Island
HORSCATSIA Sub 30, Queensland State Government, Brisbane
HORSCATSIA Sub 32, ATSIC (Aboriginal and Torres Strait Islander commission) Canberra
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HORSCATSIA Sub 36, Townsville Torres Strait Islander Community, Brisbane
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