

**Indigenous autonomy in Australia:
Some concepts, issues and examples**

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Abbreviations and acronyms

ABS	Australian Bureau of Statistics
AGPS	Australian Government Publishing Service
AIAS	Australian Institute of Aboriginal Studies (now AIATSIS)
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ALRC	Australian Law Reform Commission
ANU	The Australian National University
ATSIC	Aboriginal and Torres Strait Islander Commission
CAEPR	Centre for Aboriginal Economic Policy Research (ANU)
CAR	Council for Aboriginal Reconciliation
CMB	Community Management Board (Tiwi Islands)
COA	Commonwealth of Australia
CWP	Community Working Party (Murdi Paaki)
HORSCATSIA	House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs
HREOC	Human Rights and Equal Opportunity Commission
ICC	Island Coordinating Council (Torres Strait)
NARU	North Australia Research Unit (ANU)
NTA	Northern Territory of Australia
NTG	Northern Territory Government
OTSIA	Office of Torres Strait Islander Affairs
PZJA	Protected Zone Joint Authority (Torres Strait)
RC	Regional Council (ATSIC)
RSPAS	Research School of Asian and Pacific Studies (ANU)
RSPS	Research School of Pacific Studies (now RSPAS)
RSSS	Research School of Social Sciences (ANU)
SPRC	Social Policy Research Centre (UNSW)
TIRCC	Tiwi Islands Regional Coordinating Committee
TSIAB	Torres Strait Islander Advisory Board
TSRA	Torres Strait Regional Authority
TSRC	Torres Strait Regional Council
UNSW	University of New South Wales

Summary

This paper explores the concept of autonomy as it might apply to Aboriginal and Torres Strait Islander people. Literature dealing with the concept of autonomy is considered and several analytical approaches are discussed. Principal amongst these are the distinction between corporate autonomy for a people and regional autonomy, whether autonomy might apply to only Indigenous people or to all people in a region, and the possible relationship between political and economic factors. Although autonomy may be considered as a right, the paper takes the view that it is a status which has to be negotiated with the state, and so requires legitimisation.

With these principles in mind, the concept of autonomy is discussed at the national level and in four regions: Torres Strait, the Tiwi Islands, the Miwatj region in Arnhem Land, and the Murdi Paaki ATSIC region in New South Wales. These examples suggest that Indigenous people perceive autonomy as something that would apply to largely to Indigenous-specific services; only in Torres Strait is consideration being given to a form of regional autonomy that might apply to issues relating to all of the people in the region. The example of Murdi Paaki in New South Wales suggests that in the more heavily populated regions of the country Indigenous people may well view autonomy in terms of devolving more economic power to the regions within the ambit of the ATSIC system.

In general, the examples suggest that Indigenous views of economic autonomy include increased control over Indigenous-specific funding. The only exception to this is in Torres Strait where one goal is greater Indigenous control of local fisheries. There is a significant point of divergence between Indigenous and government views of the economic aspects of autonomy, with governments considering political autonomy as something that might result in a reduction in welfare costs either through greater regional efficiencies or through increased Indigenous participation in the market economy.

The paper suggests that the concepts of negative and positive autonomy may be useful in the Australia context as they may help illustrate that a particular form of autonomy is possible even when there is continuing economic dependence on the welfare system.

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Introduction

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 is '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 Indigenous people are found primarily in academic works (see for example Coombs 1993; Tonkinson & 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 Queenslanders, are accustomed. And one in which a quite remarkable level of autonomy has been achieved (Fisk 1974: 3).

Autonomy for Torres Strait Islanders was also the focus of a parliamentary inquiry (henceforth the Inquiry) and a subsequent report (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA) 1997) entitled *Torres Strait Islanders: A New Deal* (henceforth: *New Deal*). This Inquiry and events surrounding it have been the subject of several pieces of research (see Sanders 2000; Sanders & Arthur 2001). In addition to this, the Aboriginal and Torres Strait Islander Commission (ATSIC) has explored how the notion of autonomy might apply to Indigenous people on the mainland of Australia (see ATSIC 1993, 1995, 1998, 1999; Djerrkura, Bedford & Williams 2000). However, though autonomy has at times been equated with the notion of self-determination (see ATSIC 1995: 24, 25) it has not been subject to a great deal of analysis in this context and its meaning has remained unclear. This paper aims to redress this by first discussing some conceptual issues associated with autonomy and then by applying these to Torres Strait, to the Tiwi Islands and Miwatj in the Northern Territory, and to the Murdi Paaki region in New South Wales.¹

Approaches to autonomy

Despite the fact that it has been used by the United Nations since 1945, the concept of autonomy has no standing in international law (Hannum & Lillich 1981: 215, 249). It has no reliable theoretical base and 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 & 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 make autonomy a difficult concept to pin down and to operationalise (Hannum & Lillich 1981: 215, 249, 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 & Lillich 1981: 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 & Lillich 1981: 249). Thus, autonomy is not an absolute but a relative status (Stavenhagen 1994: 27; Tonkinson & Howard 1990: 68) opening up the possibility of power-sharing and of ‘internal self-government’ within a state (Ghai 2000: 1–2; Hannum & Lillich 1981).

Negotiation and legitimation

It is possible to view autonomy as a right (Watts 2000: 37).² ATSIC has 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 is a central aspect of ATSIC’s current corporate plan (ATSIC 2001: 2).³ 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. However, no matter how morally valid such an approach might be, it does not necessarily make the concept much clearer or lead to strategies and practical outcomes.

In any event 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).⁴ 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 & Elliott 1992: 48). 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). That is to say, they will each 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 & Regan 2000: 242).

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 & Arthur 2001). For instance, if it is to apply only to Indigenous Australians 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 & Lillich 1981: 248). Indigenous people can be considered as one group or 'one people'.⁵ They do however also form smaller groupings according to criteria such as language, community of residence, or kinship and family. Though they may seek autonomy at these various levels, there can be considerable tension amongst them over who should control what (Martin 2001; Martin & Finlayson 1996). The focus of this paper is 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 & Lillich 1981: 253; Sanders & 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 represent this form of autonomy as it receives and administers funds for national Indigenous-specific programs. These include programs for business development, land and native title, law and justice, women's issues, home ownership, and housing and infrastructure. To increase this form of autonomy, ATSIC would have 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 run counter to a recent trend which has 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.

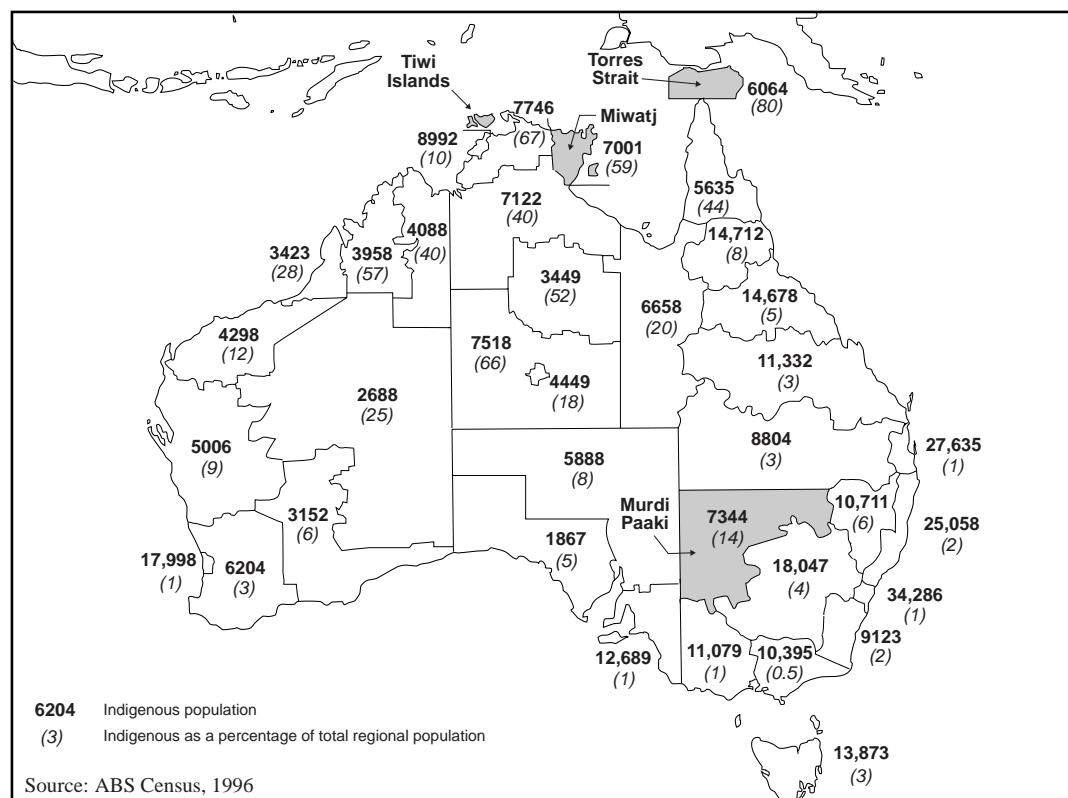
Although ATSIC can be considered as one manifestation of corporate autonomy, another might be greater or special political representation. It has been suggested that this could be achieved through reserved seats in parliament, possibly following the New Zealand example with respect to Maori.⁶ ATSIC has proposed that: 'The Commonwealth Government should investigate the possibility of reserved seats in the Australian Parliament by commissioning a report on how this can be achieved' (ATSIC 1995: 50).⁷

However, such a proposal would also need to clarify the scope of this form of representation. For instance, would the role of such representatives be to discuss all of the affairs of parliament, or only those relating specifically to Indigenous people? ATSIC has proposed that (as an interim stage towards reserved representation) their Chair should have observer status in parliament with the ability to 'speak to either house on Bills affecting *Indigenous interests*' (ATSIC

1995: 51; emphasis added). This suggests that a form of corporate autonomy based on reserved representation might only apply to Indigenous-specific issues.

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

Fig. 1 The Indigenous population by ATSI Region, 1996



Another form of the above might be a bicameral system where Indigenous representatives make up a separate house or chamber located within the national parliament.⁸ Such a system might be described as ‘cultural bicameralism’ in as much as it would be a dual system of representation, one part of which was restricted to a specific cultural group such as elders or traditional land owners.⁹ Forms of cultural bicameralism can be found in the South Pacific, for example in the Cook Islands, Vanuatu and Fiji. An issue would be whether these representatives are democratically elected or selected in some way. It is unclear

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 & Arthur 2001). Torres Strait Islanders have argued for their own legislation and to be separate from ATSIC.¹⁰ The arguments for this autonomy, which have been legitimised largely by cultural difference, have been successful in Torres Strait but not outside it (Arthur 1998; Sanders and Arthur 2001). This matter is discussed further below.

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 the another to all of the residents. Which of these might apply will hinge on a number of factors, such as demography (Fleras 1999: 198). Any form of regional autonomy will depend on the delineation and legitimisation of a region and some regions are easier to delineate than others.¹¹ 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.¹² Geopolitical factors, such as an international border, can also help describe a region (see Arthur 2001a).

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 & Lillich 1981). 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 ATSIC Regional Councils.

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, 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 & Lillich 1981: 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).

The foregoing discussion suggests that regional autonomy requires the 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 affairs within a region. This could be termed Indigenous-specific regional autonomy. Again, it can be argued that ATSIC already represents this form of autonomy: the country is divided into 36 ATSIC regions, each with an elected Regional Council (RC) which has responsibility for certain Indigenous-specific matters, finances and resources within its region.¹³ That is to say, the RCs have a degree of autonomy over their regional expenditures and matters. Because Indigenous-specific regional autonomy applies only to Indigenous people, it is independent of demography. ATSIC RCs exist in all areas, even those where Indigenous people are a fraction of the total population.

However, the degree of this form of autonomy is probably highly variable due to demography and circumstances. For instance, a large proportion of Indigenous people live in regions on the eastern seaboard (see Fig. 1) which, compared to the less populated areas, have a high standard of services, and so have correspondingly small ATSIC budgets.¹⁴ For example, per capita program expenditures vary from between a low of \$734 in the Sydney region to a high of \$13,529 in Warburton, Western Australia (see Fig. 2). Generally we can see that where Indigenous populations are high—in cities and along the eastern seaboard—expenditures are low. Conversely where populations are low—in the centre and the north—expenditures are 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 be more significant for RCs in the north and centre, where expenditures are highest, than it is for RCs in the east and south.

In addition, although each RC has its own budget, control over a large proportion of regional funds is held by ATSIC's national office so that RCs only have discretionary powers over around 14 per cent of their funding (Djerrkura, Bedford & Williams 2000). Increasing Indigenous-specific regional autonomy in this case might include increasing this proportion. Such a change is largely an internal matter for the ATSIC system and would need to be negotiated between RCs and the ATSIC national office and Board of Commissioners. Such negotiations are already taking place (see Djerrkura, Bedford & Williams 2000) and are discussed below.

ATSIC is 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. A form of bicameralism within the Indigenous domain might provide a way of accommodating more than one class of voter (see Sutton 1985).

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 equate most closely with the notion of regional self-government. As noted at the beginning of this paper, 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 & Lillich 1981; 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 border control.

Cultural:

- the ability to adopt or include some cultural practices.

Economic:

- local decision making about federal 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.

Political considerations

If we assume that the rationale behind such autonomy is to give Indigenous people greater control over the region and if, as argued earlier, this has to be negotiated, then it would seem necessary for Indigenous people to legitimise 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). 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).

Under the system of local government elections, Indigenous people could notionally gain control of a region if they were the majority of the population.

However, taking the 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 (Fig. 1). Of course, it is possible to change the demographic ratio by changing the regional boundaries and this is discussed below with respect to the Tiwi in the Northern Territory.

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 & Lillich 1981: 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. 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 other groups which common usage associates with a distinct cultural region and territory (see below).

Indigenous people might also be able to legitimise to the state and 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. 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 2001a).

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.

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 & Lillich 1981: 247). 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 (ALRC 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, forthcoming). 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 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 paper, it may also be the case that culture is 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 & Sanders 1996). One view of this relationship is that forms of political autonomy may lead to economic advancement (Australia Institute 2000: vii; Courchene 1993). However, there is little or no evidence for this correlation. 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 & Elliot 1992: 46, 47), nor has political autonomy per se led to the economic advancement of many post-colonial states.

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 Parliamentary Inquiry (HORSCATSI 1997, and see below). 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 and that indeed characterised Australia's approach to Papua New Guinean independence in the 1970s (see Parker 1971). However, this general stance was later invalidated by UN Resolution 1514 of 1960 (Lemon 1993) and seems less sustainable today. For instance, it is not a condition or requirement placed on any of Australia's External Territories.

The goal of central governments in granting political autonomy can be a reduction in the level of regional dependency on government funding (Fleras & 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 rates often do not apply on indigenous land. 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. In fact 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 government rather than becoming too autonomous (Beran 1994; Fleras 1999: 221, 224; Hannum &

Lillich 1981: 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 autonomy describes a situation where people have the power to stop others, such a government or its bureaucracies, interfering in their affairs and actions (Crocker 1980: 1; Galipeau 1994: 88–92). Positive autonomy meanwhile is defined more by what people can actually do for themselves (Crocker 1980: 2); it is about having the power to take actions and to be proactive (Galipeau 1994: 88, 104; Jackson 1990: 29). This distinction has been applied to an analysis of post-colonial states, confirming that while these have gained political independence they have become economically dependent on international aid (Arthur 2001b). This is because, although the international community can give them political autonomy, it cannot give them economic power (Jackson 1990: 21). This in turn is because economic power depends on resources and access to markets and not on political or moral will (Jackson 1990: 30). Thus, although these states are relatively free from political interference from others, they have only a limited ability to be proactive in their development and they remain economically dependent on outside aid. That is to say, they have negative autonomy but not positive autonomy.¹⁵ 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. In addition, 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 can be characterised as a form of welfare autonomy (Arthur 2001b).

The discussion so far suggests at least three principal types of autonomy for indigenous people:

- 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 under indigenous control.

Intersecting all of these are the notions of negative and positive autonomy which may provide a useful way of considering the economic aspects of autonomy.

The conditions under which these forms of autonomy might prevail are likely to be quite different. The next section of the paper discusses four regions where Indigenous autonomy has been considered. These are Torres Strait, the Tiwi Islands and Miwatj in the Northern Territory, and Murdi Paaki ATSIC Region in New South Wales (see Fig. 1). Most attention is given to exploring to whom autonomy might apply and what it might include, by examining the way regions and regional bodies are constituted and legitimised.

Torres Strait.

Torres Strait as a region

Several factors help delineate Torres Strait as a distinct region. First it is a narrow stretch of water lying between Australia's Cape York and Papua New Guinea. Its islands have a regional integrity, being contained within the Strait on the one hand, and separated from the mainland on the other (as in the so called blue-water theory). The Strait is also identified as a special zone (The Torres Strait Protected Zone) by the international Treaty between Papua New Guinea and Australia established in the 1970s, and it has always been treated as a discrete administrative region by the Queensland colonial Government and then later, by the Commonwealth Government (Arthur 1999: 60).

Several factors also combine to legitimise the Strait as an Indigenous region. Islanders and Aboriginal people account for between 75 and 80 per cent of the regional population of some 7,500 people; the region and the majority Indigenous group (Torres Strait Islanders) share the same name—a significant symbolic legitimiser (MacLeod 1998); the Strait is Australia's only Melanesian cultural region, with its own distinctive languages, music, dance, and form of Christianity, all encapsulated in the term *Ailan Kastom* (ATSIC 1993: 36; Arthur 2001a).

On the other hand, regional integrity is not complete. For example, two Islander communities (Seisia and Bamaga), though included administratively in Torres Strait, are actually located on the tip of Cape York, next to Aboriginal communities and on Aboriginal land. These two communities were established by the government in the middle of the twentieth century to house Islanders who had been displaced by severe flooding on some northern islands (Arthur 1990). In addition, the Inner Islands of the Strait, those around and including Thursday Island, are the home of the Kaurareg people, a group which often identifies separately from Torres Strait Islanders (Sanders & Arthur 2001). Lastly, since World War II, Islanders have moved from the Strait to the mainland, so that now some 80 per cent of the national Torres Strait Islander population is found outside the region. These regional anomalies will be considered below.

Regional bodies

At the level of Indigenous political representation, regional bodies have been in place for some time. The Island Coordinating Council (ICC) was set up under Queensland State legislation in 1980s and is composed of the elected chairs of 17 island community councils. The ICC deals with and advises the State Government on State-related Islander affairs and services. There is also the Torres Strait Regional Authority (TSRA) established under Commonwealth legislation and dealing with Commonwealth-related funding and services for Islanders. The TSRA replaced the former ATSIC Torres Strait Regional Council (TSRC) in 1994 on the recommendation of the first review of the ATSIC Act (see ATSIC 1993) and was given powers similar to that of the Commission itself. More recently the TSRA's fiscal arrangements were changed so that it could receive a one-line budget

directly from the Department of Finance which was entirely separate from the ATSIC system (Office of Evaluation and Audit 2001), and legislation for the TSRA separate from the ATSIC Act is presently being prepared. The rationale for these changes, and for the formation of the TSRA, was to make Islanders more autonomous of ATSIC than are ATSIC's RCs (ATSIC 1993: 7, 37; Sanders 1994), and was legitimised very much on the basis that Islanders are culturally distinct from Aboriginal people (ATSIC 1993: 37; Herron 1996; Liberal Party 1996: 3).

In the setting up of the TSRC and then the TSRA it was decided that they should be made up of the same people as those in the already established ICC (see Sanders 1994) and this has meant that the TSRA and the ICC have operated very much in concert. Because they were established by State and Commonwealth Governments respectively, it can be argued that this has facilitated Islander involvement with the two governments in an integrated fashion. Substantial Commonwealth-State infrastructure agreements have been made in Torres Strait, no doubt assisted by this ICC-TSRA relationship.

The Treaty between Papua New Guinea and Australia established Torres Strait as Protected Zone. This is managed by an Protected Zone Joint Authority (PZJA) composed at its highest level of the relevant State and Commonwealth Ministers. The Treaty also officially recognised the Indigenous inhabitants, and this had some consequences for Islander autonomy. First, Islanders have been included in several of the PZJA's management committees, giving them a position alongside State and Commonwealth agencies and non-Indigenous fishermen. After stating some dissatisfaction with this level of involvement, the Chair of the TSRA was given observer status at meetings between the State and Commonwealth Ministers, with a recent commitment to make the Chair a full participant. Second, the Treaty included an agreement for Australia and Papua New Guinea to share and jointly manage the Strait's marine resources. This has required formal and regular meetings between Papua New Guinean representatives and Islander representatives, giving Islanders something of an international profile or personality. Third, the Authority's policy has been to increase Indigenous involvement in commercial fishing. To this end Islanders were granted concessions on fishing licences, and the rights to any expansion in the rock lobster fishery. Apparently as a result, Islanders have become significant players in commercial fishing (Altman, Arthur & Bek 1994).

Thus Islanders have already achieved some form of regional autonomy. However, this is largely Islander-specific. Is there any indication of moves to fuller regional autonomy?

Autonomy for all?

In the past, the Kaurareg of the Inner Islands, have largely been excluded from regional matters; they were never formed into an island council.¹⁶ And as a result, they were not included in the ICC-TSRA or on the committees of the PZJA (Arthur 1990).¹⁷ Recently there have been efforts to re-incorporate the Kaurareg into regional affairs and there is now a commitment to make them members of the

TSRA. Indeed, the health portfolio within the TSRA is now held by a Kaurareg representative. It is likely that this incorporation of the Kaurareg has been stimulated both by the issue of regional autonomy and by native title. Although the Kaurareg do not form an island council, they are recognised as the traditional owners of the Inner Islands under native title and this has no doubt legitimised their inclusion in regional affairs.¹⁸

The Torres Strait region, as noted above, includes two Islander communities located on Cape York. Although Islanders from these communities have intermarried with their Aboriginal neighbours, there is some degree of separation, and even some animosity between them (Arthur 1990). Indications are that the Aboriginal people would not wish to be included in any form of regional autonomy with Torres Strait Islanders. When asked by the HORSCATSIA Inquiry 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 had different needs and looked 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: 6).

On the issue of whether autonomy would apply to non-Indigenous residents of Torres Strait, Islander leaders have over the years voiced the desire to change their political and economic situation (see Altman, Arthur & Sanders 1996). Their most extreme action was to claim, at one point, independence from Australia, though there are indications that this represented an ambit claim, lodged to make other more practical gains in services and infrastructure. Islanders have also stated that they want a form of regional self-government, possibly like that of an Australian External Territory. Following lobbying from Islanders, in 1996 the Commonwealth Minister for Aboriginal and Torres Strait Islander affairs instructed the House of Representatives to hold an Inquiry into the possibility and advisability of increasing Islander autonomy. This resulted in the *New Deal* (HORSCATSIA 1997).

The main recommendations of the *New Deal* were that the ICC, TSRA and the Torres Shire be scrapped and replaced with a Torres Strait Regional Assembly. The Assembly would have representatives drawn from *all* residents and have powers similar to the present TSRA. Attached to the Assembly would be a cultural council made up of Indigenous residents which would deal with cultural matters. Although the fit between the fully representative body and the cultural council was unclear, the system represented a form of cultural bicameralism. Will Sanders has analysed the Inquiry as 'a missed opportunity' to increase autonomy largely because it misread the true political situation in the Strait (Sanders 2000). Certainly the Inquiry took a direction never intended by the Commonwealth. When the Minister proposed the Inquiry he said that:

[there] can be no question that Torres Strait Islanders enjoy a distinctly different culture to Aboriginal people. As a result, we have referred the question of greater autonomy *from ATSIC* to a joint parties committee (Herron 1996; emphasis added).

Therefore the initial aim was to inquire into possibilities for more autonomy, but only for Islanders and only from ATSIC. The rationale for this was, once again, cultural difference from Australia's other Indigenous group, Aboriginal people. There was no intention to create a form of regional autonomy for all citizens.

Considerations of 'who' autonomy might apply to had not been articulated before the Inquiry took place. During the Inquiry, one Islander leader was adamant that it was to apply only to Indigenous people. Others were less clear. Some non-Indigenous residents asked me if I thought 'they' (meaning Torres Strait Islanders) would get autonomy, placing non-Indigenous residents outside the process, a fact that concerned the Shire mayor. Subsequently several meetings were held which included non-Indigenous people. Observing one of these I felt that there was no great antagonism towards the notion of autonomy for all people in the region, though there was some scepticism that any practical benefits would result. Within the Shire Council itself there was some hope that greater regional autonomy might bring economic benefits, possibly in the shape of tax concessions.

Following the publication of the *New Deal* Islanders indicated that any new regional representative body should be 'culturally appropriate' and some consideration was given to a 'Council of Elders' (Indigenous elders) to sit alongside a more fully representative body. This would have mirrored the cultural bicameral model proposed in the *New Deal*, forms of which, as noted earlier, already operate in some parts of the South Pacific. On the other hand, some Islanders were concerned about the role and powers of such a council and indications are that this model is now less favoured. Some islands, in part because of the demands of the native title legislation, are now moving to clan-based island councils (Sanders & Arthur 2001). For example, on Saibai each of the seven clans can elect one councillor each, with this Council then electing its Chair. In sanctioning this move the State Government stated:

The system was designed by the people of Saibai, who presented the Government with a strong case for a new government structure that would recognise their age-old culture ... the Labor Government upholds the right of indigenous communities to have governing structures that suit their diverse cultures, and has introduced a regulation that enables this unique Saibai system (Queensland State Minister for Aboriginal and Torres Strait Islander Policy, Press release, 24 March 2000).

This culturally modified representation makes island local government Indigenous-specific and it is possible that this will be the level at which government and representation is made 'culturally appropriate'.¹⁹ It may also reflect a longstanding desire by individual islands to retain autonomy at the island level in the face of regionalism (see Arthur 1990).²⁰

Following the Inquiry, some Islanders have continued to express the long-term goal of Territory status within the Australian nation-state. This would require excising the Strait from Queensland, a difficult process (see Sanders & Arthur 2001) and would draw the region closer to the Commonwealth. This would fulfil the desire of some Islanders to deal directly with Canberra on certain issues

rather than with the Queensland Government (see also Davis 1998). As a former TSRA Chair said: 'This would cut out having to deal with the "middle-man" in Brisbane'.²¹ However, many of the Commonwealth submissions to the Inquiry stated the need to retain strong centralised (i.e. Commonwealth) control of the Strait because it includes the international border with Papua New Guinea and is contiguous with a part of the wider region that is increasingly politically unstable. We see here how the geopolitical feature of the border can be used by the state in an attempt to legitimise its integrity. This feature may limit the degree of separation that either the State or Commonwealth Governments might consider for the region.

To respond to the *New Deal*, a task force was formed composed of the Chair of the TSRA, the Mayor of Torres Shire and the Chair of the ICC. The Task Force held discussions with communities across the Strait and in October 2001 the TSRA produced a paper entitled 'Torres Strait Regional Government' (Waia 2001). This paper expresses the long-term goal, not of Territory status, but of a territory style of government. This may alleviate the problems associated with making a full territory, discussed above. It is envisaged that this regional government would encompass all residents of the Strait (Waia 2001).

Under the arrangement, the Strait would be made up of 21 communities or units which would also be formed into six sub-regions.²² All the residents of the 21 units would elect a representative each, to form the 'territory government' and also elect a chairperson from amongst these. A group with portfolio responsibilities would be formed from the six sub-regions.²³ The existing community local government and the Torres Shire would remain. The 21 government representatives would decide on regional policies and priorities, and give direction to the portfolio group (Waia 2001).

The intention is that the government would act for all residents and the paper states that the rights and interests of all residents would need to be recognised. However, an additional aim is the promotion and development of *Ailan Kastom* which by its definition is Islander-specific. How these two possibly contradictory aims would be reconciled is not clear at this stage.

In any event, the paper stresses that this territory-style government is a long-term aim, possibly coming to fruition in 2003. The intention is to utilise the intervening period to both consolidate existing systems and transform these into the regional government. In former years, the members of the ICC and TSRA have been drawn largely from the Strait's Outer Islands, rather than from the Inner Islands which are the domain of the Torres Shire and the place where most non-Indigenous people live. Previously, therefore, there had been a political and functional distance between the ICC-TSRA and the Shire, with the ICC-TSRA representing Indigenous concerns and the Shire non-Indigenous concerns. In recent years, and since the election of an Islander mayor, the Shire has increased its association with, and presence on, the TSRA. There is now a commitment to making the Shire a full member of TSRA and to strengthening the links between it, the ICC and the TSRA. The *New Deal* suggested that the ICC and TSRA duplicated each other and

the Commonwealth government proposed that consideration should be given to amalgamating them. This amalgamation, at an administrative level, forms part of the TSRA's proposal for the transition to regional government (Waia 2001) and will make the Torres Strait the only region in the country where the State and Commonwealth Indigenous functions are under a joint administration.

Islanders already have influence in some service areas. For instance, a Health Council was established in 1990 to provide community input to health services, and this led to the formation of a Torres Strait Health Strategy and Policy in 1993. In the same year, an Islander was made Chief Executive Officer of the regional hospital. In other areas, the TSRA, in consultation with government agencies, has developed a Marine Strategy for Torres Strait, and has also published a code of conduct for carrying out research across the region. The TSRA has also been successful in negotiating with the State and Commonwealth Governments over large infrastructure programs, though mostly for Islander communities (TSRA 1999). However, the proposed territory-style government would carry out more functions than the present TSRA (Waia 2001). What these functions might be are not clear at the present time. As indicated above, it is accepted that these will be negotiated with the State and Commonwealth Governments during the period of transition to regional government. The aim is to establish a policy group to carry out these negotiations (Waia 2001).

These moves have the potential to bring those leaders who have interests in State, Commonwealth and local government matters closer together; and to bridge the divide between the Inner and the Outer Islands, and the Islander and non-Islander domains. They also have the potential to realise a form of autonomy for all residents.

Increased control of the region's resources is an oft-repeated goal of Islanders. This means, primarily, increased control of fisheries (Sanders & Arthur 2001). The implication is that the input Islanders have to the PZJA as described earlier, does not meet their notion of autonomy. Recently, their dissatisfaction was manifested in a threat to ban non-Indigenous commercial fishers from the region (*Koori Mail*, April 18, 2001). The *New Deal* did not include increased Indigenous control of the region's resources in its recommendations. Rather it suggested that Islanders should engage more in the economy, especially the private sector, with the aim of reducing the seemingly unacceptably high welfare bill to the region. It is likely Islanders will continue to push for more control in fisheries. In July this year, when discussing autonomy, the Chair of the TSRA stated that:

Islanders needed to be included in decisions on issues such as fisheries ... where input is limited ... we have very little control over that ... Licences are issued by the Queensland Government and we'd like our people in the top positions and maybe one day the authority will be given to the people (*Cairns Post*, July 9, 2001).

On the other hand, there may also be attempts to adopt some of the suggestions in the *New Deal*. For instance, the proposal for a regional government states the intention to revise the Torres Strait Development Plan and to establish a Torres

Strait Development Task Force, all with the aim of strengthening the region's economic base, largely through the fishing industry (Waia 2001).

Mainlanders

As noted above, 80 per cent of all people identifying as Islanders live outside Torres Strait (Sanders & Arthur 2001). These are the so-called mainlanders as distinct from the homelander residents in the Strait. Mainlanders are represented through the Torres Strait Islander Advisory Board (TSIAB) and the Office of Torres Strait Islander Affairs (OTSIA) which are both part of ATSIC. They also have their own non-government organisations in several major towns and cities (Arthur 1998). Being part of ATSIC, mainlanders bid for resources alongside Aboriginal people through ATSIC RCs. As Aboriginal people are in the majority and have the cultural legitimacy of being on their own land, mainlanders feel disadvantaged. Though they live on the mainland, studies have shown that mainlanders retain many attachments to the Strait (ABS/CAEPR 1997).

These factors led mainlanders to express their aspirations for autonomy to the Inquiry in two ways. One was for autonomy as a people from ATSIC through the formation of a separate Islander Commission. This is a form of corporate autonomy, but one applying between Indigenous peoples. The other form of autonomy aspired to by mainlanders was for them to be included in decision-making about Torres Strait. This would be similar to the non-residential regional representation enjoyed by Cook Islanders who live in New Zealand. Mainlanders were unsuccessful on both these counts. The *New Deal* proposed that they remain inside ATSIC and that, if greater control passed to a regional body in Torres Strait, they should only have observer status on it.

I suggest that the mainlanders' lack of success can be attributed to their inability to legitimise their position. Though distinct culturally, they are a small dispersed population living in the Aboriginal cultural domain. Though mainlanders made strong representation about autonomy at the annual national workshop following the Inquiry, the workshop themes in 2000 and 2001 have been 'economic development' and 'health' respectively, suggesting that political autonomy has declined in importance for the moment.²⁴ The recent paper on 'Torres Strait Regional Government' (Waia 2001) does not include provisions for mainlanders. However, during the presentation of the regional government paper at the 11th national seminar/workshop, the Chair of the TSRA indicated that the plans for Torres Strait included forming an Memorandum of Understanding with mainlanders. This would be likely to include provisions to protect the native title rights of mainlanders and to shorten the eligibility period for voting if they should return to the Strait.

In summary, Indigenous people in Torres Strait seem focused on regional autonomy for Torres Strait, that is for 'place', and so are attempting to address the position of non-Indigenous residents. Mainlanders meanwhile have been more interested in autonomy for a 'people', as in Islander autonomy from Aboriginal people.

Following the Inquiry in Torres Strait, ATSIC prepared a discussion paper to explore the idea of autonomy with Aboriginal communities across the country and subsequently produced its own report (ATSIC 1999; Djerrkura, Bedford & Williams 2000). During this period several regions began preparing documents relating to autonomy. Those regions for which information is available at this stage are the Tiwi Islands and Miwatj in the Northern Territory, and Murdi Paaki in New South Wales. These are discussed briefly below.

The Tiwi (Bathurst and Melville) Islands

The Tiwi islands as a region

In 2000, the Tiwi Islands Regional Coordinating Committee (TIRCC) submitted a proposal to the Northern Territory Government for a system of regional autonomy for the Tiwi people which would operate over the Melville and Bathurst Islands (see TIRCC 2000).²⁵ The islands are one ward of the present ATSIC Jabiru Region. When ATSIC was first formed in 1990, it was made up of 60 Regions, one of which was the 'Tiwi Islands' (Melville and Bathurst Islands). Following amendments to the Act in 1993, several regions were rationalised to reduce the number to 36. Some Indigenous people complained that this did not match cultural patterns as closely as the original scheme and so a desire to revert to the Islands as the unit of autonomy suggests that people are using culture to legitimise the integrity of the region. This is also recognised more broadly, because although 'the Tiwi Islands' are not gazetted, the name has become synonymous with Melville and Bathurst Islands. The proposal for the new region also legitimises claims for autonomy on the basis of Indigeneity, for whereas it is estimated that Indigenous people are an 67 per cent of the Jabiru regional population, they are around 90 per cent of the of the 'Tiwi Islands' population of 2,300 (TIRCC 2000: 10) (see Fig. 1). All of these features are reflected in the proposal which notes that part of the rationale for adopting the islands as the region of autonomy is that they represent a 'community of interest based on tribal, language, geographical, economic and social factors' (TIRCC 2000: 7). Though a new region for the purpose of Tiwi Local government, the area would still be within the ATSIC Jabiru Region, and the Indigenous residents would remain part of ATSIC and be eligible to vote in ATSIC elections and stand for the ATSIC RC.

A regional body

The autonomy model also proposed a new governing system in which four Community Management Boards (CMBs), elected on the basis of 'skin groupings' and residency, would replace existing community councils.²⁶ A regional Tiwi Assembly would be formed made up of made up of two parts, one of trustees elected from the Tiwi clans, and the other of representatives chosen by the CMBs from the 'skin groupings' in the community (TIRCC 2000).²⁷

In 2001, this proposal was modified and a constitution drafted for a Tiwi Islands Local Government to be established under the Northern Territory *Local Government Act* (Northern Territory of Australia (NTA) 2001). As in the original proposal, the regional unit would be the islands, and CMBs would be established for each of the four communities. Those eligible to vote in CMB elections and to be members of CMBs, would have to comply with residential requirements and also be members of 'skin groups', though these requirements would vary from community to community. Instead of having an Assembly, the Tiwi Islands Local Government would comprise eight persons appointed under the *Aboriginal Land Rights (Northern Territory) Act 1976*, and nine selected by the CMBs. The structure therefore is a mixture of mainstream and Indigenous- or culturally-specific forms of representation. This is confirmed in the preamble to the constitution which indicates that an aim is to 'join the responsibilities and structures of traditional authority with modern local government'. It is hard to see, therefore, how it represents a form of autonomy that could ever apply to all residents. Indeed, because eligibility to vote and membership is (in some cases) restricted to those from Tiwi 'skin groups', the system is specific to not just Indigenous people, but to Tiwi Islanders. The problem of how to accommodate non-Tiwi interests in the system was recognised in the original proposal (TIRCC 2000: 16) but has yet to be addressed.

The preamble of the constitution says that the Tiwi will 'establish a framework of regional governance to manage the internal affairs of the Tiwi Islands' and that it will act as a 'framework for partnerships arrangements with the Northern Territory Government in the key areas of service delivery and economic development' (NTA 2001: 1). The specific powers and functions as laid out in Part 3 of the constitution are largely those of local government, including the power to make by-laws. Powers which seem additional to those normally held by local government include those to provide educational and other vocational training; establish and operate pastoral and commercial enterprises; promote and develop tourist attractions and facilities within the area; and produce and sell artefacts and souvenirs (NTA 2001: 7).

However, the economic rationale of the scheme is unclear. Natural resources and activities such as barramundi fishing, prawn farming, forestry and cypress oil extraction are noted in the original proposal, but there is no suggestion that control of these would pass to Tiwi Islanders. Though an aim of the original proposal was to reduce regional dependency on welfare, there is no indication of how this might occur. On the contrary, the proposal acknowledged that, because incomes are low and rates cannot be charged on Aboriginal land, the ability to raise revenue is limited, and external support from government will have to continue (TIRCC 2000: 39–40). Though there is some suggestion that communities would share resources, it is unclear whether this might reduce operating costs (TIRCC 2000: 14, 26, 41).

Miwatj

Proposals for a region

In 1999, the Northern Territory Department of Local Government assisted the ATSIC Miwatj RC to prepare a discussion paper entitled: *A Possible Model for a Miwatj Regional Government* which outlined, for discussion only, a form of regional autonomy (see Northern Territory Government (NTG) 1999: 3).²⁸ The regional government would cover the present ATSIC region of Miwatj, but exclude the town of Nhulunbuy (NTG 1999: 4).²⁹ The ABS Census shows that in 1996 the Miwatj regional population was 7,000 of which 59 per cent were Indigenous people. Excluding the town of Nhulunbuy, where most non-Indigenous people reside, would have the effect of raising the Indigenous proportion of the proposed region's population to around 85 per cent, making it considerably more Indigenous.

A regional body

The Miwatj Regional Government, as proposed in the discussion paper, would apply to the region's ten existing communities and their community councils. The present Miwatj ATSIC RC would be converted into a Regional Authority composed of two 'chambers'. The first chamber, called the Elder's Council, would be made up of local traditional owners or those culturally qualified to make decisions about land, cultural matters and traditional leadership, and would be nominated by community residents. The second chamber would be elected by *all* of the region's residents and would carry out statutory functions required by the *Local Government Act*, and make charges on residents and raise revenue for the functions of the Regional Government (NTG 1999: 8). The Elder's Council would mostly concern itself with decisions about land and culture and could veto decisions made by the second chamber. Thus, the proposed system would be a form of the 'cultural bicameralism' discussed earlier.

The role of the Regional Government would be to coordinate regional services which might be provided under service agreements with the relevant government bodies. It was estimated that such a regional system would result in better coordination of services and an increase in resource sharing, which could save some \$0.5 million a year (NTG 1999: 16, 19). This suggests that part of Northern Territory's aim in supporting this form of regional government is improved efficiency and cost savings. In fact, the discussion paper suggests that this would be a condition of regional government (NTG 1999: 14). Although there is some mention of economic development in the discussion paper, no examples are given and there is no indication that control of regional resources would pass to the Regional Government.

The Miwatj model as proposed by the discussion paper attempts to embrace all residents through the agency of cultural bicameralism but at the same time excludes most non-Indigenous people by excising the town of Nhulunbuy. It therefore seems largely an Indigenous-specific regional model, and one that is

mostly about the improved delivery of services to Indigenous people. Here the economic aspect of autonomy is not about the transfer of the control of resources to Indigenous people but about reducing costs through increased efficiency, and revenue raising. Given that the discussion paper was produced by the NTG, these aspects may well reflect its Local Government Reform and Development Agenda, part of which is to reduce government expenditures.

Murdi Paaki

The Murdi Paaki or Bourke ATSIC RC of western New South Wales (see Fig. 1) has recently produced a paper aimed at stimulating discussion about regional governance (Murdi Paaki n.d.).³⁰ This RC operates in a different socio-political environment from the ones described above. First, it is located in a non-Indigenous region; there are around 7,000 Indigenous people in Murdi Paaki but, unlike in the Tiwi Islands, Miwatj or Torres Strait, they make up only 14 per cent of the total population of their region. Also, although there are some discrete Indigenous communities in this and similar parts of rural Australia, these are not so clearly delineated from the non-Indigenous world as are those in the northern and remote parts of the country. Here, Indigenous people may live in close proximity to each other in neighbourhoods of country towns. Though these may often be on the fringes, they are still an integral part of these towns and are serviced by the same local governments as non-Indigenous people. Legitimising an Indigenous region, and forming a discrete community of interest in this environment is more difficult. The Murdi Paaki proposal acknowledges this as a difficulty and as one which probably limits the options for Indigenous regional government.

As a result, the RC does not aspire to form a regional government. Instead, it proposes that the ATSIC RC should remain, but be strengthened by increasing Indigenous involvement in its operations. The RC's strategy for doing this is to establish Community Working Parties (CWPs) composed of people from the region's Indigenous population (Murdi Paaki n.d.: 5, 9). These CWPs would then provide input to the RC, thus creating a form of 'community of interest' (Murdi Paaki n.d.: 4).

The RC's aim is to become more involved in decision-making about service delivery and economic development (Murdi Paaki n.d.: 9), possibly through partnerships with government agencies and through joint ventures with businesses in the private sector (Murdi Paaki n.d.: 28). In addition, the RC would like to achieve some greater fiscal autonomy from the ATSIC centre. As noted earlier, on average, councils have discretion over only around 14 per cent of their budgets, the remainder being controlled by ATSIC central office. The RC would like to have control over a larger proportion of these funds (Murdi Paaki n.d.: 15). This is a desire common amongst RCs and has led to a recommendation by ATSIC that their role be strengthened rather than their being replaced by Regional Authorities as has occurred in Torres Strait (Djerrkura, Bedford & Williams 2000: 8). As was noted earlier, this form of autonomy within ATSIC is likely to be more

common amongst those RCs in less remote regions, such as Murdi Paaki, where Indigenous people are a smaller proportion of the population.

Although the Murdi Paaki model is regional, it is not about regional government by Indigenous people, nor does it include establishing a new regional governing body. Rather it aims to build on existing arrangements to give more autonomy and authority to the RC, within ATSIC. It appears to be largely an Indigenous-specific model.

Conclusion

This paper has explored the notion of autonomy and how it might apply to Indigenous people in Australia. It has examined some relevant literature and analysed case studies from several regions, namely Torres Strait, the Tiwi Islands and Miwatj in Northern Territory, and the Murdi Paaki region in New South Wales.

Several propositions were put at the outset. Autonomy is largely about degrees of control. It takes two principal forms: corporate autonomy (autonomy for a people) and autonomy for a place (regional autonomy). Cross-cutting these principal forms is the issue of scope: of whether autonomy would apply only to Indigenous people or to all people. The scope of autonomy will influence what it is that autonomy (control) is to be over. Thus, autonomy is also about who controls what. Almost by definition, corporate autonomy is likely to apply only to Indigenous people, while regional autonomy may apply to Indigenous people or to all residents. Regional autonomy is likely to require the delineation of a region and the formation of a body that can hold regional control. Autonomy is relative not absolute, and represents the passing of control from one group or party to another. Rather than viewing this process as a right, it is useful to consider it as something that has to be negotiated. This implies that the parties to the negotiation need to legitimise their positions. It follows that the form and type of autonomy is likely to vary because people's ability to legitimise their position may depend on their circumstances.

An additional cross-cutting theme can be represented by a distinction between negative and positive autonomy, where negative autonomy represents the autonomy from interference from others in one's affairs (autonomy from) while positive autonomy represents the ability to direct one's own affairs (autonomy to). This binary distinction (and it is a *distinction*, not an opposition) is largely a function of economic power.

Most attention has been given in the paper to exploring to whom regional autonomy might apply and what it might include, by examining the way regions and regional bodies are constituted and legitimised.

Regarding corporate autonomy, it is suggested that corporate autonomy for Indigenous people is represented, in part, by ATSIC. Because ATSIC's responsibilities are Indigenous-specific, any increase in this form of autonomy

would also be likely to apply to Indigenous matters only. Such an increase would require more resources to be transferred from government to ATSIC. The current trend is in the opposite direction, and this would suggest that ATSIC is experiencing some difficulty legitimising to government its position as the carrier of Indigenous corporate autonomy.

Torres Strait Islanders have striven for some time for corporate autonomy from Aboriginal people in the shape of their own Commission, separate from ATSIC. This represents a form of corporate autonomy between Indigenous groups but one that still must be legitimised. Those in Torres Strait itself have succeeded in achieving this autonomy to a significant degree, because, it can be argued, there is a range of cultural and geographic circumstances that allow them to legitimise and negotiate their position. Mainland Torres Strait Islanders have, however, not been successful in the same aim. Demographic factors are significant here: though they are culturally distinct (from Aboriginal people) mainlanders are a relatively small population dispersed through a much larger one, and it is difficult for them to legitimise a case for corporate autonomy. However, it is the Indigenous proportion of the population, not its absolute size, that is the key demographic factor in such cases. For example, the 6,000 Islanders in Torres Strait are 80 per cent of the population and can legitimise their case, but mainlanders cannot because, although there are 24,000 of them, they form a small proportion of the Aboriginal population and an even tinier proportion of the total population.

The case studies in the second half of the paper were used to explore the concept of regional autonomy in two different settings: the remote north, with its fairly discrete communities and high Indigeneity, and the rural west of New South Wales. The proposition was, once more, that different circumstances would result in different approaches to, and outcomes for, autonomy. The examples suggest that this is only true to a certain extent. Generally, all of the examples revealed a view of autonomy applying only to Indigenous people and for increased control of Indigenous-specific resources and services. Groups have been able to legitimise regions over which this should occur, but these have been Indigenous regions, either the ATSIC Region, or a new more culturally-based region, as in the case of the Tiwi. Little serious consideration has been given to including all residents in regional autonomy. Indeed, the proposed systems of regional representation are often culturally based, tending to exclude the non-Indigenous residents.

Indigenous-specific regional autonomy leaves Indigenous people inside the ATSIC system with two possible options. First, greater regional autonomy is likely to translate to autonomy from the ATSIC centre. This is evident in the example of Murdi Paaki and reflects ATSIC's own findings (see Djerrkura, Bedford & Williams 2000). Secondly, the impact of such Indigenous-specific regional autonomy is also likely to be lowest where Indigenous populations are high. For where there are most Indigenous people (in urban areas), they are a small proportion of the population, levels of infrastructure and services are high, Indigenous-specific per capita expenditure is low, and there is a greater Indigenous reliance on mainstream services. That is to say, where the Indigenous population is highest,

there are fewer (Indigenous-specific) resources over which this form of autonomy might be exercised.

Only in Torres Strait is any significant effort being made to include non-Indigenous people in considerations of regional autonomy, though even this approach is in its infancy. Several factors have led to this, not least of which is that the formerly predominantly non-Indigenous representative body (the Shire) has significant Indigenous representation and is forming alliances with the Indigenous representative system. Of course, Torres Strait is all but autonomous from ATSIC, and it could be suggested that this separation represents a stage in the transition to full regional autonomy, and, that if other regions made a similar break with ATSIC, then they too would look to more inclusive forms of regional autonomy. However, it is more likely that Torres Strait is a special case. Its circumstances, such as being off-shore, being subject to the conditions of an international treaty (Arthur 1999), and having a tradition of being treated by governments as a distinct region, help legitimise its regionalisation in ways not easily articulated elsewhere in the country.

It was suggested earlier that the economic aspects and indicators of regional autonomy might include some local control over a share of a region's natural resources, and the ability to make charges and generate income. In the documents reviewed, it is only in Torres Strait that much consideration is given by Indigenous people to increasing control of the natural resources. This may be because, in the Northern Territory examples at least, land is already held by Indigenous interests. No mention is made in the *New Deal* that autonomy for Torres Strait Islanders might include their having more control of the Strait's resources. Rather, the view of regional economic autonomy espoused in the *New Deal* is for Indigenous people to reduce the welfare bill to the region by increasing their levels of employment in the private sector; it stipulates that this would be a necessary condition for the Strait to become an Australian Territory. On the other hand, the latest indications from the Strait suggest that Islanders are not focused only on the control of fisheries but on their development.

The Northern Territory government's involvement in the Tiwi and Miwatj proposals indicates that they also view the economic aspects of autonomy largely in terms of reducing costs through the rationalisation of service delivery. Some interest is expressed in economic development and, in Torres Strait, a commitment is made to establishing an economic development task force. However, the general feeling is that the principal economic interest, from an Indigenous viewpoint, is in control over Indigenous-specific services, and not in control over resources, or in economic development and revenue raising. It is also clear from the examples and from other research (see Taylor & Hunter 1998) that creating development and raising revenue in these and similar regions will be extremely difficult. Therefore, it is not clear that the parties (government and Indigenous) view the content of autonomy in quite the same way.

In addition, it is not clear that what we might consider to be the political aspects of autonomy (control) will necessarily lead to significant economic change. A view

of autonomy that is largely about the control of services is unlikely to see a reduction in dependency on the government, because it is government which funds these services. In that case, it is possible to view the form of autonomy proposed here by Indigenous people largely as negative autonomy: the goal is to increase Indigenous control of services and funding that are provided by government and so to decrease government intervention over decisions about these. That is to say, it is an autonomy aimed at reducing government interference, but not at separation from government support. While positive autonomy might have economic independence as its goal, negative autonomy may be a more realistic option given the economic limitations of many regions.

One possible value of utilising the concept of negative autonomy is that it can help illustrate that a particular form of autonomy is possible even when there is continuing economic dependence. In this way it helps break down the notion that political autonomy is contingent on economic status. Jackson (1990) suggested that negative autonomy existed in nations which were dependent on international aid. Here we can propose that negative autonomy might exist where there is continuing support from the government for services and for welfare-based incomes under a welfare regime. In this way, it is also possible to characterise negative autonomy as a form of welfare autonomy (Arthur 2001b).

Notes

1. Consideration is also being given to the issue of autonomy in the Kimberley region (ATSIC 2000: 20) but due to lack of information at this stage this region is not included here.
2. In a similar way, Articles 3 and 31 respectively of the UN's Draft Declaration on the Rights of Indigenous Peoples 1995–56, give self-determination and self-government as rights.
3. The corporate plan gives ATSIC's vision as: 'Aboriginal and Torres Strait Islander peoples freely exercising our legal, economic, social, cultural and political rights' (ATSIC 2001: 5).
4. Fleras actually makes this point with respect to self-determination (see Fleras 1999: 195).
5. 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 1997).
6. Four seats are designated for Maori people in the New Zealand Parliament (ATSIC 1995: 49).
7. The same document also proposes that there should be reserved seats in State parliaments (see ATSIC 1995: 49).
8. Peter Sutton first discussed the notion of bicameralism at a regional level in 1985 (see Sutton 1985).
9. It is possible to also classify this as functional bicameralism since the separate house or chamber's powers may be confined to certain functions such as those relating to land and cultural matters.

10. In 1897, on the advice of Douglas, the Protector for Torres Strait, the Queensland Government legislated separately for Torres Strait Islanders.
11. For a discussion of definitions of 'regions' as these apply to regional agreements under the *Native Title Act 1993*, see Arthur (1999), Edmunds (1999: 22), and Martin (1997).
12. Martin indicates for example that despite its internal divisions, Cape York can be classified as a region (1997: 2).
13. There are 35 regions on the mainland and one over Torres Strait. All have a Regional Council except Torres Strait, which has a Regional Authority.
14. A significant aspect of ATSIC expenditure relates to housing and infrastructure for discrete Indigenous communities. The majority of these are in the less populated regions.
15. Some commentators have argued that self-determination represents negative autonomy (Beran 1994: 3; Jackson 1990: 6, 27).
16. The reason for this is that whereas most Islanders were not displaced from their islands during the colonial period, the Kaurareg were.
17. The members of the ICC are the elected chairs of island councils. These people automatically become members of the TSRA, and it is from the ICC membership that representatives on the PZJA are drawn.
18. Public meetings on Thursday Island now often begin with some statement of recognition for the Kaurareg as traditional owners. Native title concerns have also stimulated Torres Shire to form a land use agreement with the Kaurareg.
19. Like cultural bicameralism, forms of culturally modified representation are also found in the South Pacific, for instance in Tonga and Western Samoa.
20. A member of the Inquiry from Queensland noted that when the Queensland Government was establishing the regional ICC, island councils were adamant that they did not wish the ICC to threaten their autonomy over affairs at the island level.
21. The metaphor of the 'middle-man' derives from the fishing industry where Islanders feel buyers of lobsters, trochus shell, and so on, extract too high a commission.
22. The 21 units are: the 14 Outer Island communities; the Inner Islands of Horn, Prince of Wales and Thursday Islands (including two suburbs of Thursday Island—TRAWQ and Port Kennedy); the two Island communities on the Cape (Seisia and Bamaga) plus Hammond Island. To chose and form the governing body of six, these 21 communities are formed into six sub-regions. The Outer Islands make up four of the groups, the Inner Islands form the fifth group and the Cape communities and Hammond Island are the sixth. These sub-regions are an amalgam of traditional and modern configurations and alliances.
23. It should be noted that the TSRA already operates with a portfolio group.
24. Annual workshops composed principally of mainland Torres Strait Islanders are held annually at different locations across the country. These are funded and organised through OTSIA, TSIAB and the relatively new National Secretariat of mainland Torres Strait Islanders
25. Each ATSIC Region is made up of two or more electoral wards.
26. Aboriginal society in different parts of the country is divided into sections and/or subsections which have attendant rules of social behaviour (see Berndt & Berndt 1981). 'Skin' groupings is a colloquial term for these divisions.

27. The Trustees are elected under the *Aboriginal Land Rights (Northern Territory) Act* 1976.
28. It should be noted that Miwatj have investigated the issue of regional autonomy further since the discussion paper was produced. However, details of these investigations are not available at this time.
29. Official and unofficial documents give the name of this ATSIC region as either Miwatj or Nhulunbuy. The name Miwatj has been used here to apply to both the ATSIC Region and the proposed 'self-governing' region.
30. Again this ATSIC region is variously known as Murdi Paaki or Bourke.

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