

# Chapter 12

## Policy Making on Decentralization<sup>1</sup>

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The division of the powers and responsibilities of government between national, provincial and local levels is a critical element of Papua New Guinea's political and administrative structure, and one which has important implications for governance generally and for service delivery in all sectors of government, as other chapters in this volume demonstrate. It is also an area that has been subject to virtually continuous contestation, recurrent review, and one major restructuring. As such, a study of decentralization might be expected to highlight some of the major issues which arise in policy making and implementation in Papua New Guinea, and elsewhere.<sup>2</sup>

### **The origins of provincial government in Papua New Guinea**

During the Australian colonial period, Papua New Guinea had been administered through a number of administrative districts, each headed by a district commissioner; there were eighteen districts at the end of the colonial period. In 1975 one district was divided in two, and these nineteen districts, renamed provinces, together with the National Capital District, became the basis on which a system of provincial government was established. Local government councils had also been established, commencing in 1949, and in 1970 area authorities, comprising mostly local government council nominees, were created at what was then district level, primarily to serve as advisory bodies to the district commissioner.

In the lead-up to independence in 1975 there were calls for the political decentralization of a system which many saw as highly centralized. In its *1st Interim Report* of September 1973, the pre-independence Constitutional Planning Committee (CPC) discerned the emergence of a 'clear majority view' that a system of district government should be introduced with greater powers for districts than those vested in area authorities (CPC 1973a, ll). Two months previously the CPC had been presented with a demand for immediate district government in Bougainville and a detailed draft (prepared by the Bougainville Special Political Committee (BSPC)) of the form which it should take. In its *2nd Interim Report* in November 1973 the CPC noted that the Bougainville proposal had been accepted by cabinet 'subject only to the condition that any agreement which might be

reached must be within a general legislative framework to be applied to the country as a whole' (CPC 1973b, 1/7).

Between November 1973 and its final *Report* of 1974, the CPC received a *Report on Central Provincial Government Relations* by consultants W. Tordoff and R. L. Watts, which outlined options and offered recommendations, 'bearing in mind the (CPC's) firm commitment to the development of a strong form of provincial government (which is a decentralized form of government within a unitary system, subject to political control at the (then) district level)' (Tordoff and Watts 1974, i). The final recommendations of the CPC on arrangements for provincial government were set out in chapter 10 of its 1974 Report, which also contained a schedule of proposed national, provincial and concurrent powers.

Following the tabling of the CPC Report, however, a government 'White Paper' (*Proposals on Constitutional Principles and Explanatory Notes* 1974), challenged the CPC recommendations on several points. Though it 'strongly supported' the principle of provincial government, the White Paper expressed four major reservations:

- 'that the C.P.C. proposals could result in an undue concentration of power at the provincial centre';
- 'that the law should also safeguard the interests of local government bodies';
- that 'The type of near-federal system proposed by the C.P.C. would create many legal and administrative problems if introduced suddenly'; and
- that 'the schedule...dealing with the functions and powers of provincial governments should be used only as a guide...The devolution of powers and the speed and methods of arranging this should be left to negotiations between the governments concerned' (the government also argued that it was not essential for all provinces to reach the same stage of decentralization) (Papua New Guinea 1974, 35–37).

Following conclusion of the House of Assembly debate on the provincial government proposals, an inter-party Follow-up Committee was created to draw up an organic law. A first draft was completed in July 1975, but the same month the House of Assembly, meeting as the Constituent Assembly, voted to exclude the provincial government provisions from the constitution.

Notwithstanding this reversal, preparations for the introduction of provincial government continued, including the establishment of the Bougainville Interim Provincial Government in July 1974 and the creation of constituent assemblies in several other provinces. Then, on the eve of independence in September 1975, frustration over unsatisfied demands in Bougainville resulted in a unilateral declaration of independence by Bougainvillean leaders. Negotiations between Bougainville and the national government culminated in the Bougainville Agreement of August 1976 and contributed to the decision to reinstate the

provincial government provisions through amendment to the constitution and the passage of an organic law. *The Organic Law on Provincial Government (OLPG)* was enacted in March 1977.

The OLPG differed from the earlier Tordoff-Watts/CPC recommendations in several important respects but retained the broad features of the fully-decentralized-unitary-system model put forward in 1974. The subordinate status of the provincial governments was reflected in several provisions of the constitution and the OLPG, notably in the National Parliament's powers to disallow a provincial law 'if in its opinion the disallowance is in the public interest' (S.37 of OLPG) and to suspend provincial governments (S.187E of the Constitution and Ss.86–98 of the OLPG). On the other hand, the division of legislative powers set out in Part VI of the OLPG (plus the delegation to provincial governments of executive responsibility in areas in which they did not have legislative power) gave the provinces a potentially wide field of operation. This resulted in the development of an essentially *political* system of decentralized government. The virtues of such 'essentially flexible' arrangements were argued by Yash Ghai and Mani Isana (both lawyers who were involved in the implementation process):

The Organic Law intended to lay down a broad framework for Provincial Government and the establishment and further evolution of the system was, in large measure, left for consultation between the Provincial and the National Governments (Ghai and Isana 1978b, 3–4).

Elsewhere, however, the same authors described the OLPG as 'complex, legalistic and difficult to operate' and argued that the various provisions of the constitution, the OLPG and the provincial constitutions 'do not add up to a very coherent picture of the status of provincial Governments and their place in the overall national system' (Ghai and Isana 1978a, 1, 4).

As late as January 1977, the assumption seemed to be, as described in an information paper from the Public Services Commission:

At proclamation, each Provincial Government is to ... select the particular packages of functions, ministry by ministry, which it wishes to assume executive authority over....The packages can be expected to differ Province to Province. Phasing of their introduction can also be expected to vary. The pattern of Provincial legislative action is also likely to vary widely. So the situation, across all Provinces, is expected to be complex, and changing from time to time as devolution proceeds according to each Province's desires and capacity (PSC 1977, 1).

Faced with continuing uncertainty about how to implement provincial government, and resistance amongst some public servants, in April 1977 the government employed consultants McKinsey and Co. to draw up a plan for

implementation. A program based on the recommendations of McKinsey was accepted by the NEC in September; it involved the transfer of functions, uniformly for all provinces, in three stages during 1978. As I have argued elsewhere (May 1981, 16–17, 25), one of the unfortunate effects of this strategy was to tie the implementation of decentralization in all provinces to what was being demanded in that province which was the strongest supporter of decentralization and had the greatest capacity for financial autonomy.

## **Decentralization, 1978–1995**

### **The structure of provincial government**

Although some non-elected interim provincial governments put off elections for as long as they could, by mid 1980 all nineteen provincial governments had elected assemblies. All broadly followed the essentially Westminster model of the national government, though in four provinces<sup>3</sup> the head of government (the premier) was directly elected by the people. Most provincial constitutions provided for up to three appointed members of the assembly and some used this provision to appoint women and church representatives. In 1981 the OLPG was amended to make members of the National Parliament non-voting *ex officio* members of their provincial assemblies (though in most cases MPs seldom took the opportunity to attend provincial assembly meetings). Following the Westminster model, provincial executive councils (PECs) were appointed by the premier from the floor of the assembly (Manus was the only province to take up a CPC suggestion that provincial assemblies might consider a parliamentary committee system), and in the general absence of political party systems, large PECs (in Eastern Highlands and East New Britain at times more than half the assembly) were used as a means of discouraging votes of no confidence in the government.

Having decided against separate national and provincial administrative services, arrangements were made in the OPLG to assign to provincial governments control and direction of public servants and teachers carrying out transferred functions. Recognizing that Bougainville and East New Britain had already appointed some provincial staff, however, allowance was made for a locally-appointed 'provincial secretariat' of up to six people, headed by a 'provincial secretary'. Initially, 'in part to shield public servants from political pressure' (May and Regan 1997, 35), personnel matters concerning assigned national public servants were delegated to an 'administrative secretary' appointed by joint approval of the provincial and national governments. Both secretaries were answerable to the PEC. Although provision was made in the OLPGF to deal with the apparent ambiguity of this administrative structure, it was a source of some confusion and potential tension, and in the early 1980s, in all but two provinces, the 'provincial secretaries' were absorbed into newly-created

departments of the provinces and the ‘administrative secretaries’, confusingly renamed provincial secretaries, were placed at the top of a single line of authority.<sup>4</sup>

With the creation of departments of the provinces, a line of authority was established back to the national Public Services Commission. Confusion over the respective roles of the provincial and national governments with respect to personnel management continued, however, and in 1984 the Morobe provincial government challenged the arrangements (following dispute over an appointment by the national government) and the Supreme Court ruled that the departments of the provinces were contrary to the OLPG. Some provinces took the opportunity to establish new administrative structures, though most simply replicated the old departmental structures. By the early 1990s most provinces had also established provincial management teams (PMTs), chaired by the provincial administrator and comprising the heads of the major sectoral divisions, and in many cases district management teams (Peasah 1994, 275–278).

By the latter part of the 1980s there were increasing complaints of politicization of appointments by provincial governments — including appointments of some provincial secretaries. On the other hand, the performance of national public servants responsible for service delivery at provincial level frequently left a lot to be desired.

The arrangements of the OLPG for division of legislative powers between the provincial and national governments were complex. A few areas were preserved to the national government, and a few to provincial governments, but most areas of potential legislation were left open to both levels of government, in the belief that such ‘flexibility’ would allow the system to accommodate the evolution of decentralization. Within this shared field, some subjects were listed as ‘primarily provincial’, in which provincial laws would take precedent over national laws, and some were placed in an ‘unoccupied field’ (which included defence and national security), in which national laws took precedence, but most were listed as ‘concurrent’, though here also national laws prevailed in the case of inconsistent legislation. As noted above, however, the essentially unitary nature of the system was reflected in the National Parliament’s ultimate power to disallow a provincial law if it considered this to be ‘in the public interest’. The national government used this authority only once: to prevent the Enga provincial government from extending the term of its provincial assembly in 1990.

In fact, after an initial burst of activity to pass basic implementing legislation (mostly drafted by national government officers), most provincial governments were fairly inactive legislatively, several doing no more than pass their annual appropriation acts. One of the reasons for this was that most of the activities of provincial governments were transferred to them by the national government

and exercised under national legislation — an arrangement which, as Regan observes, 'largely ignored the spirit — and arguably the letter — of the OLPG and tended to give the national government greater control over provincial governments than was intended by the OLPG' (May and Regan 1997, 33).

There were, however, a few notable instances of provincial legislative initiatives, including those of the East Sepik provincial government in relation to customary land registration, Manus in relation to marine and forest resources management, and New Ireland in relation to compensation payments.

## Local-level government<sup>5</sup>

Consistent with the recommendations of the CPC, the OLPG gave responsibility for local government to the provincial governments — despite the reservations expressed in the 1974 White Paper (see above). In thirteen provinces, provincial governments simply passed new legislation to perpetuate the existing structure of local governments; in two provinces councils continued to operate under national legislation, while four replaced local government councils by community governments, following a model already introduced in Bougainville. During the 1980s several provinces moved to replace councils in urban centres by appointed statutory authorities.

Already by 1977 local government councils were in decline in many parts of the country, with most facing resistance to the payment of council head taxes and participation in council activities. Local-level government funding was said to be under review in 1981, but nothing seems to have come of this. By the early 1990s, deprived of funding and human resources, local governments in most provinces were barely functioning. Regan observed that 'in the...struggle for power, resources and prestige, local government has been perhaps the biggest loser under the provincial government system' (May and Regan 1997, 28). In 1991 a committee of the Premiers' Council (responding to the report of the Hesingut Committee — see below) recommended that local governments be represented in provincial assemblies (up to 25 per cent of elected members) and be guaranteed 10–20 per cent of national government transfers to provincial governments, but no action was taken at the time.

## Intergovernmental financial relations

Intergovernmental financial relations pose problems for most federal-type systems, and Papua New Guinea has been no exception. The financial arrangements of the OLPG contained several elements.

*A minimum unconditional grant (MUG)* was intended to ensure that each province had the basic funding necessary to carry out the functions transferred to the provinces in 1977; it was based on the level of expenditure by the national government on the transferred functions in the year prior to the introduction

of provincial government, adjusted annually for movements in the consumer price index or in government revenue, whichever was smaller, less the salary cost of public servants assigned to the province by the national government (which were paid directly by the national government). From the outset, there were problems with the MUG. For one, in 1978 it was decided that provinces which had not attained 'full financial responsibility' (FFR) would not receive the full MUG.<sup>6</sup> The eleven provinces which did not achieve FFR received most of their funding directly through the national budget. This arrangement probably contravened the provisions of the OLPG, but the provinces without FFR did not object because the funding they received was greater than they would have received under the MUG formula. Secondly, the formula took no account of population increase or rising costs of carrying out the transferred functions — particularly rising salary levels (which were determined by a national tribunal, and were therefore beyond provincial control); as a result, the salary deductions taken from the MUGs of the provinces with FFR took a progressively larger part of the MUG (rising, on average, from 47 per cent in 1978 to 72 per cent in 1988).

A second category of grant, *additional unconditional grants* (AUGs), was initially intended to be the principal vehicle for equalization amongst provinces. It was envisaged that the AUGs would be of a significant amount, allocated at the discretion of the national government on the advice of the National Fiscal Commission (see below). In fact, the amount paid in AUGs was small, and after 1984 none were paid, funds being diverted instead to the national government's five-year rolling plans for non-recurrent expenditure (the National Public Expenditure Plan (NPEP) to 1985 and the Public Investment Program (PIP) from 1987). The NPEP did include a Less Developed Areas Program, through which several provinces with integrated rural development programs (East Sepik, Southern Highlands, Enga and Milne Bay) received funding, but only limited amounts of NPEP/PIP funding were directed to the provinces — less than 20 per cent in most years — the rest being allocated to projects of national government agencies. Analysis of NPEP expenditure suggested no evidence of provincial equalization (see May 1999, 131); indeed the process of competitive bidding for funds was very likely to disadvantage the less developed provinces, in which administrative capacity was generally also less developed. The need for an equalization element in financial transfers was argued before the review committee in 1981 (May 1981, 26–29).

A third source of provincial funding was a *derivation grant*, calculated on the export value of production originating in the province, less any royalties payable to the provincial government. This was designed essentially to placate the wealthier, or resource-rich, provinces, notably Bougainville — though it was rationalized as also giving provinces an incentive to encourage economic development. In addition, from 1990, a special support grant was introduced for those provinces hosting a major mining or petroleum project, based on the

export value of minerals and petroleum production in the province. A fourth category of grant, conditional grants, for purposes agreed between the national and provincial governments, was used only sparingly, to finance town sanitary services in rural centres.

The proceeds of certain national government taxes were also transferred to provinces, the most important initially being royalties, of which the main recipients were North Solomons and Western provinces, and to a lesser extent Milne Bay, Enga, Southern Highlands, and New Ireland. Subsequently, the national government took over responsibility for the collection of retail sales/value-added tax, returning proceeds to provinces on the basis of derivation. The OLPG reserved certain revenue sources for the exclusive use of provinces, but internal revenue was a relatively minor source of funding, ranging in 1988 from 23 per cent in Bougainville to 2 per cent in the Southern Highlands. From 1978 (when the national government provided a grant and a K100,000 interest-free loan for the establishment of provincial 'development corporations') all provinces had business arms, but with poor management and frequent political interference in their operations, by the early 1980s most were running at a loss and few survived.

As early as 1979 there were demands for a review of intergovernmental fiscal arrangements (prompted primarily by the problems associated with the MUG arrangements), and in 1980 the Department of Finance and the Premiers' Council separately initiated review processes. Consultants' reports were commissioned and submitted in 1981 to a Committee to Review the Financial Provisions of the Organic Law on Provincial government (Chelliah 1981; May 1981); a Premiers' Council report was submitted the following year. This led further to the establishment of a specialist committee which reported to the Premiers' Council conference in 1984,<sup>7</sup> but nothing was done to implement the recommendations of the committee until 1988. Amendments to the OLPG were drafted and introduced into parliament in 1990, but they lapsed when parliament rose in 1992 without having debated them.

## Intergovernmental relations

Given the emphasis on the flexibility of the decentralization introduced in 1977, the OLPG sought to encourage intergovernmental consultation, and several issues were made non-justiciable. Reporting in 1980, however, the General Constitutional Commission (GCC) expressed the view that, 'Although there has been some consultation between National Government and Provincial Governments the extent to which this has been carried out has been extremely poor' (GCC 1980, 31).

The main institutional elements to achieve this were a Premiers' Council and a National Fiscal Commission. The Premiers' Council, comprising provincial

premiers and the prime minister and national ministers for Finance and Provincial Affairs, was required to meet at least once per year, and seldom met more often. It provided a useful forum for discussion of provincial concerns and occasionally played a role in helping resolve issues of contention between the two levels of government, but there was little follow-through on Premiers' Council resolutions<sup>8</sup> and it scarcely succeeded in achieving its stated objective of avoiding legal proceedings between governments (OPG S.84), which occurred with increasing frequency from the mid 1980s. By the early 1990s informal meetings of regional premiers (Islands, Highlands, Momase or North Coast and Papua or South Coast) were also taking place.<sup>9</sup>

The National Fiscal Commission (NFC) was intended to be an independent expert commission, along the lines of fiscal commissions in several federations, with the principal tasks of advising the national government on the distribution of additional unconditional grants (see above), and helping to resolve disputes over provincial taxes and other fiscal matters. In fact, however, the NFC as constituted was more eminent than expert, and it was generally perceived by provinces as being 'in the pocket' of the Finance Department (May 1981, 41–43). After 1985 it effectively lapsed.

## Suspensions

The constitution and the OLPG of 1977 included complex provisions to safeguard the autonomy of the provincial governments. Already in 1979, however, the then minister for Decentralisation, John Momis, was pressing for amendments to make it easier to suspend provincial governments. This was eventually done in 1983 and the first suspension took place the following year. By 1995 all but five provinces had been suspended at least once, mostly on the ground of financial mismanagement<sup>10</sup> — though in several instances political animosities between provincial politicians and national MPs also seem to have come into play (May and Regan 1997; Barter 2004), and apart from a few prosecutions little attempt was ever made to address the problems that led to suspension.

## The politics of provincial government and the call for change

The decentralization of 1977 had a difficult birth, and the provincial government system continued to generate controversy. Some of the early critics of provincial government remained convinced that the transfer of functions to the provinces was a mistake; local government councillors, who became increasingly marginalized in most provinces, often supported calls for change in the system; and, in particular, backbenchers in the National Parliament, who frequently saw provincial politicians as a threat to their political support bases, began looking at ways of reasserting their authority (the 1981 amendment to the OLPG which made national MPs ex officio members of provincial assemblies, was in

large part a reflection of this,<sup>11</sup> as was the 1983 amendment which made it easier to suspend provincial governments). In addition, Regan argues, 'there was not (in the early period of provincial government) the mass mobilization around the new provincial governments that had been anticipated by the CPC', except perhaps in Bougainville and East New Britain (May and Regan 1997, 61). Unfulfilled expectations at provincial and local level, complaints about the high cost of the provincial government system,<sup>12</sup> evidence of mismanagement and corruption, and the general excesses of some provincial politicians, all combined to generate demands for change.

Administratively, the creation of departments of the provinces, which brought personnel assigned to provinces back under the control of the national Public Services Commission, the 'full financial responsibility' arrangements which saw the national Department of Finance retain control of funds intended to go to provinces, and the introduction of the NPEP/PIP for the allocation of non-recurrent spending, combined with the demise of the 'additional unconditional grants' (see above), were all designed to limit, if not to actually reverse, the process of decentralization. Elsewhere, in the departments of Health, Education, Primary Industry, and Forests, national agencies continued to exercise control over provincial activities through a variety of administrative procedures (see, for example, May and Regan 1997, 63–64 *et passim*), often with the passive acceptance of provincial governments.

In the early 1980s, opposition to provincial government became more overt. After being returned as prime minister in 1982, Somare initiated a move to replace the OLPG by an ordinary act of parliament, telling a Premiers' Council conference the following year that if there were a parliamentary vote on the abolition of provincial government, the vast majority of MPs would support it. The proposed legislative change was strongly opposed by the premiers of the Islands Region and some other prominent political leaders, and was not pursued. However, in 1984 Somare raised the issue again, this time proposing a referendum on the future of provincial government. Again, he was opposed by leaders in the Islands Region, who this time threatened to secede, and the proposal was dropped (see May 1999). However a parliamentary select committee, chaired by Anthony Siaguru, was set up to look at the working of the provincial government system. In 1985 Somare lost a parliamentary vote of no confidence and was succeeded by Pias Wingti, who — though himself no supporter of provincial government — terminated the work of the Siaguru committee. Wingti himself lost office in 1987, but told the press that if returned he would move to abolish the provincial government system (*Papua New Guinea Post-Courier* 4 November 1988).

The following year, 1988, saw the beginnings of the conflict on Bougainville, and in 1990 its declaration of independence. Regan has argued that the demise of the Bougainville provincial government — 'long held out as the model of

what was possible under the system' and a potent force opposing the critics of provincial government — encouraged moves to abolish the system (May and Regan 1997, 70). Following a further change of government in 1988, in 1990 another parliamentary select committee on provincial government was set up under the chairmanship of Morobe MP Henu Hesingut. The Hesingut Committee left no doubt about its antipathy to provincial governments: its final recommendation was for the abolition of elected provincial governments and their replacement by provincial bodies composed of heads of local-level governments, which were to be brought under national government control (National Parliament 1990).

In reaction to this, the Premiers' Council established a Premiers Sub-committee on Provincial Government Review, essentially to counter what the premiers saw as the Hesingut Committee's 'consistently expressed...negative view of the provincial government system' (National Premiers Council 1990, 2). The sub-committee complained of the lack of response to resolutions of the Premiers' Council (see above), and argued that increased national control of public servants in the provinces had left them unable to efficiently manage staffing matters and had restricted their ability to take quick and decisive disciplinary action. It accused the Hesingut Committee of unwillingness to hear views in support of provincial government, and failure to consider previous reports on the system, concluding, 'It is the belief of the Premiers' Council that the real mission of the Select Committee is to lay foundations for the abolition of the provincial government system rather than conduct a constructive review' (*ibid.* 15).

Also between the preliminary and final reports of the Hesingut Committee, a private member's bill was introduced into parliament seeking the creation of district development authorities to take over most of the functions of provincial governments. The bill proposed district coordinating committees, chaired by the open MP (districts being the administrative level below provinces, and broadly corresponding with open national electorates) to oversee development projects at district level. Although the bill lapsed, an outcome of the parliamentary debate was the passage of the *Electoral Development Authorities Act, 1992* which gave MPs a role in the distribution of funds in their electorates — what became known as 'slush funds' (see below).

In 1992 Paias Wingti again became prime minister, and announced his intention of overhauling the provincial government system. Within weeks of taking office, his government introduced a Village Services Programme, which Village Services and Provincial Affairs Minister John Nilkare described as 'the most fundamental policy shift in our national history' (*Papua New Guinea Post-Courier* 14 August 1992, 24–25. Also see *The Times of Papua New Guinea* 12 November 1992, 32–33 and Department of Information and Communication 1993, 41–42). It was designed to empower some 240 community governments

through a structure of district centres and community councils linking the national government with village groups, largely bypassing provincial governments.

In a subsequent statement, Prime Minister Wingti said he would reduce the number of provincial politicians and give greater power to national MPs; he described the provincial government system as costly and divisive, and marred by gross mismanagement and corruption. In October 1992, the National Executive Council agreed to the abolition of the system of elected provincial governments established in 1977, and legislation was drafted for amendment of the constitution to enable the repeal of the OLPG. The then opposition leader, Sir Michael Somare, endorsed the decision.

Many welcomed the Wingti government's initiatives, but there was strong opposition from within provincial governments, and in the New Guinea Islands region there were renewed threats of secession and talk of creating a Federated Melanesian Republic if demands for greater autonomy were not forthcoming. In the face of this opposition, (as well as threatening to suspend the Islands provinces and prosecute their leaders) Wingti set up a Bi-partisan Parliamentary Select Committee on Provincial Government, chaired by New Ireland MP Ben Micah. After public consultations, the Bi-partisan Committee presented a final report in August 1993 which recommended a comprehensive restructuring of the provincial government system. The NEC endorsed the committee's report and created a Constitutional Review Commission (CRC) to implement its recommendations.

Draft legislation was tabled in the National Parliament early in 1994. The legislation proposed to do away with the elected provincial assemblies, replacing them with provincial governments comprising the national MPs from the province and heads of local-level governments, with provision also for a small number of traditional chiefs and appointed members (including a woman representative). It sought to incorporate districts in the new structure and to empower local-level governments. In explaining the general thrust of the proposed new organic law, the CRC described it as one 'of greater decentralisation...in that more powers are decentralised further to local level governments' (quoted from a CRC brief published in *The Times of Papua New Guinea* 7 April 1994, 31–42). Others, however, saw it as a re-centralization, in that it did away with elected provincial members and enhanced the role of national MPs. Continuing opposition from the provinces and some national MPs resulted in amendments to the draft legislation, including its financial provisions, in favour of the provincial governments.

The amended legislation still did not have an easy passage, with continuing threats of secession by the Island premiers, and the acknowledged father of provincial government in Papua New Guinea, John Momis, predicting that the

new legislation would create ‘an administrative nightmare’; not only was the local government system ‘almost dead in most provinces’, he said, but the new arrangements would ‘make many provincial governments tools in national level conflict on a level and to a degree of intensity never before imagined’ (*Papua New Guinea Post-Courier* 4 April 1995). Nevertheless, in June 1995 the new *Organic Law on Provincial Governments and Local-Level Governments* (OLPGLLG) was finally passed. In recognition of the special circumstances on Bougainville, the recently established Bougainville Transitional Government was initially exempted from the provisions of the OLPGLLG. Special arrangements were also made for the National Capital District. Sir Julius Chan, who had replaced Wingti as prime minister in 1994, welcomed the new arrangements, claiming that Papua New Guinea had been freed from the burden of a provincial government system that had handicapped the country for the best part of twenty years.

Several cabinet members, including Sir Michael Somare, opposed the passage of the OLPGLLG and as a result were dropped from the cabinet; a by-product of this was a split in the Pangu Pati which led to the emergence, under Somare’s leadership, of the National Alliance.

## **Decentralization since 1995**

### **The new structure of decentralization**

Under the arrangements introduced in 1995, the governor, who is head of the provincial government and chairs the provincial assembly, is normally the member of the national parliament representing the provincial electorate. If the provincial member accepts an executive position in government, or becomes leader or deputy leader of the opposition or speaker or deputy speaker of the National Parliament he/she must be replaced by another MP.<sup>13</sup> The deputy governor is elected from among the representatives of the local-level governments. The governor is constitutionally responsible to the minister for provincial and local-level governments.

The former ministerial system at provincial level was replaced by a committee system. The provincial executive council comprises the governor and deputy governor and the chairpersons of the committees, not exceeding a third of the membership of the assembly. Since the governor appoints the committee chairs, this provision gives the governor considerable authority.

Administratively, provincial departments were abolished under the OLPGLLG, their operations coming under the relevant national departments through a provincial administrator, who is the chief executive officer of the provincial government and ‘the administrative head of the staff in the province’ (Ss.73–74). In fact, however, the shift from provincial departments to provincial administrations made little difference to the way things were done at the provincial level (except there was no longer an allocation to provincial

departments in the national budget) and the role of the provincial administrator *vis-à-vis* the heads of national departments in Port Moresby has been ambiguous. The OLPGLLG provides that the provincial administrator be chosen by the National Executive Council from a list of persons nominated by the provincial executive council. In practice, however, the appointment of provincial administrator has been a subject of controversy in several provinces since 1995. In Southern Highlands Province at one stage there were three provincial administrators, appointed under different governors, contesting the position (and all drawing salaries), and this situation was more or less replicated at district level. At least one other province, Enga, has also for a time had more than one provincial administrator.

The framers of the OLPGLLG foresaw a decentralization of administration from Waigani to the provinces and from provincial capitals to the districts. In fact, however, the provisions of the OLPGLLG have been a source of some confusion: although the provincial administrator 'shall maintain overall supervision and direction' over all public servants in the province (excluding law enforcement agencies), and 'shall co-ordinate and monitor the roles and functions' of the national departments and agencies (S.74[1][d],[e]), it was not initially clear how this authority related to the chain of command within national departments and agencies, nor what control the provincial administrator exercised over district administrators. For example, under the *Public Finance (Management) Act* the provincial administrator is responsible for the accountability of the provincial administration, but has no formal power to direct staff responsible for keeping accounts. This has been a particular source of contention in the Health sector. Responsibility for rural health services (a sub-national function) rests with the provincial administrator, who is advised by a provincial health board (of which he is the chair); a provincial health adviser, appointed by a panel chaired by the provincial administrator and sometimes including a representative of the national Department of Health, sits on the board. The provincial health adviser has local responsibility for hospitals (a national function) but ultimate responsibility rests with the Department of Health. He/she reports to the provincial administrator; attempts by the national Department of Health to institute a system of dual reporting have not succeeded. At the local level, community health workers report to the district administrator, rather than the provincial health adviser. It has been argued that these structural arrangements do not make for effective delivery of Health services (see Thomason and Kase in this volume).

Under the OLPGLLG provinces retained their primary powers, including financial powers, but concurrent powers reverted to the national government. Local-level governments were also given significant law-making powers, covering such subjects as labour and employment, self-help schools (excluding curriculum), dispute settlement, local environment, and local aidposts (see

Ss.42–45). However, the OLPGLLG also provided that in the event of any inconsistency between provincial and local-level laws and national laws, the latter will prevail. There has, however, been confusion about which level of government is responsible for what (see below).

A significant amendment to the OLPGLLG (S.33A) in 1996 provided for the establishment of a joint provincial planning and budget priorities committee (JPPBPC) and joint district planning and budget priorities committees (JDPBPCs) in each province. Each JDPBPC consists of the MP representing the open electorate (as chair), the provincial MP, the heads of the local-level governments in the district, and up to three other members appointed by the open MP in consultation with heads of the district's local-level governments. The role of the JDPBPCs is to oversee and coordinate district planning (including a rolling five-year development plan) and budget priorities 'for consideration by' the provincial and national governments; to determine and control budget priorities for local-level governments, and to approve local-level government budgets. The JPPBPC has similar functions at the provincial level. In some districts (especially those around the provincial capital) the JDPBPCs have played an effective role; in others they have met infrequently, and often outside the district (in several cases in Port Moresby). A critical factor in this is the role played by the open MP (see below). Apart from the question of whether the JPPBPC/JDPBPCs work effectively, there is an inherent problem in these arrangements in that such 'bottom-up' planning means that provincial priorities are not necessarily consistent with national priorities laid down in the MTDS and embodied in the policies of national departments.

## Local-level government

In presenting the new legislation in 1995, the CRC claimed that 'the reform is not "centralizing" powers as claimed by critics. This reform is in fact decentralizing powers further to the Local Level Governments'. As noted above, however, some commentators were more sceptical. As one assessment in 1997 suggested:

It must be seriously questioned whether local-level government will have the capacity to carry this load....In the absence of a strong local-level government structure, the new system is likely to increase substantially the political role of national MPs. Arguably, this was the real objective of the reforms (May 1999, 144–145).

Local-level governments (LLGs) are defined as urban authorities or councils, community governments, local government councils, 'traditional form(s) of governmental structure', or some combination of these (S.26), though outside of the provincial capital most provinces have retained the long-established local government council structure. The OLPGLLG removed from provincial

governments the power to make laws about local-level government. A 'normal maximum' of three rural local-level governments was set for each district.<sup>14</sup> Within each LLG is a structure of wards, around which have developed ward committees (not provided for in the OLPGLLG).

The administrative functions allocated to local-level governments are spelled out in the *Local-level Governments Administration Act* of 1997. They include the preparation of a rolling five-year development plan and an annual plan and budget, construction and maintenance of infrastructure for which LLGs are responsible, initiating and implementing programs for youth and women, and organizing forums to discuss renewable natural resources.

Until 2007, in most districts, little has been left of the small amount of revenue received by LLGs after allowances (fixed by the national Salaries and Remuneration Commission) have been paid to councillors. In 2007 this was addressed by replacing staffing grants with goods and services grants. In an attempt to re-mobilize local-level governments and give them a source of locally-generated revenue there has been a move to reintroduce head taxes.<sup>15</sup> The national government passed enabling legislation in 2004 and several local-level governments have passed the necessary legislation, but only a few have actually begun revenue collection and it is likely that many will never do so.

## Special Purpose Authorities

The OLPG of 1977 contained provision for the establishment of special purpose authorities at local level. Four such authorities were then already in existence.<sup>16</sup> In 1989 the Porgera Development Authority was created, as part of the arrangements negotiated for the Porgera gold mine in Enga Province, and five years later the Nimamar Community Government was transformed into the Nimamar Development Authority during negotiations over the gold mine on Lihir, New Ireland.

*The Local-level Governments Administration Act* of 1997 provides for the creation, on a recommendation of the minister for Inter-Governmental Affairs and advice of the NEC, of special purpose authorities to assist in the implementation of functions of one or more local-level governments. Special purpose authorities have been seen as a means of devolving powers to locally-based corporate bodies whose operations are 'at arms length' from local-level governments (Filer 2004, 3). Their functions may vary; those of the Porgera Development Authority, for example, include the control, management and administration of the Porgera District, assistance to local government councils in carrying out their functions in the district, receiving and distributing royalties from the provincial government, maintaining the local airstrip, advising on liquor licensing, and assisting the provincial town planning board. Since 1995

several new authorities have been created or proposed, notably for Koiari (which covers the source of Port Moresby's water and hydro-electricity supply), Kikori, Kutubu and Hides (the last three associated with gas and petroleum resource projects). In addition an Ok Tedi Development Foundation was established in 2001 by Ok Tedi Mining Ltd (OTML) to deliver a range of services around the Ok Tedi mine in Western (Fly River) Province and PNG Sustainable Development Ltd was set up to receive income from the Ok Tedi mining operation and channel the funds to sustainable development projects in and beyond the province. While there have been attempts to use special authorities 'as "fronts" for the misappropriation of government funds' (*ibid.* 5), there has been some support for the special purpose authority model, specifically in areas where major resource projects generate substantial revenue, and create special problems of governance. (For a more detailed discussion of this topic see Filer 2004.)

## Financial arrangements

To supplement their internal revenue sources, and the payment of proceeds from specific tax revenues collected by the national government (principally now the GST), provision was made for the provinces to receive six forms of grant from the national government: a provincial and local-level administration grant, a provincial infrastructure development grant, and a local-level government and village services grant (all based variously on population and land and sea area); a town and urban services grant (based on urban population); a provincial and local-level staffing grant (related to provincial administration and teaching service salaries, but administered through the national payroll system in Port Moresby), and a derivation grant (based on the export value of commodities produced in the province) and special support grants provided for in natural resource agreements. There was also provision for conditional complementary support grants to provincial and local-level governments 'to support any specific or contingency need', but this provision has not been used. In 1996, associated with the creation of Joint Provincial and District Planning and Budgetary Priorities Committees, a provincial and district support grant was added to the funding package. In 1998 the OLPGLLG was again amended; the minimum level of the provincial/district support grant was set at K0.5 million per electorate, half of which was to be paid to the JP/DPBPC to fund rural action and urban rehabilitation programs,<sup>17</sup> and half to the MP in the electorate, to be allocated at his/her discretion within district support grant guidelines (in some cases, MPs leave the allocation of the entire district support grant to the JDPBPC but in most cases MPs have retained control over the discretionary element, and this has been a continuing source of controversy).<sup>18</sup> (For an assessment of the electoral development / district support grant system see Ketan 2007).

The OLPGLLG also provided for the creation of an independent National Economic and Fiscal Commission (NEFC) with broad fiscal and economic

functions, including oversight of provincial finances — a successor to the long moribund National Fiscal Commission established under the OLPG of 1977. In fact, it was not until 1998 that the NEFC was established, and then to ratify the Skate government's decision to pay the provincial and local-level governments amounts less than were prescribed under the grant formulae. Subsequently, the NEFC became the leading force in pushing for a review of the intergovernmental financial arrangements. The NEFC identified a number of problems. These include: the inability of the national government, in its present fiscal circumstances, to meet the requirements of the OLPGLLG; some uncertainties about fiscal responsibilities ('We do not even know clearly exactly what each level of government is responsible for paying for')<sup>19</sup>; wide disparities between provinces and districts in the costs of providing services; the fact that national priorities are not always given priority in provincial budget allocations; and the fact that 'only a small proportion of provincial funding is going into goods and services'.<sup>20</sup>

## Intergovernmental relations

Under the new decentralization arrangements the Premiers' Council lapsed, though a provincial governors conference has met annually (without a statutory mandate) and there is an annual meeting of provincial administrators. As noted, the moribund NFC was replaced by the NEFC. However, a new institution, the National Monitoring Authority (NMA), formally titled the Provincial and Local-level Service Monitoring Authority (PLLSMA),<sup>21</sup> was established under the OLPGLLG with a range of functions, including:

- a. coordination and monitoring of the implementation of national policies at the provincial and local level;
- b. establishment and monitoring of minimum development standards for rural and urban communities;
- c. assessment of the effectiveness and efficiency of sub-national governments, and
- d. ensuring that all appointments to offices at sub-national level are based on merit.

The NMA/PLLSMA comprises heads of the major sectoral departments and the NEFC, and is chaired by the secretary, Department of Provincial Government and Local-level Government Affairs (DPLGA). Several meetings of the NMA were held in the latter part of the 1990s, with little concrete output; thereafter it lapsed until it was re-activated in 2004 (see Barter 2004, 134–135).

## Suspension

The OLPGLLG effectively removed the national government's authority to suspend provincial and local-level governments, 'except where there is a war

or national emergency or where a Provincial or Local-level Government undermines or tries to undermine the authority of the National Government'. However, the national government's powers to withdraw functions and finances from provincial and local-level governments (Ss.51–57), though subject to referral to an independent national investigation committee set up under the OLPGLLG, appeared to remain substantial. During the latter part of the 1990s four highlands provinces had powers withdrawn. In 2000 the governor of the Southern Highlands Province appealed against the withdrawal of his government's powers by the national government, on constitutional grounds, and his appeal was upheld. Commenting on this in 2004, Barter said:

As a result, even where flagrant abuses have been demonstrated — such as stacking of a Provincial Assembly by nominees of the Governor rather than by representative Heads of LLGs — the national government has been unable to act (Barter 2004, 137).

The constitution has since been amended (as part of a package to retrospectively authorize the collection of GST by the national government) to broaden the national government's powers, but the new provisions have not been tested, and further draft legislative amendments submitted to a parliamentary committee had not been taken up at the end of 2006. Meanwhile, the national government appears to be powerless to remove a provincial governor.

## **The 1995 reforms in practice.**

In early 1997 then Provincial and Local Government Affairs Minister Peter Barter told the National Parliament that 'it will definitely take time, maybe five years or more before the results of the system are realised' (Draft Hansard 11 February 1997). Three months later he told a seminar in Port Moresby that 'in the 22 months since the reforms commenced, little improvement has been achieved in the operations of provincial administrations and almost nothing in most of their sub-units, the districts' (quoted in *The Independent* 30 May 1997).

Since 1995 there has been growing criticism of the new decentralization, and renewed calls for reforms — ranging from the revival of elected provincial governments, on the one hand, to a more comprehensive decentralization to local-level governments on the other (see below). There has been no systematic study of provincial and local level government performance under the 1995 arrangements, however a number of problems have been identified:<sup>22</sup>

- To give effect to the new decentralization arrangements, a range of new legislation and amendments to existing legislation was required; much of this has not been done.
- The division of government responsibilities between three levels of government has made for a very complex form of decentralization, in which

functional responsibilities are not always clearly understood, contributing to poor service delivery.

- In the context of deteriorating economic and fiscal circumstances, the financial provisions of the 1995 Organic Law have proved unworkable, resulting in the underfunding of provincial governments (that is, provincial governments have received less — by the early 2000s about 60 per cent less — than mandated by the funding formulae of the OLPGLLG), and consequent legal challenges. An additional problem is that provisions for some ‘equalization’, or redistribution of funds from the richer provinces to the poorer, provided for in both the 1977 and the 1995 arrangements, have never been put into effect.
- Financial accountability is weak, with little scrutiny of provincial budgets by the national Treasury and weak oversight by DPLGA. As Barter (2004, 141) said, with specific reference to finance and audit of lower-level governments: ‘There are widespread double payments, misappropriation, unauthorized advance payments of salaries, illegal borrowing, and payment of sitting allowances when there are no meetings’ (Barter 2004, 141).
- Underfunding, poor capacity and deteriorating infrastructure, mismanagement and corruption, lawlessness, and the politicization of provincial, district and local-level administration, have contributed to poor service delivery in many parts of the country, especially the more remote areas. At the district level, cash offices and post office and banking facilities had been withdrawn in most district headquarters by the 1990s, most were without power as generators became unserviceable or lacked fuel, and government housing was sold off or vandalized.
- During the 1990s and early 2000s there also appears to have been a decline in the capacity of the DPLGA to support provincial and local-level governments and carry forward the changes introduced by the OLPGLLG. For example: in 2005 the DPLGA’s Local-level Government branch had a staff of only ten to oversee some 300 local-level governments, most of which were struggling to deliver services, and the funds available for travel to provinces to enforce proper oversight of spending was totally inadequate.

In 2004–5 a group from the Australian National University, the National Research Institute and the Divine Word University undertook a pilot study in five provinces<sup>23</sup> to gather information about district and local-level governance. Some of the findings of the study are summarized below.<sup>24</sup>

## District management

In some parts of the country there have been complaints that district administrators (DA) are frequently absent from their posts, that JDPBPCs (which are legally required to meet at least four times per year) seldom meet, and often meet outside the district, and that MPs dominate the JDPBPC process. Predictably, responses to the survey suggest that situations vary widely between provinces, and within the one province between different districts and local-level

governments. In East New Britain, for example, in the two districts surveyed there was a high level of collaboration between the open member, the JDPBPC and the district administration; both open members were said to make regular electoral visits, to be on good terms with all local-level governments, and to meet regularly with the district administrator. The DAs also visited local-level governments and projects funded by the JDPBPCs on a regular basis. Civil society (churches, private businesses, NGOs and village communities) were said to play an instrumental role in the development of the district and the province. Relations between the district administrations and the provincial administration were generally good. In contrast, in Madang Province (where there was an ongoing dispute over the governorship) the Madang District JDPBPC had met only once in 2004 — in Port Moresby — and the DA was in Manus at the time. The open member was accused of ‘stacking’ the JDPBPC. In the conflict-ridden Southern Highlands, there were at one stage three provincial administrators, appointed by successive governors and all drawing salaries, and in most districts more than one DA. Not only public servants in the province, but also LLG presidents and councilors had been politically appointed. Mendi District was without an open MP (the local member having been removed from office after being found guilty of misappropriating funds); the DA was said to be often absent from the district, and the JDPBPC had seldom met, and then in Port Moresby or Goroka. In the absence of an open MP, the JDPBPC was said to be controlled by associates of the provincial governor. Many public servants had fled to escape the ongoing conflict and had not returned; those who remained were generally reluctant to travel around the district.

## District planning

All districts are required to have rolling five-year plans as a basis for defining needs and setting priorities. Most do, though frequently, it seems, there is no clear matching of plans and budgetary resources. The Minister for Inter-government Relations has remarked that ‘Until recently, approval for provincial and local-level budgets was without consideration of the planning dimension....Overall inadequacy of funding has meant that district Development Plans remain a dream, with little relation to budgets or implementation....The history of District 5-year and 10-year strategic development plans — where they exist — is miserable’ (Barter 2004, 135, 142, 147). Until 2004 district plans were lodged with the Department of National Planning and Rural Development (DNPRD) without a copy going to DPLGA.

## Service delivery

There are complaints about poor service delivery across the country, but this is particularly a problem in remote areas with poor transport networks and other infrastructure, and areas plagued by security problems. Confusion about the

distribution of functions between levels of government, and politicization of service delivery were also identified as problems.

In the Southern Highlands Province, where most of the country's petroleum resources are concentrated and some landowning groups have benefited from the Porgera mine in the adjoining Enga Province, there has been an almost complete breakdown of provincial government, district administration and local-level government, and demands for a new Hela Province in the west. Inter-group fighting, utilizing high-powered weapons, has not only resulted in the loss of many lives, it has destroyed infrastructure, impeded the movement of people and goods and services, and caused a number of businesses to withdraw from the province. Many teachers and public servants have also left their posts in the province, while leaders of landowner groups and politicians from the Southern Highlands spend much of their time in Port Moresby (see Haley and May 2007). An audit of the provincial government by private auditors contracted by the national government in 2003 recorded comprehensive fraud and financial mismanagement, but at the end of 2005 no prosecutions had resulted. In the 2002 national elections, polling in six of the province's nine electorates was declared void and elections had to be conducted again. Attempts to address the problems of the Southern Highlands through the withdrawal of functions were frustrated by Governor Agiru's successful challenge to the national government's powers (see above). In 2006 a state of emergency was declared in the Southern Highlands (which was challenged by Governor Hami Yawari) and PNGDF troops deployed to assist police and help enforce a surrender of weapons. Under the state of emergency, some order was restored in the province and at the end of January 2007 twenty-four people had been charged with fraud (*The National* 31 January 2007).

The Southern Highlands is an extreme case, but nonetheless reflects some of the problems of governance in the provincial and local-level government system.

The shifting of provincial and local-level audit functions from DPLGA to Finance had done little to change what seemed to have become an entrenched culture in many provinces.

## **Reforms since 1999**

In the context of the public sector reform program initiated by the Morauta government in 1999 and continued under the Somare government of 2002–2007 (see chapter 3 above),<sup>25</sup> there has been an explicit recognition that governance and service delivery cannot be improved without a concerted effort to improve performance at the sub-national level. Indeed, the government's Medium Term Development Strategy 2005–10 stated:

...in the years since the passage of the Organic Law (the OLPGLLG), service delivery has deteriorated. On the whole service delivery systems

are dysfunctional and there remains widespread confusion over functional (who does what) and financial (who pays for what) responsibilities across the three levels of government (MTDS, 9–10).

In 2000–2001 the Morauta government negotiated a National Development Charter as a mechanism for delivering priority services at subnational level, primarily through matched national and donor funding and district funds allocated through the Rural Action Program/district support grants. The National Development Charter appears to have lapsed around 2002 (Barter says that in 2004 DPLGA could not find a copy of it), but was restored in 2004, with proposals for a Planning Systems Support Program (to support the implementation of a uniform planning system across all levels of government), a Provincial Services Cadetship program (to support tertiary students interested in a career in provincial and district administration), and provincial medium term development strategies. In 2005 a District Roads Improvement Program (DRIP) was added, under which provincial governments and JDPBPCs are to receive matching national government and donor funding for specified road projects, and it was planned to introduce similar programs in health and education.

The MTDS 2005–2010 included a number of activities ‘designed to identify practical solutions to the functioning of the decentralized system of government’ (MTDS, IV, chapter 4). Among a number of initiatives introduced since 2002 in the area of decentralization have been: a program to strengthen the Department of Provincial and Local Government Affairs (DPLGA); the revival of the NMA/PLLSMA and the development of systems to monitor provincial government performance in relation to minimum service delivery standards; the launching of a Provincial Performance Improvement Initiative (PPII), initially in three provinces (East New Britain, Eastern Highlands and Central)<sup>26</sup>, intended to improve provincial accountability and the integrity of budget systems; a District Services Improvement Program (DSIP) to support local-level governments; a District Treasury Roll-out program which aims to bring not only Treasury facilities but also banking and postal services to all district headquarters;<sup>27</sup> and encouragement for the (re)establishment of provincial and district management teams (PMT/DMT) designed to achieve improved coordination of provincial and local-level government activities (though the relationship between PMTs and JPPBPCs remains unclear, and some provincial administrators have complained that the PMTs usurp the position of the provincial administrators). Also, between 2002 and 2006 the NEFC undertook detailed studies, first, to specify functional responsibilities for the three levels of government — ‘who decides, who actions and who pays’ (see Simonelli 2003); secondly, to measure the relative costs of providing services at district level; and, thirdly, to assess the relative revenue-raising capacities of the provinces (see NEFC 2005). On the basis of these studies it recommended new intergovernmental financial arrangements designed

to achieve some degree of fiscal equalization amongst the provinces; draft legislation to this effect had passed the first reading stage in the National Parliament in late 2006. A less developed districts grant program (for districts identified by the NEFC and DNPRD) was introduced as part of a package of interim proposals for new intergovernmental financial arrangements in 2003.<sup>28</sup> AusAID has strongly supported (if it has not in fact initiated) these initiatives, in part through its Sub-national Initiative (which in 2006 was upgraded to a Sub-national Strategy).

All these initiatives presume the continuation of the broad arrangements established by the 1995 OLPGLLG. However there have been continuing demands for fundamental structural change to the provincial government system, notably from opposition leader Peter O'Neill, who in 2006 succeeded in having the National Parliament amend the OLPGLLG and pass a *District Authorities Act* intended to do away with provincial governments and shift responsibilities to district authorities (composed of the open MP, LLG presidents and some appointed members) and local-level governments.<sup>29</sup> Former Inter-Government Relations minister, Sir Peter Barter, has given (qualified) support for O'Neill's proposals (Barter 2004 fn.10), and reports of the Public Sector Reform Advisory Group (PSRAG 2002, 2005)) have argued similarly for a further decentralization to district and local level. In fact, this has been a recurring theme of decentralization reform proposals since the early 1990s, starting with the *Electoral Development Authorities Act* and the Village Services Program, following on through the recommendations of the Bi-partisan Parliamentary Committee on Provincial Government and the Constitutional Review Committee, to the 1996 amendments to the OLPGLLG which created the JPPBPCs/JDPBPCs. There is, therefore, no guarantee that a new government will not review the system yet again.<sup>30</sup>

Meanwhile, following the conclusion of the Bougainville Peace Agreement in 2001, the Autonomous Bougainville Government has been set up, with elections in May 2005, and the newly elected government is addressing the challenges of autonomy.<sup>31</sup> Encouraged by the Bougainville example, East New Britain is now pressing for an autonomous government and there have been tentative moves in at least one other province (Morobe).

## Conclusion

From its very beginnings, decentralization in Papua New Guinea has had a chequered history. There is little doubt that for the period between 1978 and 1995 one cause of problems was the initial decision to institute a uniform decentralization across all provinces, irrespective of capacity. But it is also clear from the record that successive national governments made little attempt to

address emerging problems, even when (as, notably, in the case of financial arrangements) they had clear and sensible recommendations before them.

A major reason for this was that the interests of national politicians and public servants at the national level do not necessarily coincide with those of political actors and public servants at the provincial, district and local levels. The 'reforms' of 1995, which abolished elected provincial assemblies nominally in the interests of greater decentralization but in reality with the effect of placing greater power in the hands of national politicians, owed much to a growing antipathy between national MPs and provincial MPs from the same province, the latter being frequently seen as undermining the power bases of the former. As predicted by some commentators in 1994–1995, one effect of the arrangements introduced under the new organic law seems to have been the increasing politicization of administration and service delivery at sub-national level.

The 1995 reforms envisaged a substantial transfer of functions to the sub-national governments, but failed to clarify the respective roles of the provincial administrators/district administrators and the national departments, and failed to align functions and funding; indeed there has been some further shifting of functions from the national government to sub-national governments since 1999 while funding to provinces has steadily deteriorated. This has contributed to the ongoing decline in service delivery at provincial, district and local level.

But if the arrangements introduced in 1995 have not measured up to popular expectations, this is not to say that a solution lies in yet another fundamental restructuring of intergovernmental relations, as some people are proposing. As in other areas of policy making and implementation, improved service delivery and greater equity between provinces and districts requires policies to effectively address clearly identified problems, rather than wholesale changes in institutions, policies and personnel. Since 1999 there has been a proliferation of initiatives aimed at improving governance at provincial, district and local level, much of which has been driven by external donors. In many cases initiatives have not been followed through; where they have, lack of capacity in most provinces, weak institutional memories and sometimes poor understanding of policies, and frequently inadequate support from the national government have often limited the effectiveness of the measures.

In a culturally diverse, geographically challenging, and fractious country like Papua New Guinea, achieving good governance across the nation is extraordinarily difficult, but, as other chapters in this volume suggest, given that much of the responsibility for service delivery rests with sub-national governments, without effective policies on decentralization, good policy outcomes in health, education, agriculture, economic development, law and justice, and other sectors will be difficult to achieve.

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## Endnotes

<sup>1</sup> I am indebted to Kathy Whimp for her comments on a draft of this paper.

<sup>2</sup> This chapter will focus on decentralization under the *Organic Law on Provincial Government*, 1977 and the *Organic Law on Provincial Governments and Local-level Governments*, 1995. It will not, except incidentally, look at local-level government, nor will it examine the autonomy arrangements under the Bougainville Agreement of 2001 or the operations of special purpose authorities (which are mentioned briefly below). For more detailed analyses of decentralization in Papua New Guinea see Ghai and Regan (1992), May and Regan (1997) and Axline (1986, 1993).

<sup>3</sup> North Solomons (Bougainville), Enga, Manus (from 1988) and East New Britain (from 1993).

<sup>4</sup> In the late 1980s, several provinces, either dissatisfied with public service performance or seeking additional sources of patronage, reestablished provincial secretariats.

<sup>5</sup> For a detailed study of local-level government before 1995 see Peasah (1994).

<sup>6</sup> For a detailed discussion of these issues see May (1981) and the sources cited in footnote.1 above.

<sup>7</sup> Review of Intergovernmental Fiscal Relations in Papua New Guinea. Report of a Committee established by the National Executive Council, on the Recommendation of the Premiers' Council, on 1<sup>st</sup> December 1983 (Port Moresby 1984).

<sup>8</sup> In 1990 a premiers' sub-committee of the Premiers' Council complained that between 1978 and 1990 the Premiers' Council had passed a number of resolutions – calling for the updating of national laws; proposing an intergovernment commission to conduct periodic reviews of the provincial government system; setting up the review of intergovernmental fiscal relations which led to the establishment of a committee by the NEC and recommended amendments to the OLPG; calling for assistance in the area of financial management, and so on – but that there had been no effort on the part of the national government to implement these resolutions or to address the problems identified by the Premiers' Council (see National Premiers Council 1990, 8-9. Also see May 1981, 43-45).

<sup>9</sup> From around this time also the Premiers' Council was generally referred to as the National Premiers' Council.

<sup>10</sup> May (1981, 33-39) identified a number of problems of accountability and audit (including the fact that after three years of decentralization in nineteen provinces the auditor general had produced only two – of a mandated fifty-seven – provincial audit reports) and recommended a number of remedial actions, but there was little follow-up.

<sup>11</sup> The amendment originated in a private member's bill which sought to give national MPs full voting rights in the provincial assemblies.

<sup>12</sup> In fact, calculations by Axline (1988) suggest that the actual costs of maintaining provincial governments were not large, and were fairly stable between 1982 and 1988.

<sup>13</sup> This has not always happened. In East Sepik Province, where in 2002 the provincial member, Sir Michael Somare, became prime minister and his replacement, Arthur Somare, later became a minister, then lost his portfolio, then again became a minister, a local-level government representative was, controversially, governor in 2004-2005. A local-level government representative was also for a while governor in Central Province.

<sup>14</sup> Because the boundaries of local government councils and community governments did not necessarily coincide with those of open electorates, it was necessary to carry out an extensive redrawing of local-level government boundaries. A number of provinces with more than three local-level governments in an open electorate also had to amalgamate councils or community governments.

<sup>15</sup> A *Review of Intergovernmental Fiscal Relations* in 1984 reported that there was head tax legislation in four provinces but only one (Bougainville) had raised 'a significant amount of revenue' (K170,000 in 1982) from the tax, and even there 'relatively few persons are paying the tax'. It went on to say: '...the tax is now difficult to collect...some provincial governments have explicitly abandoned any attempt to impose and collect the tax, either at provincial or local level. It is unlikely that head tax will ever raise significant revenue again, even if local level government again becomes effective. It was causing collection difficulties from the early 1970s'.

<sup>16</sup> The Higaturu-Oro Bay Services Authority, the South Bougainville Roads Authority, the Finschhafen-Kabwum Planning and Development Authority, and the Southern Highlands Development Authority.

<sup>17</sup> The Rural Action Programme replaced the controversial former Electoral Development Fund (commonly known as the 'slush fund').

<sup>18</sup> The legislation initially provided for a minimum of K0.3 million. Having been raised to K0.5 million in 1998, the amount was further increased to K1.5 million in 2001. Under a structural adjustment program with the World Bank, it was agreed that only K0.5 would be paid to MPs and JDPBPCs; the remaining K1.0 million was to be subject to a set of guidelines and procedures under the control of the Office of Rural Development. The amount was reduced back to K0.5 in 2002.

<sup>19</sup> Nao Badu, Chairman, National Economic and Fiscal Commission, 'Costs and Benefits of Decentralisation', n.d. (2004?).

<sup>20</sup> Amendments to the OLPGLLG in the constitution recommended by the NEPC were eventually passed by the National Parliament in 2008.

<sup>21</sup> Since the latter part of 2006 the NMA has reverted to its formal title (PLLSMA).

<sup>22</sup> This list is based largely on Sir Peter Barter's critique of decentralization under the OLPGLLG, written soon after he became minister for Inter-Government Relations (see Barter 2004), discussions with colleagues in DPLGA and NEFC, and my own fieldwork in the East Sepik Province. See also PSRAG (2005) and Tuck (2006).

<sup>23</sup> East New Britain, Eastern Highlands, Southern Highlands Madang, and Central. In each province two districts were selected for study.

<sup>24</sup> The unpublished report of the study is available online at [http://rspas.anu.edu.au/melanesia/conference\\_papers/0506\\_PNGDistrictGovernance\\_pilotstudy.pdf](http://rspas.anu.edu.au/melanesia/conference_papers/0506_PNGDistrictGovernance_pilotstudy.pdf).

<sup>25</sup> For a more detailed account of the reform process since 1999 see May (forthcoming).

<sup>26</sup> The PPII is part of an AusAID Sub-national Initiative, which in 2006 was expanded to become the Sub-national Strategy.

<sup>27</sup> The District Treasury Roll-out program was always an ambitious initiative. It involves the provision of office and staff accommodation and computer facilities in district headquarters which usually lack such infrastructure for existing staff and where power comes from generators which are chronically short on fuel, and where security is frequently a problem. In July 2006 the former Finance minister, Bart Philemon, said that he had personally opened 42 (of a planned 83) district treasuries in seven provinces (though some of these appear to have become moribund). He lamented the fact that progress appeared to have stopped after his loss of portfolio, and that the K50 million DSIP which was to have commenced in 2006, complementing the Treasury Roll-out, had not proceeded (see *The National* 13 July 2006).

<sup>28</sup> See NEFC (2004). Funds (amounting to K3.3 million in 2005) allocated for less developed district grants were in fact diverted elsewhere (mostly for expenditures in the Southern Highlands).

<sup>29</sup> See O'Neill (2003, 2006) (the latter reproduces the *District Authority Act*). However, there has been no move to implement the act, which at various points seems to clash with the OLPGLLG. (See also Tuck 2006.)

<sup>30</sup> Following the election of Sir Michael Somare as Prime Minister in 2007, a Taskforce on Government and Administration, chaired by Sir Barry Holloway, was appointed to review the structure of government and administration in Papua New Guinea, including intergovernmental relations.

<sup>31</sup> (For a review of the Bougainville experience see Wolfers 2006; Ryan 2008.)