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DISCUSSION PAPER

PRESENTATION

BY

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Acceleration, Innovation and Self-Determination in Decolonization: Taking Stock and Looking Ahead, with particular reference to the remaining non-self-governing territories in the Pacific

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Decolonization in the Pacific has been driven by diverse actors and issues; proceeded in diverse ways; and led to diverse outcomes, some of which may be subject to further change as the governments of former non-self-governing territories grapple with subnational movements of various kinds, and former colonial powers reflect on ongoing relations with freely associated states (cf. New Zealand House of Representatives 2010: 26-31, which contains many criticisms of the situation in and in regard to the New Zealand Realm, though without proposing that existing constitutional arrangements be changed). In a part of the world renowned for the diversity of its geography, natural resources and environment, people's cultures, languages and pre-colonial political systems – which continue to influence contemporary politics – this diversity is scarcely surprising. Six of 17 names on the United Nations (UN) list of non-self-governing territories are in the Pacific. Just as decolonization in the Pacific has been influenced by the UN Charter and subsequent UN General Assembly Resolutions, as well as precedents and advisers from other colonial and decolonized territories, including the Caribbean, so may experience in the Pacific be of interest and relevance to people concerned with decolonization elsewhere, particularly in one of the world's other great concentrations of small island territories and states, the Caribbean.

Background

Every country in the South Pacific (as distinct from just bordering the Pacific Ocean) has been colonized at some point in its history. Prior to decolonization, non-self-governing territories in the region were of diverse formal status: colonies, a condominium, a protected state, and a protectorate, and then, in the case of former German territories, League of Nations mandates which, in turn, became UN trust territories. In practice, they were all subject to colonial authority in much the same way, though the governments responsible for League of Nations mandates and UN trust territories were also required to submit quite detailed annual reports which were then subjected to international scrutiny; trust territories were visited every three years by UN visiting missions; while, for its part, the Tongan monarchy retained authority over significant aspects of the protected state's internal affairs.

Though nationalist opposition to colonial rule had a much older history, particularly in Samoa (then, Western Samoa), where the Mau had been active since the late 1920s (Davidson 1967: 114-163), the UN's Declaration on the Granting of Independence to Colonial Countries and Peoples (United Nations General Assembly [UNGA] Resolution 1514 (XV), 1960) and the establishment of the Special Committee on Decolonization in 1961 (UNGA Resolution 1654 (XVI)) gave rise to an atmosphere in which critics of the colonial status quo around the region felt increasingly able to speak out against continued colonial rule and, especially, the racial discrimination on which it was often based (cf. Wolfers 1977: 273). The remaining colonial powers found it increasingly difficult to justify open-ended colonial rule (Croccombe 2008: 403), and in their own national interest to bring formal colonial rule to an end (sometimes, combined with the hope that their influence over the former colony would continue, albeit exercised in more subtle ways through shared values, aid and other forms of bilateral co-operation, the maintenance – and, all going well, increase – of investment and trade, and other means, including person-to-person links).

Over all, some 13 former entries on the UN's list of non-self-governing territories in the Pacific have been formally decolonized. Except for Australia and New Zealand, all of the independent countries in the region became independent in the aftermath of the UN's 1960 Declaration on the Granting of Independence Consistent with the options outlined in UNGA Resolution 1541 (XV) outlining 'Principles which should guide Members' in determining whether or not a particular entity is still a non-self-governing territory, a number of former territories have entered into free association with their former colonial rulers: Cook Islands and Niue with New Zealand; and

the Commonwealth of the Northern Mariana Islands with the United States of America (USA). The Indian Ocean territory of Cocos (Keeling) Islands has been integrated with Australia.

While decolonization generally occurred within – and without substantial alteration to – the territorial boundaries and for the populations defined by the colonial powers, there have been some noteworthy exceptions in the Pacific. The Western Pacific High Commission, which had previously been responsible on the United Kingdom's (UK) behalf for Solomon Islands, Gilbert and Ellice Islands, British interests in the New Hebrides (which was a condominium with France, and is now Vanuatu), Tonga, and Pitcairn was gradually disaggregated; the Gilbert and Ellice Islands Colony became two separate countries, Kiribati and Tuvalu; while Pitcairn remains on the UN list of non-self-governing territories. The United States (US)-administered Trust Territory of the Pacific Islands became four separate entities: the Commonwealth of the Northern Mariana Islands, the Republics of Marshall Islands and Palau, and the Federated States of Micronesia (unlike the relationship between the USA and the Commonwealth of the Northern Mariana Islands, the Compacts of Free Association between the USA and the Federated States of Micronesia, Republic of Marshall Islands and Republic of Palau are of treaty status, not constitutional relationships as such). The Australian Territory of Papua and the UN Trust Territory of New Guinea, which had been administered as a single entity after World War II, the Territory of Papua and New Guinea, were integrated in the lead-up to independence, when they became the Independent State of Papua New Guinea. In rather different – and controversial - circumstances, former Dutch New Guinea was transferred to Indonesian control (cf. Wolfers 2014 a).

It is now 70 years since the UN Charter was agreed, and 55 years since the UNGA's passage of Resolution 1514(XV) calling for

a speedy and unconditional end to colonialism in all its forms and manifestations.

Conscious of the time that implementation of this Resolution appeared to be taking, the UNGA passed a Resolution, 43/47, in 1988 declaring 1990-2000 to be a Decade for the Eradication of Colonialism. Now, 25 years after the start of the first decade – and midway through the Third Decade for the Eradication of Colonialism declared by the UN – would seem to be an appropriate point to take stock of progress made, and look at the way ahead. In fact, only two of the non-self-governing territories on the UN's list in 1990, Namibia and Timor-Leste, have since been formally decolonized. With the restoration of French Polynesia to the list in 2013 – the number of non-self-governing territories with which the Special Committee on Decolonization is concerned has recently increased from 16 to 17.

However, a case can be made that inclusion of a territory in the list represents at least a modest step forward in that it recognizes the need for decolonization there. In making this point, it is pertinent to point out that inclusion in the list is not a matter of simply applying an agreed definition to a particular area and its people but of securing a majority of votes in the UNGA (one result of which is that there are places whose people might regard themselves as being subject to colonial rule – and others who agree – but are not included in the UN list, as well as UN members who do not accept a decision to include a particular place and people [cf. Wesley-Smith 2007: 185]) Thus, there are notes included in the Working Papers on Guam and American Samoa prepared for the Special Committee that the USA believes that the Special Committee has 'no authority to alter in any way' the USA's relationship with these territories and 'no mandate' to engage with the USA in negotiations on their status. The USA provides information on these territories in line with its obligations under the UN Charter as what the notes describe as 'a demonstration of ... co-operation as an administering Power' and in order to correct any errors in information the Special Committee might receive from other sources. Rather less clearly, the Working Paper on Pitcairn says that the UK 'will continue to support requests' for the removal of its overseas territories from the UN's list In the case of France, Maclellan (forthcoming a: 2) quotes, an internal French Government memo to the effect that France has never accepted UNGA Resolutions 1514 (XV) and 1641 (XV), or the legitimacy of the Special Committee on Decolonization to propose the inscription of territories on the UN's list. Maclellan (*ibid.*: 5) also quotes France's ambassador to the UN as advising officials in Paris that 'France recognizes the right of people to self-determination. France challenges the legitimacy of the Decolonisation Committee, as it has done since its creation in 1961.' The French Government has nonetheless co-operated with the Special Committee in various ways, including the visiting mission to New Caledonia in 2014.

When it comes to other names on the UN's list, there are cases where the issues at stake are more - or include challenges other - than decolonization, for example international disputes over sovereignty in regard to Falkland Islands (Malvinas), Gibraltar, and Western Sahara.

In his closing remarks at the 2014 Pacific Regional Seminar, held in Nadi, Fiji, the Chairman of the Special Committee on Decolonization, H. E. Xavier Lasso Mendoza, spoke of the initiatives which the Special Committee has taken 'to accelerate its work' ('Elements for the development of a substantive Declaration', 21 May 2014).

In his message to the opening of the 2015 session of the Special Committee, UN Secretary-General, H. E. Ban Ki-moon, welcomed what he described as the rising, productive co-operation among the Special Committee, the administering powers and the non-self-governing territories, and called on the international community to
seize this momentum and move the decolonization agenda forward, and
... find innovative and practical ways to implement the decolonization process (Statement, 19 February 2015).

In this regard, it is important to note that, even amid the need – and calls – for fresh urgency, H.E. the Chairman of the Special Committee has been careful to stress the continuing importance of the principles which have guided the Special Committee's deliberations to date. These Principles, all of which must take proper account of the particular circumstances in and of each non-self-governing territory by being applied 'on a case-by-case basis', include:

Principles established by the General Assembly for the conduct of free and genuine decolonization processes

How to enable the peoples of Non-Self Governing Territories ... to decide their future political status with complete knowledge and awareness of the full range of political options available to them, including independence

How to ensure ... that all [related] ... processes are carried out in an atmosphere free from intimidation and outside interference and allow for the open expression of the interests and aspirations of the peoples of the remaining Non-Self-Governing Territories

How to ensure ... that all decolonization processes are preceded by adequate and unbiased campaigns of political education ('Elements for the development of a substantive Declaration', *op. cit.*: 3).

As an academic political scientist, one is tempted to question the very idea that anyone can ever have complete knowledge of political options other than those on a particular ballot-paper (which need not – and often do not - coincide with those which might, in principle, be available but not acceptable, to the relevant colonial power and/or its opponent[s]); and, then, if the attempt is made to devise such a list, who can be sure how each of the options will operate or what their consequences might be? How likely, even possible, is it that political opponents will find even the most aspirationally impartial accounts of issues, options and possible outcomes truly 'unbiased'? What if there is widespread support in a particular territory (or acceptance of the need) to maintain the status quo, as has, in fact, been the case in some non-self-governing territories in the Pacific?

However, notwithstanding such issues (which have been raised – and may arise again - in quite diverse political contexts), the importance and integrity of the principles outlined by H. E. the Chairman seem clear.

Actors and issues

Decolonization is generally driven by one or varying combinations of two related sets of issues and actors:
demand for self-government by leaders and people in a non-self-governing territory;
and/or

pressure from a colonial power to rid itself of the costs of continuing colonial rule, particularly the international political opprobrium which has been widely attached to colonial rule since World War II.

Both anti-colonial nationalists' demands for political change - and colonial governments which resist - can be driven by concerns for important aspects of public policy (human rights, control over natural resources, economic opportunity, access to education and health services, etc.). They can also be driven by a desire to gain or delay, even prevent, greater local control over public affairs - which is often justified in the name of the need for preparation (Schaffer 1965: 61). The salience of both drivers for and against self-government varies between - and often also within - particular territories.

In the Pacific, the demand for independence has long received strong, widespread support among the indigenous Kanaks of New Caledonia. However, they are no longer the majority of the territory's population. Moreover, as recently as 2011, quite a number were reported as being not even enrolled (*Report of the Special Rights of indigenous peoples*, James Anaya 2011: 10). Eligibility to vote in the forthcoming referendum on independence remains an issue, particularly for French citizens who have immigrated to New Caledonia since 1988, the benchmark set in the Noumea Accord (MacLellan forthcoming b: 14). So do other aspects of the transition to the referendum (*Report of the United Nations mission to New Caledonia 2014*: 21-23).

Re-inscription on the UN's list of non-self-governing territories has enjoyed strong support among French Polynesian leaders.

In the case of American Samoa, the Working Paper prepared for the Special Committee in 2015 reports that the representative for the elected Governor advised the 2014 Pacific Regional Seminar that the USA has never acted contrary to the expressed wishes of the people of the territory. However, American Samoa's legal status has caused it 'to be affected in unforeseen ways, owing to its size, location, geography and economic circumstances.' It is accordingly time, he said, for serious discussion concerning the territory's future political status, beginning in 2015.

In a draft letter prepared for the current Regional Seminar, the Governor is reported to have expressed the view that American Samoa's status as an unincorporated and unorganized US territory 'is neither sustainable nor economically secure. Moreover, it lacks appropriate vestiges of self-governance as required by the UN Charter.' There is accordingly a need to clarify the territory's status.

Meanwhile, in Guam, a number of mechanisms, which have not always been adequately funded or effectively operated, have been established to educate and mobilise indigenous Chamorros. However, as in New Caledonia, the indigenous people are now in the minority - and the importance of Guam to US strategy in the region, including the growing numbers of US defence personnel in the region, compounds the complexity of the situation.

In Tokelau, support for free association with New Zealand is strong - over 60% in both the 2006 and 2007 referenda - however, short of the two-thirds majority required by law. Personal contacts suggest that it is also not clear that voting in the referenda to date has always focused on the territory's political future as distinct from personal / political rivalries.

The population of Pitcairn numbers only about 37, not including 12 individuals abroad. The realities of the territory's dependence on expatriates assigned for a year at a time to serve as doctor, teacher, police, and family and community adviser underline the challenges that a change in political status would have to address. When the aging character of the population and the legacy of the 2004 trials and convictions for child abuse are taken into account (Marks 2008), it is hardly surprising to note the apparent absence of internal drivers for greater local self-government.

Processes

As previously observed, decolonization has had diverse (combinations of) drivers in different circumstances (both territories and times). The two main ways in which disengagement occurs – and constitutional and other changes to government are made – have been either through negotiations between the colonial power and its prospective successors, or through processes which have allowed leaders of a non-self-governing territory to make relevant decisions, often in consultation with the public of the particular territory.

The challenges to decolonization in the remaining non-self-governing territories in the Pacific include the interests that colonial powers might have in retaining a global or, at least, a regional presence and continuing to be important global players. In New Caledonia and Guam, in particular, these are compounded by the presence of significant populations from the colonial country. In the case of Pitcairn, the entire population is, ultimately, of immigrant descent – from the United Kingdom and/or Tahiti - and unlikely to be able to maintain even basic services without substantial, ongoing support from outside.

As previously noted, referenda are the agreed process for determining the political future in New Caledonia and Tokelau (in the case of New Caledonia, the Noumea Accord, 5 Evolution of New Caledonia's political organization provides for a series of up to three referenda should independence not receive majority support when put to the vote for the first and then the second time [English translation provided in *Australian Indigenous Law Reporter* 2002]).

When it comes to preparing for self-determination, much has been said about the need for political education in a number of territories. In this regard, it might be relevant to ask whether the problem is that people do not know or understand the choice(s) before them, or whether the choices themselves do not address issues of public importance and/or have not been clearly defined.

It might then be useful to ponder the lessons that might be learnt from the process by which the Papua New Guinea Constitution was made. While the inevitability and timing of independence were largely determined by Australia, the constitutional arrangements that followed were devised following distribution of papers on important issues to discussion groups that were organized right around Papua New Guinea, the receipt of written submissions from discussion groups and other interested parties, and face-to-face meetings when the Constitutional Planning Committee toured the country to meet and consult with members of the public. And, unlike the process often employed in other former non-self-governing territories, the people were not presented with a list of alternatives but asked to respond to a wide range of questions which invited them to respond to issues rather than options. Their answers were recorded and given close and serious consideration when proposals for the constitution were discussed and drafted prior to formal publication, and then debated before being adopted by the elected members of parliament who reconstituted themselves as the Constituent Assembly. The process helps to explain some unusual, even unique, features of the Constitution of the Independent State of Papua New Guinea. The process is also often cited as one of the reasons why, forty years after independence, Papua New Guinea, unlike many other former colonies (and despite some near-misses), is an unbroken constitutional democracy – and one of the oldest such states – in the world (not just new states).

Outcomes

As previously observed, UNGA Resolution 1541 (XV) of 1960 is important for the way in which it defines the options which UN members have agreed can be available on decolonization, and the principles which should apply in each case. In sum, these principles include –

- in the case of free association, 'free and voluntary choice by the peoples of the territory', and their freedom to modify the status of the territory through processes that are democratic and constitutional; and
- in the case of integration, 'complete equality' between the people of the former territory and the people of the state they are joining, 'an advanced stage of self-government with free political

institutions' in the territory, and capacity on the part of the territory's peoples 'to make a responsible choice through informed and democratic processes.'

Again, as previously observed, decolonization in the Pacific has involved diverse transformations from non-self-governing to post-colonial status. In the non-self-governing territories still on the UN's list, final outcomes have yet to be determined on both sides of decolonization.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which were agreed in 1966 (UNGA Resolution 2200A (XXI)), and have the status of treaties, include the right to self-determination. The UN Declaration on the Rights of Indigenous Peoples, which was passed in 2007 (UNGA Resolution 61/295) and guarantees the same right, is of lesser status under international law. This Declaration includes options not mentioned in the UNGA Resolutions and the Covenants previously mentioned, including 'the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing the autonomous functions' (Article 4), which seem to fall short of the aspirations of the Kanak and Socialist National Liberation Front (FLNKS) and other indigenous colonial movements' aspirations following self-determination. It, therefore, seems less likely to be cited by indigenous anti-colonial activists, at least at this stage, than as a fallback position if decolonization proceeds without full regard to their interests and aspirations.

In the case of Tokelau, free association with New Zealand appears to be the most likely outcome of decolonization, provided the special two-thirds majority required of voters (surely, an interesting local obstacle to the early eradication of decolonization) can be achieved.

In Guam, US military interests make it unlikely that change can be easily accomplished, let alone that independence will be agreed.

For American Samoa, the challenge seems to be that the status quo is not consistent with decolonization (though, arguably, more readily so with self-determination), while integration with the USA is not really an option, as the US Congress will not accept Samoa's integration as a full member-state of the USA (statehood was, of course, the outcome, in Hawaii). The issue has much to do with what would be the consequential need to provide American Samoa with the same level of representation in Congress and access to resources as US states currently enjoy (including the identical number of Senators – two – as states like California, New York, and others with many, many more times the population and resources available to government than American Samoa).

Further challenges to early eradication of colonialism in the Pacific include the size and questionable viability on almost any measure of Pitcairn, and such practical issues as the reality that the executive arm of colonial government in Pitcairn and Tokelau is based offshore (in New Zealand), while the National Office for the Ongoing Government of Tokelau is actually located in the capital of another country, Apia, Samoa.

On a more positive note, it is relevant to be apprised of the information contained in the Working Papers prepared for the Special Committee concerning the number and diversity of UN and regional organisations in which the remaining non-self-governing territories participate in various ways – thereby blurring what was once the classic divide, responsibility and control over foreign affairs, in the transition from internal self-government to sovereign independence (see also United Nations Department of Information 2007).

Yet an interesting, further step on, the FLNKS is a member of the Melanesian Spearhead Group (MSG), which was formed in 1988 with the decolonization of New Caledonia high on the agenda. The other members are all independent states: Fiji, Papua New Guinea, Solomon Islands and Vanuatu. In 2013, the annual summit was held in Noumea.

Two years before (in 2011), Indonesia acquired the status of observer at MSG meetings (associate member status is now under active consideration). Questions regarding the possible participation of Indonesia's Melanesian

provinces are currently under discussion among MSG members, with the Indonesian Government, and among activists working for an independent Papua.

Taking stock and looking ahead

While discussion during the early stages of this Regional Seminar has tended to be less confrontational and more forward-looking than discussions of decolonization have often been in the past, the preceding outline of issues, processes and likely/possible outcomes suggests that decolonization in the Pacific has reached something of an impasse. However, recent representations and discussions in Melanesia, in particular, give rise to the possibility that there could be attempts to add or restore names to the UN's list of non-self-governing territories, most notably Indonesia's Papua provinces; Australia's resumption of direct authority over Norfolk Island could conceivably give rise to another.

Bearing in mind the Chairman's call for the Special Committee 'to accelerate its work' and the UN Secretary-General's urging to 'find innovative and practical' ways forward, no one seriously concerned for decolonization can simply leave decolonization in the Pacific as it now is.

Visiting Missions dispatched to the UN's former trust territories sometimes had a truly transformative impact (the recommendations of the Visiting Mission to New Guinea led by Sir Hugh Foot in 1962 opened the way to scene-changing alterations in economic policy, the availability of educational opportunities for Papua New Guineans, and political participation). The Special Committee might consider drawing on precedent by increasing the number, frequency and destinations of visiting missions it sends to non-self-governing territories, and the range of issues which they are charged to address. More and more frequent visiting missions with wide-ranging terms of reference would provide opportunities to promote public awareness of important issues and opportunities in non-self-governing territories, and facilitate public participation in relevant consultations.

Another option suggested previously in a paper presented to the Special Committee's 2014 Regional Seminar (Wolfers 2014b) would be to appoint a panel of independent experts - persons with first-hand experience of the complex issues that can be involved in orderly decolonization -

- to review the processes currently underway and options clearly available in the foreseeable future, with a view to clarifying important issues (such as the distinction that different colonial regimes draw between 'citizens' and 'nationals' [cf. Safran 1997]);
- to identify fresh options for the process and possible outcomes available; and, most importantly,
- to recommend creative ways of monitoring both processes and outcomes (perhaps, in the case of the most challenging candidates for decolonization, over the long term).

The panel's recommendations would necessarily have to be subject to the Special Committee's and the UNGA's deliberations and member-states' decisions. The purpose would primarily be to open up and refresh debate. The worst result might be continuation of the status quo. However, experience and careful, speculative analysis suggest that there are diverse options which can and should be put on the table - not subject to the prior agreement of member-states, but for purposes of consideration, debate and eventual decision.

Options that have not been widely discussed might include transferring responsibility for some functions and/or territories, particularly a territory like Pitcairn with only the tiniest population, to a regional organisation or country closer to hand, arranging shared services, or, in the worst case, where no alternative(s) appear(s) to be viable and available, maintaining existing arrangements - with different, less costly forms of supervision than existing arrangements.

As H.E. the Chairman has said, it is critical that any review and recommendations must be conducted on a case-by-case basis, with full regard to the unique aspects of local circumstances.

A truly forward-looking approach must, surely, also pay close attention to issues and challenges shared by small island states around the world, including possible strategies for addressing the likely impacts of global warming, resource depletion, economic opportunities for their inhabitants, and other aspects of sustainable development.

Conclusion

Thus does decolonization in the Pacific appear to an observer, both now and in likely prospect. If nothing else, the diversity mentioned in the Introduction to this paper is likely to be more readily discerned now than it was at the start. This should be regarded not as an obstacle but as an incentive for anyone concerned for decolonization in any or every part of the world to draw on experience and issues in particular territories or regions on a case-by-case basis, as H. E. the Chairman has suggested. Thus may the issues and options discussed in this paper both be relevant to the Pacific and provide insights into shared challenges and opportunities for other non-self-governing territories in the Caribbean and elsewhere. Thus, too, may this paper contribute to discussion – and, ideally, resolution – of important issues in relation to accelerating and implementing decolonization.

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