



Decentralization – Key Issues, Major Trends and Future Developments

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The term decentralization is used so commonly and yet defined so variously that it will be necessary to indicate its usage in this text with some precision. To begin with, there are two, separable but closely linked themes which cover the issue of decentralization:

- a) *intergovernmental processes*, i.e. decentralization of governance between levels of government from federal/central to state/local;
- b) *deregulation*, i.e., decentralization from governments to market, quasi-market and non-governmental organizations (the balance of public sector compared with market resource allocation).¹

The article will focus on the first dimension and address decentralization as a specific concept of state organization and method of governance, including major issues of economic and fiscal decentralization, since this aspect has mainly been understood as decentralization *stricto sensu*.

Decentralization is of itself a relative, rather than absolute concept, which can be understood only “against either different normative models or different practical starting points”. When addressing the intergovernmental structures and processes of decentralization, the analytical and empirical approaches are to be combined, taking two facts equally into account:

- (a) that also when referred to governmental structure and relating functions, the term “decentralization” describes development, (the process of) change from a former to a new institutional set-up;
- (b) that any categorization of decentralization trends faces the problem of how to conceptually incorporate the influence of the specificity of given local context.

The latter has four dimensions:

- a) the level of economic development,
- b) the extent of development of representative democracy and experience of democratic systems,
- c) the structure of the settlement system (urban vs. rural focuses),
- d) the short-term problems as well as the long-term transition requirements.²



Key issues

The key issues of governmental decentralization cover the basic concepts, major factors which influence a given decentralization process and, finally, the values/objectives mainly put forward by the case for decentralization.

1. Deconcentration, decentralization, federal state

There is no completely unitary state. Every state is at least composed of municipalities as decentralized units. Accordingly, the

major question arises as to how to differentiate among a unitary state practicing deconcentration, a decentralized unitary state and a federal state. The doctrine has established several criteria.³ Generally speaking, they could be summarized as follows:

Under the system of *deconcentration* the local level competences are delegated to the agents of national government that perform powers within local territorial units. The control is exercised through financial and disciplinary measures. Central executive power can either revoke the decision of deconcentration or – on the contrary – enlarge further the competences of local authorities. When combined with parliamentary government, deconcentration usually has important centralizing effects, since the Prime Minister alone can decide, when necessary, on the policy of government and decentralization.

Unlike deconcentration, *decentralization* implies the transfer of powers of national government or its agents to the representatives of local territorial collectivities, whereby the latter are not directly responsible either to the national government or to its agents.⁴ Most of the major different elements upon which federal and decentralized systems are to be distinguished from each other actually refer to a profoundly different character of respective autonomy status for lower governmental levels. The member states within a federal state dispose of original autonomy, which is not the case with the autonomy of decentralized units within a unitary state; in other words, the autonomy of member states has been established and guaranteed on a constitutional, not merely legislative (statutory level), as it is the case with decentralized units. The former implies constitutional, legislative, executive and judicial autonomy and also covers organization of a member state. The latter means that – in principle – decentralized units have “a purely administrative character” and do not dispose of either legislative or judicial power.⁵ Member state officials in a federation are not controlled by central authorities, whereas local

authorities in a decentralized unitary state always exist through the will of central power, that is, dispose only of powers delegated by central government, and, accordingly, may act only within the terms established by national legislation.

In consequence, the most distinctive criterion to draw the difference between a decentralized and federal state affects the participation of member states in constituting the *volonté centrale*, whose participation is not proportional to the population of member states. The right to self-organization being essential for their autonomy, member states dispose of original *pouvoir constituant*. It means that in the case of federal states constituted by devolution (Belgium, e.g.), central authorities have to renounce some of their major powers.⁶

2. The factors to influence decentralization

Generally speaking, the factors which influence the intergovernmental processes of decentralization in a given state are various and cover a wide range of elements, including legal tradition, major institutional solutions within a constitutional system, political set-up and economic background. The most important are as follows:

2.1. To start with, decentralization as such is strongly influenced by a legal tradition underpinning the system. The common-law system, as different to continental law, is not based on the hierarchy of norms. This is, among others, the major reason why the English unitary state could integrate much more profound decentralization than the French one. English local authorities are not merely local agencies of central power, but “have, in principle, been established as responsible bodies competent to discharge their own functions in their own right”.⁷ Given the simple fact that in Great Britain the execution of many statutes passed at a cen-

tral level has been conferred upon local authorities has a profound decentralizing effect much stronger than in France. The officials implementing laws are responsible to local authorities, whereas the “*préfet*” in the traditional French system and his staff are directly under the disciplinary control of the central government (recently changed in France itself, but still valid in Greece and Turkey). On the other hand, the English central authorities can nonetheless control local authorities through subventions. Besides, they can demand the execution of laws by judicial decisions (*Mandamus*).⁹ But they do not have a direct disciplinary power. Namely, the autonomy of local authorities is judicially protected through the *ultra vires doctrine* – the actions of local authority which are within its statutorily established competences will be upheld by the court. Besides, although it is primarily executive functions that are conferred upon local authorities in England, these also have a kind of law-making power to pass secondary legislation well-known as bylaws.

2.2. The extent to which a given unitary state is centralized or decentralized depends, further, on two crucial elements of a given institutional design:

- (a) on how the allocation of powers between the central and local governmental levels has been legally operationalized, as well as
- (b) on the division of powers among major central authorities (system of powers).

A given system of powers is, for example, much more open to centralization if most important central powers are vested with a government or Head of State (Russia), than with a legislative body whose decisions are to undergo a referendum (Switzerland). Also, if there is a legislature composed of the representatives of local authorities (second chamber to promote local interests) and not

only of representatives elected within a nation-wide electoral body. Within this type of second chamber the electoral system receives major relevance as a possible means of diminishing the influence of national parties at the expense of local interests within the second chamber. However, the importance of the electoral system as the factor to endorse or slow down the decentralization in a given state goes much further. If electoral districts correspond to decentralized units, and if the parties organized within these electoral districts can themselves choose the candidates to run the elections, the consequence will not be the same as in the case when electoral districts do not coincide with decentralized units and when – as is the case with the proportional system in FR of Germany – the parties at a central level decide on the candidates to figure on “Länder” lists. Last but not least, local parties – if there are such – contribute significantly to the advancement of decentralization.

2.3. Finally, it is obviously centralization which is given priority in all those cases where the central power decides on financial issues and the way they should be allocated among central and local governmental structure (fiscal autonomy as a major complementary principle to effectuate intergovernmental decentralization in general). This issue will be further on given appropriate attention.

2.4. However, the real effects of a given system of decentralization do not depend merely on the legal framework, in general, and constitutional, in particular. In order to have a given governmental level really vested with powers legally attributed, two factors are additionally indispensable: first, the authority in question must have a decision-making competence; second, the authority in question should dispose of necessary measures to accomplish its tasks. In other words, decentralization can work only when substantial tasks and powers are transferred with staff and financial means to match.

2.5. Besides, the level of economic development of a country or region significantly determines the possibilities for intergovernmental decentralization alone, the low-income economy often making a case for centralization. In other words, countries push more responsibility towards their subnational units as their income rises.⁹

3. The decentralization argument

The major objectives/values put forward by the case for decentralization could be summarized as follows:

- a) increase of democracy (grass-root democracy),
- b) protection of freedom and human rights (vertical check-and-balance),
- c) increase of efficiency through delegation of responsibility,
- d) higher quality of services,
- e) enhancement of social and economic development.

Finally, decentralization can be a spawning ground for new politicians, administrators and civil servants and also contribute to cut-backs in expenditure. In most cases of launching a decentralization project, the above-listed arguments are orchestrated into a demand for *legitimate administration as a conditio sine qua non* of good governance. For example, intramunicipal decentralization of big cities aims to meet the problem of the decline in involvement and efficiency. Public services and facilities are tailored to local needs by bringing them within easy reach of people and by competently taking local situations and conditions into account. The involvement of citizens means a more legitimate administration, since this involvement in the policy-making process can turn into participation and result in integration.¹⁰

Following the basic arguments of the case for decentralization, the World Bank's programme on good governance¹¹ and the UNDP's

human development programme have both placed emphasis on decentralization as an effective tool for promoting economic development through enhanced local autonomy and initiative, as well as democracy through the restoration of liberty at the base. Besides, the subsidiarity principle is being proposed as a panacea for the problems of developing countries, especially in Africa, where the questions of federalism and decentralization are seen to be “at the heart of the search for democratic renewal in the context of identity conflicts”.¹² One of the best ways to illustrate and to nuance to a certain extent the key issue of decentralization is to look at the exemplary case of fiscal decentralization.



Countries of the South and of Central and Eastern Europe – basic trends and major issues of decentralization

1. In general

To the question of what types of countries are most likely to decentralize, basically three main answers have been suggested until now: While the first two, the “stage of development” and the size (the larger the country, the greater the need for decentralization) count in favourable factors, the “crisis effect” usually generates reluctance to give discretionary powers to local governments in countries where there is a continuing threat of social and political upheaval. However, a “side effect” of the lack of any governability on the side of a central government can in these cases lead to a *de facto* reaffirmation of local authorities who are urged to take over some of the vital public functions (the example of “bottom-up” decentralization with some towns in Russia, e.g.) This is why it has often been argued that in the transiting developing and former Eastern Bloc countries democratization, decentralization and the expansion of administrative capacities must all

go hand in hand, since an efficient and democratic local government system is “midwife to balanced and integrated national development”.¹³

The basic trends and major issues of decentralization in the countries of the South and of Central and Eastern Europe have basically demonstrated the following common characteristics:

- a) There is a high risk of unpredictable side effects of decentralization, first of all due to the “simultaneity problem” (Dilemma der Gleichzeitigkeit), i.e., cross-cutting of different types of structural problems and reforms.
- b) Given the multiethnic societies in most of these countries, the decentralization strategy has been increasingly perceived as a possibly appropriate conflict-management device for interethnic tensions and conflicts. However, some experiences have in the meantime demonstrated that the enhancement of local democracy may be dominated by the interests and leaders of one group and thus repressive of other ethnic groups.¹⁴
- c) The strategies and possible effects of decentralization have to be evaluated against the structural constitutive problems of many of these states (permanent legitimacy crisis – the problem of definition of political community, the absence of differentiation between public and private spheres, the problem of a “nominal state”, namely the absence of a minimal correspondence between the constitutionally established state structure and socio-economic and political reality).
- d) The laid down constitutional devices for decentralization in many of the developing countries have to operate under the most unfavourable conditions, such as: the state structure itself is profoundly corrupted (Colombia, e.g.¹⁵); the far-reaching programme of decentralization did not accrue corre-

sponding resources which brought about growing difficulties for the cities that were forced to rearrange their services rapidly, or the state structure excludes completely lower social classes and functions under enormous disparities in regional development (Brazil¹⁶); or the reality of local autonomy is highly constrained when compared with its constitutional foundations (Korea¹⁷).

- e) Developing countries as a rule have tended towards more centralized fiscal structures arguing that this fits into the theory of fiscal federalism. On the other hand, fiscal decentralization nonetheless figures *expressis verbis* as a major goal of the national governments of many developing countries and part of their economic development strategy.¹⁸

2. More concrete on Central and Eastern Europe and Africa

2.1. The specificities of Central and Eastern European transition process have, among others, required the most basic decision-making level to be enhanced. This empowerment has sometimes come despite the fact that very small local government rural areas cannot provide significant services. This is how a gap has arisen between representation at a political level and the structure of administrative services. The problem has in some cases been addressed by strengthening the upper tier of local government (Hungary, e.g.¹⁹). It has also rightly been perceived as the outcome of the crucial change in the character of the representation link in the new democracies, where market decentralization urges governmental practice to “replace political or bureaucratic choice by customer choice”. Besides, due to the fact that political decentralization affects sometimes primarily the balance of different ethnic interest and human rights protection (Russia, e.g.), a dilemma emerged as to whether local governments may – when controlled by one ethnic group – reinforce undemocratic structures.

More generally, the recent experience of the three dissolved ex-communist Federations shows that decentralization strategy can work as an appropriate strategy for democratic integration *only* within legitimate states. In spite of that, the question remains open, whether decentralization undertaken within still mainly formal democratic political pluralism may not be nonetheless argued as one of the necessary conditions for the way out of the anti-democratic transition and follow-up of authoritarian regimes in many of the newly constituted states in this area.

2.2. Over the past decade, there has been an active debate in Africa on decentralization as a possible solution to the political and economic crisis facing the continent. The debate has arisen in response to what is generally understood as the failure of the centralized unitary state. The state in Africa has however developed out of two major colonial traditions, the Francophone and the Anglophone. Both systems tried to develop a strong centralized state that was capable of promoting national unity and economic development. It is generally considered that the attempt failed on both counts. The African state is authoritarian but it is weak and in many cases decomposing. Centrifugal forces have placed excessive pressure on national unity and national economies are on the decline. The colonial legacy of state organization bequeathed to Anglophone Africa has been described as *decentralized despotism*.²⁰

It is within this context that the current debate over democratization and decentralization as a possible solution to the African crisis developed. The central impetus for what has been described as the second wave of democratization in Africa has been the internal resistance to the centralized authoritarian state and the case for decentralization as an effective tool both for economic development and democratization.²¹ However, a more differentiated approach, which reflects upon the issues of decentralization against the whole complexity of the given African historical and

socio-political, economic and multicultural background, argues in favour of a federal arrangement, rather than mere decentralization: The “workability (of decentralization) depends on the goodwill of actually existing unitary states”, instead of relying on “the imposition of constitutional divisions of powers between different levels of government”.²²



Conclusion: Towards future developments and a new research agenda in the debate on decentralization

Two new insights seem to be of equal relevance for the future debate on decentralization:

First. The decentralization debate has to give proper attention to the question of transition and articulate respectively the profound difference between short-term and long-term changes. The reform processes will not work if not adequately equipped for future changes as well as satisfying present priorities. Put in another way, a major criterion of reform is the need to develop local government systems that are capable of “flexible, rapid, and adaptable responses”. This presupposes a critical reevaluation of the administrative reform approaches of the past. “For the future it is most important to design systems that are capable of change! In this sense flexibility *built into* the system rather than ‘grand designs’ is more likely to provide structures that are viable in long terms”.²³ In other words, in developing and transiting countries, due to the already indicated problem of simultaneity of structural reforms, in general, and the problem of efficient governmental policy, in particular, it may well be the case that the short-term centralized administrative services need not and should not make part and parcel of the long-term, decentralization-driven, governmental reform. Put the thesis more radically: In a short-term perspective and under the strong pressure of both

radical and “over the night” systematic economic and political reforms, sometimes even accompanied by state transition, decentralization need not necessarily be a prerequisite for good governance.

Second. As already indicated above, the actual debate on decentralization has been mainly forwarded as the “case for decentralization” which – be it on analytical or descriptive empirical level – argued the “promised benefits”, i.e. values/objectives of decentralization. The decentralization discourse has recently grasped another argument, that of simultaneous trends of globalization and decentralization, in order to demonstrate the growing role of subnational governments.²⁴ What now comes on the research agenda is the issue of *actual effects of decentralization*. It is precisely here, in this new research trend to enrich the existing know-how that the Swiss case can be instructive. Namely, the modern Swiss state started as a strongly decentralized system of government and despite significant centralization processes remained as such until today. It means that the positive effects of decentralization on good governance rather than the strategy of decentralization as such make Switzerland instructive. This, however, must not be understood as an argument in favour of an export of the Swiss “success story”. The point is that the coming breakthrough in the topic on decentralization and sensibilization for the effects of decentralization have to be advanced in each given case by articulating the problems and formulating the extent and strategy of decentralization together with local elites, taking into account the importance of the input of a specific political culture in the working of institutions.

¹ Cf. R.J. Bennett (ed.), *Local Government and Market Decentralization*, UN University Press, Tokyo, 1994, p.11.

² *Ibidem*.

- ³ F. and Y. Luchaire, *Le droit de la décentralisation*, Thémis, Paris, 1983, pp.18 and on; J.-F. Aubert, *Traité de droit constitutionnel suisse*, Ides et Calendes, Neuchâtel, 1967, vol. I, pp. 198-199.
- ⁴ F. and Y. Luchaire, *Ibidem*, p. 18.
- ⁵ This certainly holds true for the French system of decentralization: "La décentralisation n'est pas le fédéralisme. Si elle donne naissance à des personnes publiques autres que l'Etat, ces personnes publiques ont un caractère purement administratif et ne détiennent aucun pouvoir législatif ou judiciaire". G. Vedel, P. Devolve, *Droit administratif*, 11e éd., vol II, Thémis, Paris, 1990, p. 388.
- ⁶ Cf. Th. Fleiner/L. Basta, *Federalism, Federal States and Decentralization*, in L. Basta, Th. Fleiner (eds.), *Federalism and Multiethnic States*, PIFF, Fribourg, 1996, pp. 2-40.
- ⁷ J. Bridge, *The English System of Local Government*, in: *Federalism and Decentralisation*, PIFF, Fribourg, 1987, p. 428. Cf. also, W. Laggoune, *La Décentralisation*, a paper presented to the international conference on *Federalism and Decentralisation in Africa*, Fribourg, October 11-13, 1997.
- ⁸ H.W.R. Wade, *Administrative Law*, 6th ed. OUP, Oxford, 1988, p. 649.
- ⁹ More in R. Bah, J. Linn, *Fiscal Decentralization and Intergovernmental Transfers in Less Developed Countries*, *Publius* (1994), Vol. 24, No. 1, pp. 1-20.
- ¹⁰ M. E. Pietermaat-Kros, *The Endeavours towards a Reorganisation of the Administrative System in the Netherlands*, in: *Euroregions 3*, PIFF, Fribourg, 1993, pp. 37-45. It is also worth mentioning here that, whereas the correlation among democratization and decentralization processes has turned into a taken-for-granted argument, decentralization has certainly no clear-cut, directly positive effects for rule of law.
- ¹¹ Good governance is usually defined as the management of regime relations and the public realm on the basis of institutional "rules of the game" that guarantee efficiency, accountability, transparency and legitimacy.
- ¹² More in J. Ibrahim, *State Crisis in Africa: the Case for Federalism and Decentralisation*. Cf. also, A. O. Olukoshi, *Towards an Enduring Economic Foundation for Democratic Federalism and De-Centralisation in Africa: Some Notes*. Both papers presented to the international conference on *Federalism and Decentralisation in Africa*, Fribourg, 11-13 October, 1997.
- ¹³ Cf. K. Kumado, *The district assembly and recent local government reform in Ghana*, in: R. J. Bennett, *op. cit.*, pp. 198-214.

- ¹⁴ Cf. I. Ushkalkov, The development of central and local administration in Russia in the perestroika period, in: *Ibidem*, pp. 215-225.
- ¹⁵ With the 1991 Constitution Colombia made a broad move towards federalization and promotion of local democracy, with national functions and resources being decentralized. More in: M. Cepeda Espinosa, Ethnic Minorities and Constitutional Reform in Colombia, in: *Ethnic Conflict and Governance in Comparative Perspective*, Working Papers of the W. Wilson International Center for Scholars, Washington, DC, 1995, pp. 100-138.
- ¹⁶ Cf. M. da Costa Pinto Neves, Grenzen der demokratischen Rechtsstaatlichkeit und des Föderalismus in Brasilien, Forschungsplan zur Durchführung im Institut für Föderalismus der Universität Freiburg (Schweiz). In line with other countries in Latin America, the constitutional process in Brazil since 1988 has unleashed a decentralizing force and when formalized, it formally inaugurated an unprecedented period of decentralization in the country, transferring power and new responsibilities to the states and municipalities. One of the original efforts of inclusion of social participation is the case of "participatory budgeting" in the city of Porto Alegre. More in: Z. Navarro, "Affirmative Democracy" and Redistributive Development: The case of "Participatory Budgeting" in Porto Alegre, Brazil (1989 – 1997), paper presented at the Workshop "Collaboration between Local Administrations and Local Communities as the Basis for Democratization", Fribourg-Morat, April 24-26, 1998. More general on Latin America, in: M. da Costa Pinto Neves, Lateinamerikanische Verfassungen: Zwischen Autokratismus und Demokratisierung, in: *Verfassung und Recht in Uebersee*, Nomos Verlag, Baden-Baden, 1997, pp. 519.
- ¹⁷ More in: A.-J. Kim, Decentralization and Local Autonomy in: R.J. Bennett (ed.), *op. cit.*, pp. 132-149.
- ¹⁸ Cf. R. Bah, J. Linn, *op. cit.*
- ¹⁹ More in: G. Enyedi, I. Kovacs, The rebirth of local government in Hungary, in: R.J. Bennett, *op. cit.*, pp. 76-91.
- ²⁰ At the level of administration the African countries have had considerable experience of solutions which were offered as a substitute for a genuine political decentralization and understandably gave no satisfaction in the end. The two principal ones were the Marxist-Leninist democratic centralist model of political participation (without the transfer of real power) and administrative deconcentration. More in: R. C. Crook and A. Morten Jerve (eds.), *Government and*

Participation: Institutional Decentralisation and Democracy in the Third World, Chr. Michelsen Institute Report, Bergen, 1991, pp. 51-68.

²¹ On the other side, it is important to note that the decentralization programme in Ghana, which has been massively supported by donor agencies as an example for the rest of the African continent, nonetheless shows that decentralization need not of itself enhance democratization. Namely, the major findings of Ghanaian scholars is that the real objective of the decentralization programme has been to provide a rural political basis for the presidential rule and thereby stabilize the political system but that the objective of empowering the people has so far been set aside. More in: J. Ibrahim, *op. cit.*, pp. 22 and on.

²² *Ibidem*, pp. 23-24.

²³ Cf. R.J. Bennett (ed.), *op. cit.*, pp. 29-32.

²⁴ Cf. e.g., J.S. Jun and D.S. Wright (eds.), *Globalization and Decentralization*, Georgetown University Press, Washington, D.C., 1996.