

1 Success without sovereignty: exploring sub-national island jurisdictions

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KISH ISLAND: FACT OR FICTION?

From the palm-lined road nearby, the mountains of Iran's southern coast are visible. But any shadow cast by Iran's repressive regime barely seems to reach Kish's gentle sand. On this small island, 18 km off the southern coast of the Islamic Republic of Iran, it is far easier to find a five-star hotel than a mosque. That's because Iran's dictatorial government is trying to showcase Kish not as a strict Islamic haven, but as an earthly paradise designed to win over the international community.

(Roston, 2005, p. 21)

Kish Island is one of three 'industrial free trade zones' approved by the Majlis (Iran's Islamic Consultative Assembly) in August 1993. Kish may be small: just 5 km wide and 17 km long. Still, it is administered semi-autonomously by 'an Authority organized as a company with autonomous legal status, whose capital shall belong to the government' (Law on Administration of Free Trade-Industrial Zones, Article 5). Its very smallness and islandness lets Kish get away with such a departure from fundamentalist theocratic rule.

Many readers can be excused for thinking that the above example is a purely fictional one. For how could the most puritanical, hard-line and anti-Western of contemporary states – the Iran of the mullahs and the ayatollahs, member of 'the axis of evil' widely believed to be developing a nuclear arsenal – tolerate shopping malls, hyper-markets, theme parks, women in high heels and pool tables on part of its territory, an island which runs its own (semi-private) airline and has plans for an 18-hole PGA golf course and a Formula One race track (Roston, 2005; Watson, 2004)?

Yet Kish Island is very real and its *modus vivendi* is not hard to understand. Iran, like other states, is keen to attract international capital: hence, the conversion to a visa-free trade zone and booming business hub. Kish's insignificant, remote and peripheral island status provides a tolerable and convenient diversion from the required austere life of the mainland. Here, Iran can profitably experiment with a site that is small and bounded, with no danger of destabilizing spillovers. Kish serves as an informal market for an international trade in avionics where Iran's air force fleet of ageing US-made F-15s, F-5s and F-4s (bought during the reign of the Shah), now under a US embargo, can access desperately needed maintenance parts and expertise.

MAINLAND-ISLAND RELATIONS

This 'Mainland Iran-Kish Island' dialectic is not unique. There are many similar examples of 'mainland-island relations' in the contemporary world which, from a surface glance, do not seem to make sense. Yet their logic becomes clearer when seen in the context of states requiring unique offshore spaces outside the strait-jacket of the increasingly restrictive, 'level playing field' rules of global commerce among sovereign states. Islands then provide bounded space for the emergence of ingenious new species of asymmetrical economies and governance.

The pattern repeats itself again and again where states make creative use of their small, far-flung and remote island jurisdictions to facilitate activities that would be simply anathema on home ground. Take Batam Island, located close to Singapore, that acts as the exclusive economic zone of Indonesia (Royle, 1997). Or consider Labuan Island, an integrated international offshore finance centre for neighbouring Malaysia (e.g. Fields, 2002). The Maldives, with its small population and convenient archipelagic geography, is another fundamentalist Islamic state that tolerates a vibrant tourism industry via a scrupulous zoning policy (Baldacchino, 2004a).

Even developed metropolitan powers play the same game, if in a somewhat more cynical fashion. The United Kingdom, for example, appeals for curbing low/no-tax regimes via the OECD and the G7, while encouraging British investment to benefit from the very same low/no-tax regimes of the Isle of Man, the Channel Islands, Bermuda and the Cayman Islands, for whose 'good government' the same United Kingdom remains ultimately responsible. Though a self-professed unitary state, China treats Hong Kong (since 1997) and Macao (since 1999) as 'special administrative regions', where 'the socialist system and policies shall not be practised ... and the previous capitalist system and way of life shall remain unchanged for 50 years' (Ministry of Justice, People's Republic of China). Kinmen Island for its part acts as a relatively safe clearinghouse for China-Taiwan relations: particularly appreciated at times of tension (Hung-Ta, 2004).

The rationale for these metropolitan-island arrangements, however, is scarcely one-sided. From the perspective of small island territories, there are quite plausible reasons to aspire to an 'arm's-length' relationship with a larger, 'mainland' benevolent patron. McElroy and Mahoney (2000) explain how the smaller players in these unequal dyads derive substantial economic advantages from the arrangement. These include: free or concessionary trade with, and export preference from, the parent country; social welfare assistance; ready access to external capital through special tax concessions; availability of external labour markets through migration; aid-financed infrastructure and communications; higher-quality health and educational systems; natural disaster relief; and provision for costly external defence. Autonomy without sovereignty may also facilitate tourism development because of easier terms of access and security.

Most of these special conditions have emerged in the context of a history of a relatively benign colonial relationship – typically one dominated by strategic rather than economically exploitative interests. *The Economist* (2003) has claimed that the island citizens of Aruba, Bermuda and French Polynesia are amongst the world's top ten richest peoples: these three territories are non-sovereign island jurisdictions, benefiting from customized linkages with the much larger states of the Netherlands,

the United Kingdom and France respectively. Various other sub-national island jurisdictions partake of some form of profitable asymmetrical federalism with(in) a typically larger state (Stevens, 1977; Baldacchino, 2004b).

Of course, it is important to recognize that the arrangements for many of the islands cited above vary enormously in nature and character. Typically, those like Kish Island – which have been constructed from above for profit or strategic convenience – lack the elements of genuine jurisdictional autonomy and historic entitlement that arise in many enduring island federacy arrangements. Kish Island cannot presume, for example, to claim a distinct status akin to the Isle of Man or the Åland Islands; these are ‘autonomies’ of a totally different order and character. The Isle of Man draws upon centuries of convention and practice to fortify its distinct constitutional status as a separate crown dependency from the UK mainland, while the Åland Islands have enjoyed international protection for its autonomy since 1920. Moreover, since there is often so little sociological or ideological substance or drive in Kish and other such island autonomies created from above, these do not exhibit anything like the claims to distinct ‘nation’ status that may arise in autonomies like the Faeroe Islands (e.g. Ackren, 2006), or even a struggling and constitutionally constrained Corsica (e.g. Lauwers, 2003).

It is when the conditions of island identity are strong, and when there are powerful constitutional precedents to sustain the claim to self-rule, that island autonomies truly come into their own as partners in a genuine bilateral federal covenant. Constitutional arrangements here are truly ‘federal’, that is, contractual, the products of free consent between the parties, and not merely autonomies that are devolved from a central government and can be taken away as quickly as they were initially granted (Elazar, 1987, pp. 5–12). Such vigorous examples of federal ‘self-rule’ and ‘shared-rule’ arrangements between islands and their metropolises are set out below in all their luxuriant variety. Most are a continuing testament to the rich governance systems, with all of their anomalies and asymmetry, that remain with the European retraction of Empire. Moreover, these delicate arrangements between European metropolises and their maritime dependencies have in turn been absorbed and ‘grandfathered’ at the supranational level within the European Union.

In their vast majority, then, these examples from the world’s sub-national (mainly island) jurisdictions show a remarkable pattern of mutual accommodation and convenience between large (often metropolitan) states and their offshore islands. It is usually in the interests of *neither* party to push these islands into straightforward sovereignty, as was so often the case in the decades following the Second World War. Now, both prefer a negotiated bilateral partnership that can take its place within the highly variegated ‘federal’ landscape of governance within the modern world. Of course, there may also be in the metropolitan state an evident embarrassment over these remnants of empire and the continuing burden that they may present, so well reflected in the Netherlands’ ongoing tug-of-war with its Caribbean island dependencies, or of New Zealand with its Pacific equivalents (see Oostindie and Connell, Chapters 9 and 11 respectively, this volume) So, the patterns and motivations on each side for current non-sovereign constitutional arrangements are complex and do not always move in the same direction or remain constant from one case to the next.

In any event, we have to confront the fact that the contemporary global political and legal geometry is more complex than it has ever been and obliges us to rethink

older notions of sovereignty and the international state system. Upholding and distinguishing strict 'sovereign' from 'non-sovereign' entities in international practice was never consistently followed in the past and is even less tenable today, as power is increasingly pooled among and across states, and reconfigured and redistributed from within national territories. This practical spirit increasingly animates the arrangements of many offshore islands with their metropolitan partners, where non-sovereign island jurisdictions will wish to preserve, or even enhance, their asymmetrical status and autonomous powers, rather than take the risk of joining the ranks of sovereign states themselves. In short, life in the 'antechamber' of the state system (see Bartmann, Chapter 5, this volume) may look a good deal more attractive to these jurisdictions than the romantic advocates of sovereign self-determination had ever supposed.

Such a position, of course, looks timid and self-defeating from the perspective of those who grew up in the heady days of colonial emancipation following the Second World War; but it is no longer so. Opting for non-sovereign jurisdictional status may be a highly rational, strategic choice that can result in substantial net material and security gains for the jurisdiction. As Oostindie's Chapter (9) in this collection so ably demonstrates, these judgements should not be lightly or ideologically dismissed, particularly at a time when security concerns are real and when sovereignty for most islands has largely *not* delivered relatively high levels of economic prosperity. The grant of *sub-national island jurisdictional* status (SNIJ) typically confers a solid safety net supported by a metropolitan power, while permitting enough discretion to safeguard national identity, local culture and the general exercise of local power. McElroy and Pearce (Chapter 4, this volume) refer to a 'superior level of performance' by SNIJs. The metropolitan player can meanwhile exercise 'soft imperialism' (which does not typically raise eyebrows amongst the members of the UN Committee on Decolonization), keep a watchful eye for potential geo-strategic military or economic rents, and lavish its munificence upon its small island beneficiaries.

Within this framework, islands may therefore be wise to ignore the siren call of sovereignty and cut their arrangements more pragmatically and creatively. Such a pragmatism manifests itself clearly, for example, in the muddy and treacherous waters of para-diplomacy (see Kelman *et al.*, Chapter 6, this volume). Of course, there are many circumstances where sovereignty will show itself to be the most logical or compelling course of action: such would explain the independence of East Timor in 2002 and of Montenegro in 2006, and Kosovo in 2008 (e.g. Bahcheli *et al.*, 2004). And there are many examples where (often small) island sovereign states have succeeded beyond all expectations and where the tools of sovereignty have been a vital part of the explanation for their success. A good case study would be Iceland; but, even here, as Kristinsson (2000) argues, the continued utility of undiminished sovereignty, together with non-membership of the European Union, will depend on circumstances. Surely, this is the point: the appropriate political architecture and jurisdictional status for any island can only be known after careful review of all its current and likely future options undertaken in a clear-sighted pragmatic spirit (e.g. Le Rendu, 2004). And, certainly for our purposes here, there appears to be every reason to expect islands in that kind of review to continue to opt for contoured, negotiated, non-sovereign, constitutional arrangements in the future (e.g. Dodds, 2002).

AN 'ISLAND STUDIES' HOLISTIC PERSPECTIVE

We now move to a panoramic vantage point from which to observe and to understand how small islands – as parts of larger, multi-layered systems – have adapted and sustained themselves historically and how they now address current pressures of globalization and environmental threats. Indeed, sub-national island autonomies span all oceanic basins and boast all manner of diversities of size, climate, topography, ecology, history, economy, politics and jurisdiction (see the map on page xvii).

These islands are the rich breeding grounds for unique adaptations of governance in the modern world, just as surely as islands have provided, ever since the days of Darwin and his contemporaries, bounded territories for study of biological and ecological systems in nature. A case study of an island such as Tasmania (see Stratford, Chapter 7, this volume) can sensitively explore some of these dimensions and properties of islandness – isolation and distinctiveness – as island 'resources'. As the work of comparative federal scholar Ronald Watts (Chapter 3, this volume) so powerfully illustrates, islands are an excellent lens through which to understand unique variations in federal governance arrangements. Watts' taxonomy of islands borrows its language and ideas about island federal relationships from evolutionary biology with its talk of variations or 'species' within a genus of self- and shared-rule arrangements. Watts arranges many *de jure* islands into various constitutional groupings, while avoiding problematic cases (like the Turkish Republic of Northern Cyprus). The evidence also shows two kinds of physical determinism: (1) a high logistical inclination for islands to enjoy some powers of self-rule, with different kinds of shared-rule arrangements with metropolitan states; and (2) a tendency for islands to be run as single jurisdictions, as if there were something abhorrent about splitting that which nature had defined as unitary (e.g. Baldacchino, 2002).

In fact, while there are some 30,000 islands with a land area larger than 0.1 km² (Dahl and Depraetere, 2007, pp. 60–61), only nine (at most) today are split between two or more different countries (Baldacchino, 2006, p. 854). Small island territories have been 'decolonizing without disengaging' (Houbert, 1986), particularly since the 1940s, starting with the departmentalization of four French overseas island territories in 1946; followed by the setting up of the Netherlands Antilles in 1954, and dramatized by the secession of Anguilla from St Kitts-Nevis in 1979. Historical practice and/or international provisions have secured over time the autonomy of such locations as Åland, Svalbard, the Channel Islands and the Isle of Man. Military interventions and/or sectarian strife has led to *de facto* autonomous jurisdictions in Northern Cyprus, Mindanao, Sri Lanka and Taiwan (though the latter is somewhat unique in being recognized by a number of states). Constitutionally or legally entrenched provisions secure and frame the autonomy of island provinces like Hawai'i, Mwali, Prince Edward Island and Tasmania. First nations enjoy self-determination in locations such as Nunavut, Haida Gwaii/Queen Charlotte Islands, Rotuma and the Torres Strait. There are the various former colonies, not interested in independence (as stubbornly confirmed in various plebiscites), and engaged in evolving binary relations with Amsterdam, Copenhagen, London, Paris, Sydney, Washington or Wellington. Specific sub-national arrangements treat Kish, Labuan, Madeira, Corsica, Sicily, Nevis, Scotland and Zanzibar differently from the rest of their nation-state, often in respect of cultural differences and distinct histories, or as

an outcome of deliberate, central government strategy. There are also special island (or mainly island) regions which enjoy a specific autonomy portfolio, *de jure* or *de facto*: Hong Kong, Macao, Shetland and Sakhalin – thanks to a recognition of the prudent management of resourcefulness (investment finance, human capital, fossil fuels) that may be threatened in the loss of autonomy. The Galápagos Islands, featured in this collection, are another example of distinct autonomy arrangements, this time aimed at preserving an island's unique ecosystem and its legendary place as Darwin's laboratory for pioneering evolutionary thought (see Kerr, Chapter 10, this volume).

ISLANDS IN FLUX

Of course, the relationship of most 'island-mainland' dyads is far from smooth or settled. Asymmetrical federalism is by definition in perpetual negotiation: in 2005, Jeju Island became a 'special administrative province' of South Korea, enjoying even more autonomous powers (Chosun Ilbo, 2005); and the Bermuda Independence Commission visited London for high-level talks (Sanders, 2005). In 2006, Åland – now with its own top-level internet domain (.ax) – threatened to scuttle the renewed attempt to get the European Constitution endorsed (Rennie, 2006); Tokelau rejected a move to independence in free association with New Zealand following a referendum (see Connell, Chapter 11, this volume); while China and Taiwan continued their – so far verbal and diplomatic – confrontation. Also in 2006, the UK High Court ruled that the Chagossians were entitled to return to the Chagos Archipelago; the UK government's subsequent appeal was dismissed by the Court of Appeal in May 2007 (<http://www.chagossupport.org.uk/>). Also in 2007, Saint Barthélemy and Saint Martin became distinct *collectivités d'outre mer* as part of the latest reforms to the French overseas territories. Then, in 2008, the Netherlands Antilles break up: Bonaire, Saba and St Eustatius becoming municipalities of the Netherlands; while Curaçao and Sint Martin join Aruba, each in *status aparte* within the Kingdom of the Netherlands.

The fluidity of the 'mainland-island' arrangement is enhanced precisely because it is *both* federal (and thus involving multi-level governance, which presents competing claims for legitimacy and policy competence) *and* asymmetrical (where the striking of *idiosyncratic* or special deals and outcomes is often preferred). The relationship is liable to change (e.g., in Canada, see IIGR, 2005); and 'full sovereignty' (whatever that phrase may imply in the twenty-first century) remains a viable option and vision, should it be impossible to work out decent terms for a sub-national solution. We could scarcely find a better example of this critical fluid nature of governance than that of Bougainville (see Ghai and Regan, Chapter 8, this volume) with the recent changing nature of that island's status towards autonomy either within, or possible independence from, Papua New Guinea. The issue of re-negotiation in these cases may be fractious: the terms of the relationship may be the subject of civil strife, guerrilla movements or other forms of internal warfare and diplomatic tension. This can take the guise of 'infra-nationalism' which is a political and institutional structure beyond the constitution, a *de facto* island (or sub-island) state apparatus existing in taunting defiance of the main state, with which relations are *not* harmonious – as has occurred in recent decades in such diverse places as

Aceh, Bougainville, Corsica, Cyprus, New Caledonia, Mindanao and Sri Lanka (Weiler, 1991).

This state of variability is often represented in an expression of ambivalent, 'love-hate' nationalism. The smaller (island) player is often demonstrably proud of its own (sub-?) national identity, captured also by explicitly showcased cultural differences (in language, religion, history, ethnic composition, political ideology and other identity symbols like flags, anthems, currency, monuments, emblems and top-level internet domains) from its larger player. Yet it may refer to a benign, special relationship with the larger player for the purpose of defending its prized autonomy and self-determination (from the threat of international piracy, general insecurity or irredentist neighbouring states). If the relationship lies in discord, then local political movements and the public at large are likely to see, and play upon, the image of the larger player in a colonial or imperialist light, unfairly and insensitively pushing its weight around, and frustrating their legitimate rights to self-determination. The larger player, in contrast, would tend to react (if at all) by invoking obligations towards order and regional stability and against renegade, destabilizing and quirky politics. The situation 'on the ground' is usually far more complex, with different political parties, social classes and other social groupings on the island, on the mainland and in between (the influential island diaspora) championing and expressing their preference for one or more of what could be a bewildering range of relational solutions (e.g., for the Caribbean, see Ramos and Rivera, 2001, pp. 1–21). We capture something of these intricate dynamics in this volume's study of two island archipelagos linked to South American states, the Galápagos Islands in relation to Ecuador, and the Caribbean islands of San Andrés and Old Providence in relation to Colombia (see Kerr, Chapter 10, this volume).

These case studies illustrate how contingent and varied are the experiences of many island communities as they seek to navigate towards more autonomous patterns of governance and economy within a bilateral arrangement with a mainland state. The patterns can vary sharply from case to case in response to the particular circumstances of the geography and history of islands. In some cases, islands like San Andrés and Old Providence have been consigned to a near fief-like condition; others, like the Galápagos Islands, to a slightly more elevated status, and yet others have navigated far more independently. There is much variability and contingency too in the patterns of island economies. This has presented a very serious challenge to thinkers in the field who have begun to do comparative study and reflection on these different patterns and to generate *typologies* of island governance and economy that warrant further study (e.g. Warrington and Milne, 2007; Bertram and Poirine, 2007).

CONCLUSION

Back in the mid-1980s, riding a significant wave of reflection triggered by the 1983 US-led invasion of Grenada, the overriding issue of debate was *security* for those islands still enamoured of decolonization (e.g. Alford, 1984; Commonwealth Consultative Group, 1985; Diggines, 1985; Harden, 1985; Lyon, 1985). There was no 'small is beautiful' rhetoric here, but, rather, dark talk of extreme vulnerability – even non-viability – for such small island states. Their economies were often dismissed in a similarly scathing manner. In a journal editorial, the *raison d'être* for small states and

the motley 'left-overs' of empire was reduced half-humorously to: 'casino countries, tax havens, sheep stations, bauxite plants, air bases, tourist traps, oilwells with surrounds, banana plantations and nutmeg groves' (Editorial, *The Round Table*, 1984, p. 124). This colourful representation was even then an unfair and incorrect characterization, and it has become increasingly so. Almost as an act of vengeance, many small sub-national island jurisdictions now show enviable *per capita* levels of prosperity, even higher than those for small sovereign island states (Armstrong *et al.*, 1998; Armstrong and Read, 2002; Bertram, 2004; Easterly and Kraay, 2000; Poirine, 1998).

To be sure, islands can still be used and valued principally for *strategic* metropolitan purposes. Japan, for example, maintains its only large and contentious US military base on the outlying island prefecture of Okinawa, recently the subject of a resiting agreement (Kakazu, 2000). Britain summarily deported the entire island population of the Chagos Archipelago and leased the islands to the USA, which in turn built the ultra-sophisticated Indian Ocean military base at Diego Garcia (Winchester, 2004). Of course, the USA meets another strategic purpose in the questionable practice of detaining suspected terrorists in 'legal limbo' on its island base at Guantánamo Bay in Cuba (Supreme Court of the United States, 2004; Greenhouse, 2008). The Australian government 'excised' Christmas Island, Cocos (Keeling) Islands and the Ashmore Reef from the nation's territory for the purposes of immigration, deeming that persons who had arrived there had not effectively entered the country (Connell, 2006, p. 55).

But this unflattering portrait of sub-national islands as weak and subordinate containers purely at the mercy of outside metropolitan powers is scarcely the norm in this new age of globalization and multi-level governance. Island jurisdictions customarily defy that caricature, whether as fully fledged states or increasingly as sub-national actors working out their own pragmatic responses to the challenges of a changing global system in concert with their partners. Of course, the patterns vary enormously, as do the constitutional choices and options. Sovereignty is still a powerful dream for many peoples, whether living on islands or not, and in many circumstances it may be the best of all options. But we also now live in a world where there is less certainty about the merits of sovereignty than was once the case, and less arrogance about the ultimate choices that island jurisdictions ought to take. We welcome this more pragmatic and tolerant spirit respecting constitutional arrangements, along with the confidence and flexibility it engenders among island peoples worldwide. Now islands can get on with making their choices, and crafting their futures with less fear and ridicule than in the past.

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