

Pitcairn

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Introduction

The islands of Pitcairn, Henderson, Oeno and Ducie make up a single territory (commonly known as Pitcairn), the last remaining British Overseas Territory in the Pacific Ocean. Pitcairn, the only inhabited island of the group, is about 3 kilometres long and 1.5 kilometres wide, with a land area of 4.6 square kilometres. A rugged and fertile island, of volcanic origin, it is located approximately midway between New Zealand and Panama, about 2,100 kilometres east-south-east of French Polynesia. The total resident population is approximately 43, all of whom live in the only settlement, Adamstown. The only way of accessing the island is by sea, but due to the difficult terrain ships must moor offshore with longboats operating between the ships and Bounty Bay. There is no access by air. The official languages are English and Pitkern (a mixture of English and Tahitian). Due to the very small and ageing population and the high level of subsidy that is given by Britain, there are concerns over the future viability of the settlement. In relation to the other islands, both Henderson and Oeno are visited regularly by the residents of Pitcairn. The former is an important source of miro wood and the latter is used for holidaying and fishing. The fourth island, Ducie, is largely inaccessible.

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History

Pitcairn was first sighted in 1767 by British sailors. The island at the time was uninhabited, but there is evidence to suggest that it had been occupied previously by Polynesians. It took another 23 years before Pitcairn was first settled (in 1790) when nine mutineers of HMS *Bounty* (led by Fletcher Christian) arrived on the island, accompanied by a group of Tahitian men and women. During the next few years most of the British-born settlers died – a number were killed when the Tahitian men rebelled against their poor treatment. As a consequence, by 1800 the only surviving mutineer was John Adams. Despite this, the size of the community increased steadily to about 40 by the mid-1810s. It was around this time that the British government first became aware of the settlement, but it showed little interest in establishing any kind of authority over the island.

The population of Pitcairn continued to grow and by 1830 it was close to 80. There were concerns over whether the island, with its limited cultivable land, could sustain such a population, and the British and Tahitian authorities organised an evacuation of all the settlers. However, this was not a success and many returned from Tahiti soon after. The growing prominence of Pitcairn and its people led in 1838 to Captain Russell Elliott of HMS *Fly* taking possession of the islands on behalf of the British Crown, and he drew up a basic constitutional document and a body of written laws. The islanders also established a local council at that time. The level of formal oversight from London remained very limited. In 1856, the entire population of over 190 people was resettled once more – this time on Norfolk Island. Pitcairn remained uninhabited until 1859, when, once again, some of the islanders returned, and since then Pitcairn has been continuously occupied, the population reaching a peak of 233 in 1937.

As it became clear that the population of Pitcairn would remain, control from Britain began to be formalised. Most importantly, in 1898 Pitcairn was incorporated into the Pacific Order in Council 1893, which brought the island under the executive and legislative authority of the British High Commissioner for the Western Pacific, based in Fiji. Pitcairn was then treated as a British settlement for the purposes of the British Settlements Act 1887 (later revised in 1945). The other islands, Ducie,

Henderson and Oeno (discovered in 1791, 1819, and 1824 respectively), were declared dependencies of Pitcairn in 1902, and this was reaffirmed in 1937; they too were incorporated into the 1887 Act. Since then the political relationship between Pitcairn and Britain has evolved: in 1952 Pitcairn came under the jurisdiction of the Governor of Fiji; and in 1970, when Fiji gained independence, the Pitcairn Order 1970 was enacted. This created the separate office of Governor of Pitcairn (although the role was filled by the British High Commissioner in New Zealand), who had the power to 'make laws for the peace, order, and good government' for the territory. In terms of how local government was conducted, key reforms came with the 1964 Ordinance, which created an Island Council, overseen by a mayor, with authority to make regulations in certain areas, subject to alteration or revocation by the governor.

Despite a stronger constitutional relationship between Pitcairn and Britain, day-to-day oversight continued to be weak, and as a consequence the standards of governance on Pitcairn were often poor. As Cawley argues:

From the early years of the 20th century . . . life on Pitcairn was characterised by limited communication with the outside world, a minimal operating legal system and little local knowledge of laws and practice, the absence of any effective civil authority apart from the local Magistrate, and little influence exercised by the British Government.¹

Within this context there had been longstanding concerns over the 'immorality' on Pitcairn, and things came to a head in 2003 when serious allegations of systematic sexual abuse of children were made against a large proportion of the adult male population. Ultimately eight men were convicted, including a recently serving mayor. Pitcairners considered the age of consent to be 12 and so argued that the sex concerned was consensual. They also argued that they did not realise they were subject to English law. But the Judicial Committee of the Privy Council in London ruled that Pitcairners were indeed subject to English law, under which the age of consent is 16, and so the defendants' arguments were dismissed. In 2008 the Foreign and Commonwealth Office (FCO) announced that the victims would be able to apply for compensation. The scheme was closed in March 2009 after paying out awards to eight individuals.

Constitution

A constitutional review process, under British auspices, was begun in 2009 to consider the structure and functioning of Pitcairn's government. This was part of a wider review of the governing structures in all 14 of Britain's Overseas Territories, and a key commitment within the British Government's 1999 White Paper entitled 'Partnership for Progress and Prosperity: Britain and the Overseas Territories'. In Pitcairn the review involved representatives from the British government and the local community, though the process and outcomes were decided largely by London. The new constitution that resulted was passed by Order in Council² and entered into force on 4 March 2010, replacing the skeletal provisions of the Pitcairn Order 1970.

In light of Pitcairn's sexual abuse trials, the document has a strong focus on human rights. For the first time the Constitution contains a fundamental rights chapter modelled on the European Convention of Human Rights, enforceable in the local courts with final appeal to the Judicial Committee of the Privy Council. A series of explicit rights are protected, including the right of prisoners to humane treatment, children's rights and a guarantee of just administrative action. It also provides for the appointment of an independent Attorney General. A further change is that the new constitution sets out a list of 'partnership values' which form the basis of the relationship between Pitcairn and Britain. The values (enumerated in Part 1 of the document) include good faith, the rule of law, good government, sound financial management, the impartial administration of justice and the impartiality of the public service. Each organ of local government is obliged to give effect to the values, and the Governor has powers to ensure this. The Constitution also clarifies the independent role of the Pitcairn courts and judicial officers and guarantees the independence of the public service.

The Constitution deals also with executive and legislative matters. Ultimate authority in these areas rests with the British High Commissioner to New Zealand in the High Commissioner's position as Governor of Pitcairn Island. The Governor has the power to make laws for the peace, order and good government of the islands, normally acting after consultation with the Island Council – this was a new provision within the 2010 Constitution. However, the Governor is not obliged to

accept the view of the Council, although he usually does. The Governor also has an exceptional power to legislate without consulting the Council, when instructed to do so by Her Majesty through a Secretary of State, and in relation to foreign affairs the Governor has complete authority. Despite the Governor having legislative authority, islanders largely manage their own day-to-day affairs via the Island Council, which is established by the Local Government Ordinance and enshrined in the Constitution. The latest Ordinance is from 2014 and states that the Council will oversee ‘the good administration of the Islands, the maintenance of peace, order and public safety, and the social and economic betterment of the islanders’.³

When questioned over the need for a community as small as Pitcairn to have a constitutional overhaul, then Governor George Fergusson acknowledged the difficulty of implementing many of the judicial reforms made, yet explained the importance of basic rights in protecting the cohesion of the islanders’ society. Notwithstanding, as Eshleman argues:

The Pitcairn Constitution runs 12,164 words. It is the length of the Alaska Constitution and triple that of the US Constitution . . . Many articles are filled with details of the sort generally left by the United States Constitution for statutes but which clutter many [U.S.] state constitutions. This is typical of British colonial constitutions – long and detailed.⁴

Thus, an argument could be made that in designing the Constitution the British government gave insufficient consideration to the very particular requirements and characteristics of Pitcairn and its citizens. Having such an extensive constitutional document for a population of less than 50 does raise questions about how successfully its wide-ranging provisions and commitments can be applied and safeguarded. Indeed, as Eshleman suggests, ‘the form of good government, rather than the practice’ is often perceived as Britain’s primary concern.⁵

Island political structures

The Island Council consists of a mayor, deputy mayor and five councillors. In addition, there are three non-voting ex-officio members who are the governor, the deputy governor, and the administrator. In practice only the Administrator will normally attend Council meetings unless the Governor or Deputy Governor are visiting or arrangements have been made to include them by video-conference from New Zealand. The Administrator reports

directly to the Governor and the Governor may direct the Administrator to take certain actions. The Mayor, who acts as chairman, is elected by popular vote for a three-year term; the other members are elected for two-year terms. There are no political parties. In order to vote, persons must be 18 years of age or older and be resident on Pitcairn for between one and three years. The qualification period is determined by the particular status of the individual. Anyone able to vote may also stand for election, so long as he or she has not been sentenced to imprisonment for three months or more in the previous five years. Historically, the Island Council's elected members have been largely men, but this has changed in recent years. Presently, the Island Council has three female members, including the Deputy Mayor.

Future prospects

Pitcairn is facing significant challenges in relation to its future sustainability, which are centred on three inter-related concerns: the small and ageing population; the legacy of the child abuse cases; and the island's lack of economic self-sufficiency. Pitcairn's population is very low by historic standards and it is ageing, which means a falling share of the population is economically active. Fewer than 30 people are economically active and a majority of these are over 50 years old. Most starkly for the future, the number of residents in the 20–30-year age group is in low single figures. Once young people move abroad, usually to New Zealand, to advance their education they rarely return. In addition, the birth rate is not high enough to sustain population levels. In the period 2001–2012 there were only eight births, and today there are fewer than five women of childbearing age. There are two other options for increasing the population: the return of Pitcairners from overseas and new immigrants coming to the island. In order to help facilitate these options the Island Council agreed to a repopulation plan in 2013 to stabilise the population at around 50 (although an earlier plan had a target of increasing it to 80 by 2016). However, little interest in migrating to Pitcairn has been forthcoming, and as a consequence the population is continuing to decline.

The reasons for the plan's lack of success can be seen in a recent survey of Pitcairners residing overseas.⁶ It found that the vast majority are reluctant to return because of the child abuse scandals, and a belief

that ‘on-island social norms do not conform to acceptable international norms’.⁷ As a consequence, many now no longer publicly identify themselves as Pitcairners. The policy of the British government does not help either, as a travel advisory is in place for the island which asks that any visits or settlements involving children under 16 years of age must be authorised by the Pitcairn Island Office in New Zealand. Other barriers are the perception that residents are not always that welcoming to newcomers or even returnees, and concerns over Pitcairn’s inaccessibility, lack of job opportunities, and limited health and education infrastructure. These concerns apply to other potential immigrants too.

Another related issue, which has more general consequences for the future of Pitcairn, is the state of the economy. For many years Pitcairn was able to pay its way. The sale of stamps and later the registration fees from the ‘.pn’ domain name were significant revenue earners. However, more recently income from these sources has fallen, while expenditure has increased considerably, particularly in regard to shipping, medical services (in part because of the ageing population), and telecommunications. Further, funding is required for the provision of part-time public sector employment. The result is that domestic revenue represents only 5 per cent of the Pitcairn government’s finances. To make up the shortfall the British government has provided budgetary aid to the island since 2004. In 2015/2016 this totalled £2.91 million, an amount predicted to increase over the coming years.⁸ While the sums are not large compared to the government’s overall expenditure, it does re-emphasise Pitcairn’s increasing vulnerability.

Attempts have been and are being made to strengthen Pitcairn’s economy, and both Britain and the European Union (EU) have supported a number of projects. One that is ongoing – funded by the EU – is the building of a jetty at Tedside, on the northwestern side of the island, and upgrading the road linking Tedside to Adamstown. It is hoped that, once completed, tenders will be able to more easily transport cruise ship passengers to the island, and so the number of cruise ship visitors will increase (at present about 800 to 1,000 passengers set foot on the island each year). This, in turn, should have a benefit for on-island tourist industries, such as guest houses and the selling of crafts and curios. Another development which may enhance Pitcairn’s economy is the announcement by the British government in March 2015 of the creation of the largest continuous

marine reserve in the world, covering 834,000 square kilometres. In a report produced by the Pew Charitable Trusts, Pitcairn Island Council and National Geographic Society for the Foreign and Commonwealth Office, it was suggested that the reserve could build a sustainable economic future for Pitcairn's resident population, based on increased tourism and permit fees and other maintenance grants. The report claimed also that 'creating work and jobs in conservation tourism could play a key role in helping encourage young adults within the community to remain on the islands and attracting new residents'.⁹ However, there was little detail in the report and there is no certainty that such jobs can be either created or maintained. Further, safeguarding such a reserve will not be easy, especially as the British government will have limited resources to pay for its upkeep and policing. If there are doubts over the reserve's inviolability then any economic benefits will be much reduced.

Conclusion

Despite Pitcairn having a resident population for most of the last two centuries, some key issues such as its declining and ageing population and its lack of economic self-sufficiency are seriously threatening its future. Supported by the British government and the EU, the Pitcairn Island Council is searching for ways to strengthen the island's long-term sustainability but so far little progress has been made in reversing the negative trends. The British government remains committed to keeping the Pitcairners on the island, but ultimately there may be little choice but to relocate the last remaining islanders, if the ongoing initiatives, including the marine reserve, do not produce the hoped for outcomes.

Further Reading

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Notes

- 1 Charles Cawley, *Colonies in Conflict: The History of the British Overseas Territories*, Newcastle upon Tyne: Cambridge Scholars Press, 2015, p. 264.
- 2 Orders in Council, a legislative power granted to the Queen by statute or under her royal prerogative, are the usual mechanism for enacting territorial constitutions.
- 3 Laws of Pitcairn, Henderson, Ducie and Oeno Islands, Revised Edition 2014, Chapter XI, Local Government Ordinance, p. 202: <http://www.pitcairn.pn/Laws/Cap%2011%20-%20Local%20Government%20Ordinance%202014%20Rev%20Ed.pdf>
- 4 Michael O. Eshleman, 'The New Pitcairn Islands Constitution: Strong, Empty Words for Britain's Smallest Colony', *Pace International Law Review*, vol. 24, no. 1, 2012, pp. 22–23.
- 5 *Ibid.*, p. 89.

- 6 Rob Solomon and Kirsty Burnett, *Pitcairn Island Economic Review – Final Report*, Solomon Leonard Ltd, January 2014, <http://www.government.pn/Pitcairn%20Islands%20Economic%20Report%20-%20Final%20Report.pdf>.
- 7 *Ibid.*, p. 41.
- 8 *Ibid.*, p. 48.
- 9 Pew Charitable Trusts, Pitcairn Island Council, and the National Geographic Society, *The Potential Tourism Impact of Creating the World's Largest Marine Reserve in the Pitcairn Islands*, May 2013, <http://www.pewtrusts.org/~media/legacy/uploadedfiles/peg/publications/report/potentialtourismimpactofpitcairnmarinereservepdf.pdf>, p. 11.