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Decentralisation revisited again; discovering moral hazard and looking for options

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Paper prepared for the Kosovo Institute of
Local Government, presented May 2012

Introduction

This paper is a review. It aims to be useful. It draws upon some familiarity with the literature but mostly upon the experience of the authors in decentralisation and local governance matters in many transitional states and developing countries. It draws also upon the realities of UK local governance that the authors have come to know as citizens. Local government systems must serve local populations, enable local development, and allow fruitful expression of local identities. Within the national political economy they must allow for diverse social, linguistic or ethnic identities. In reviewing the realities of experience against well known decentralisation principles several recurrent problems emerge; such as political capture¹ and separatist tendencies, or efficiency and fiscal responsibility shortcomings. A major problem is that constitutional systems allocate responsibilities between centre and local but in so doing establish a moral hazard. Once a responsibility is allocated other parties cease to feel responsible and are free to indulge in buck passing and blame. The paper searches for solutions through keeping constitutions flexible, rationalising allocations and fostering 'localism'.

Why should governments, or citizens for that matter, be concerned with decentralisation?

Decentralisation seems to have a permanent place in the discourses that surround government. Its permanence is perhaps an indication of its difficulty of achievement. What 'decentralisation' asks a government to do is to give away or put at arms' length some of the powers and resources that it thinks that it commands. Strong arguments would seem to be required².

The classical arguments in favour of decentralisation that have graced the public administration text books³ over the last half century at least, all emphasise 'close to the people' type points

- More sensitive to the needs of local people

1 Political "capture occurs where a particular political or other interest group obtains control over a government and uses that control to benefit itself.

2 Interestingly the word subsidiarity, which is taken to be a synonym for decentralisation in Europeak is actually subtly different; it just implies that things that can be done at a lower level should be done at that lower level. This is less 'giving away' more recognising potential competence.



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- Enhances participation in governance
- Allows for and legitimates difference

These are points that sound innocuous enough for ministers or mandarins sitting in Whitehall - or other central places - to be generally supportive. They also are more or less compatible with what may be the underlying concerns of government leaders for political stability, diverse conditions for economic regeneration as well as social cohesion in the wider society.

However the classical case is very much an ab-initio case; once a system of local governance is up and running, the calculation of the upsides and downsides of decentralisation becomes much more complicated, as is any understanding of 'how it works'. Local government is both an alternative ground for the skirmishes of parties and politicians and a terrain for consolidation of opposition. It can indeed be fertile ground for economic investment but also a deadening institutional burden. It can be a place where local identity fits happily with wider national [or super-national] identity, or otherwise. Central government strategies for central - local relations tend to reflect the complexities of this scene.

Local government and the social compact

Local government may seem to be a technical matter. It is widely accepted that there should be some such institutions in a 'modern' state and various models are available, French, British, American and so on, that can be drawn upon to 'put appropriate structures in place'⁴. The European Union expects member states to have local governments - as expressed in the Council of Europe's Charter for Local Self Government - while recognising that different countries within the union have evolved quite different systems. But, whatever the structure achieved, local government is inevitably an intensely political matter. It exists between the citizen and the state. As such it is perhaps best seen as an element in the architecture that supports the social contract, or compact, through which citizen and state are tied together⁵. Government agents, central and local, in acting to secure particular good things for local citizens within the nation are, by the manner of their acts, reinforcing or undermining the general public good which is the social contract between citizen and state.

The word 'contract', to the modern mind suggests a done deal, a well defined and binding relationship between principal and agent. Rousseau's concept of the *contrat social* is sometimes translated as contract or compact, a more flexible notion. Rousseau, like philosophers before him

3 For example, Henry Maddick's *Democracy, decentralisation and development* (1963). Maddick founded our department in Birmingham and, although his text is nearly 50 years old, it is still cited.

4 In former British or French colonies local government was often a late colonial imposition, using UK or Fr models. This was done in the name of citizenship development but seldom fitted with political realities or identities. In consequence the kind of constitutional justifications that are discussed here may not really fit the case.

5 A notional relationship introduced by Jean-Jacques Rousseau in 1762 that seems to endure.



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was seeking explanation of the curious fact that people for most of the time and in most places accept political authority without too much questioning, seemingly recognising that political order has some value to them. People who have experienced a breakdown in political order [as was the case in Kosovo only two decades back] probably recognise the validity of some such notion while those who have had no experience of chaos take an implicit deal with their government for granted.

In any case, a relationship is there, implicit if not explicit. Rousseau's notion is probably over-idealistic. The politically aware citizen is ready to challenge or defend the implicit deal, while recognising that what has become institutionalised is not about to change. The politically unaware - in many countries the more common phenomenon - are both more accepting of 'the system' and more prone to alienation when 'the system seems to fail'. The social compact - let us stick with compact - should perhaps be seen in pragmatic terms, an accepted least-worst, [as is democracy itself according to Churchill] but still real enough to define socially acceptable modes of interaction between citizen and elements of government, as well as unacceptable.

What then is unacceptable? If there is a deal, any behaviour that breaks with it is likely to be questioned, challenging the validity of the deal as well as the particular behaviour. Game Theory uses the neutral sounding term 'defect' for behaviour which is opportunistic, or cheating in plain language, challenging the validity of the game as well as the character of the defector⁶.

The social compact between citizen and government might be expressed as; 'I agree to be citizen, expecting certain benefits and accepting certain responsibilities; you, the 'powers that be' in government, agree to govern accepting certain limitations on the exercise of power and an obligation to be accountable to the citizen'. This is a constitutional matter but the deal may be well expressed or badly expressed constitutionally in any country and in any case it will have implicit as well as explicit elements.

Established compact relationships will be worked through and tested in three areas of on-going concern. From the citizen perspective;

- Equity; 'am I getting fair shares in the national or local 'cake' as well as the costs of cake-making'
- Identity; 'do I belong here; are THEY creating the conditions for my belonging, recognising, of course, that identity is always multi-layered, with elements of kinship and affinity, place, ethnicity, religion as well as nationality'.
- Power - a more complex set of thoughts -
 - 'by my compliance with the dictates of those in power do I gain wellbeing and security?'
 - 'does my participation bring me into mutual relations within the locality and nation?'
 - 'within this place am I free, to trade, associate, give voice...?'

6 Of course an external shock such as an economic depression, natural calamity, or war, can also upset the board - bad politics is not always to blame.



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The political philosophers⁷ who launched this debate about state and citizenship were mostly concerned with the conditions for compliance. When are we likely to obey, and why are we likely to obey; these were their questions. In a democratic age the broader questions become relevant. Pragmatically also we now realise that states claiming to be all-powerful do not produce the economic goods, the social or cultural goods, let alone the governance goods that enable a modern society to 'work'. Innumerable ways citizens need to be involved, not just compliant. In even more ways a healthy society and economy depends upon entrepreneurial freedoms and the active exercise of sensible choices by responsible people. The art of good governance therefore - the government side of the compact - requires that leaders at the various levels respect;

- The equitability or fairness of the deals – over security, access to law, public services, etc., that bring the compliance of the citizen
- The multiplicity of social statuses and identities within the society that make for a healthy, participative plurality
- The freedoms of choice and action that add up to provide common wealth and wellbeing

Equally, to maintain the compact, the government side must avoid behaviours that defect from any of its elements through; hidden deals, political exclusions, or social or financial allocations that arbitrarily favour particular individuals or sections of society.

All this is easier said than done. In practice the day to day business of governance at any level in society involves numerous transactions between elements of government, administrative agents and political leaders and citizens. These may be more or less effective in achieving the outcomes desired and more or less testing of the social compact. Citizens, for their part find themselves more or less committed to their deal with government or more or less disaffected or alienated. This is the normal operating environment of modern democratic society. However, a further twist in institutional behaviour has to be recognised; this is the phenomenon of moral hazard.

Responsibility and moral hazard

Moral hazard, a concept most associated with economics, has an application to local government. Moral hazard recognises that if 'A' accepts, or appears to accept responsibility for an action, 'B' will be inclined to take the view that it is not responsible (or at least will not be held to account) and is free to act without responsibility. The issue is fresh in most European minds at the present time as a reflection upon the behaviour of bankers when governments appear willing to underwrite the risks of a bank's speculative investments. In relation to governance in general and local governments in particular, the question is very practical. When will a government be prepared to act responsibly?

Local government leaders, ideally speaking, form a compact with the diverse citizens of the place when they are elected. They find a way to resolve conflicts, provide various services, find common purpose in enabling economic development, create public funds on the basis of agreed tax formulas and weld new joint identities. The incentive to do so disappears if a national government imposes

7 From Plato to Hobbes



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institutional structures in which some leaders have status and others none, and 'democratic' participation means winners take all and losers sulk.

Local government policy also all too readily gets caught up in political point scoring and blame avoidance. A party in power at the national level, in cahoots with the administrative elite, can see the logic in passing unsolvable problems - the 'wicked issues' - down to the municipalities. They can equally delegate costly responsibilities to municipalities; starting what is often an enduring complaint about 'unfunded mandates'. Most national government leaders seem to rapidly recognise the virtue in Machiavelli's advice to his Prince "Princes should delegate to others the enactment of unpopular measures and keep in their own hands the distribution of favours"⁸. Last, but not least, decentralisation in any of its forms can enable central authorities to pass down blame for failure when 'things go wrong'.

The question also applies to national governments within international relations. If a powerful external agent appears to set the moral, normative, rules and provides substantial foreign aid funds, then a national government may be more inclined to comply with the rules, or appear to comply, than to do the hard work and negotiate the necessary accommodations, accountabilities and agreements, to establish a social compact with their citizens.

This is perhaps the governance reform dilemma in any country. It is particularly evident in transitional [or developing] countries, where, in the nature of things 'events' demand that 'something be done' and innumerable 'foreign experts' appear willing to offer structural solutions. There is no simple answer to this dilemma, but this paper posits three ways in which leaders at any level are most likely to accept responsibly to overcome the 'public bads' of conflict, degradation or impoverishment. These are;

(a) keep constitutional flexibility through active dialogue, There is a strong case for a government to be flexible in selecting appropriate forms of decentralisation on the basis of (i) the nature of the service being provided, (ii) the feasibility of local rather than central decisions making a difference and (iii) there is active agreement that responsibility should lie with politicians or officials at this level or point. moderated where local leaders see themselves as candidates for national leader roles when their turn comes.

(b) 'don't put all eggs into the [local government] basket': if either central government or the private sector can provide a better service equitably, let it be so.

- Where uniform levels of service are the political objective, the centre can act through a deconcentrated office of its own or use local government simply as an agent, taking the service out of the field of contested local issues.
- Where local difference or local scope of service is important, democratic choice exercised through devolved powers is the way forward. It gives scope for active citizenship and

8 From *The Prince*, (1532) quoted by Christopher Hood in 'The Risk Game and the Blame Game', *Government and Opposition*, Vol 37 June 15-37 (2002).



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enhanced participation with meaningful outcomes in quality, relevance, and consequent commitment⁹.

- Where the good is not in fact a public good or where social benefits can be achieved through the market, the private sector or civil society agents might provide the good effectively.

So are some kinds of local government systems or approaches more appropriate than others in supporting the social compact between citizen and state? There is no iron law. The European Union, the World Bank and several other international bodies currently lay emphasis on citizen participation, supposing that this enhances social solidarity and political cohesion. However citizens are not necessarily averse to simple compliance. If government 'command and control' measures produce valued goods this may well lead to 'customer' satisfaction. Equally, citizens are not always clamouring for more participation, but can be sensitive to exclusion on matters where they feel the need to express a view. Freedom likewise can be treasured but its champions often call for intervention to create 'level playing fields' or regulated markets.

So a government seeking continued support for the social compact between itself and citizen does not necessarily have to put all its policies and programmes on the participation plate.

This paper now outlines types of decentralisation as a framework for considering which aspects of decentralisation are relevant in particular context.

Types of decentralisation

Decentralisation takes several different forms. Each type can be associated with different points on what could be seen as an 'incorporation' - 'participation' continuum; incorporation being measures designed to bind the citizen and the local leadership into the nation; participation being measures intended to give voice to local interests within a more pluralist concept of the nation and of citizenship. Scholars find three general types;

- **Deconcentration**; basically a central authority sets up branches of itself at local levels with officers, appointed by the centre, working within established bureaucratic norms of office responsibility, and within a defined geographic division¹⁰.
 - Many technical services or line departments are organised in this way. In UK agriculture and forestry were organised thus, before elements of the service were devolved into

⁹ Civil society solutions are also important. Sometimes the quality of citizenship and civic experience is even further enhanced if some local amenities and services are managed through local institutions that are outside the formal apparatus of government, but exercised within legally recognised institutions. In UK certain forests, pastures, village greens, and public rights of way are managed through such institutions. Often these are supported by associations that represent the interests of the people involved. There is also a formidable array of trusts [such as the National Trust] and other non-state organisations that serve semi-public functions and are part of a civic institutional landscape that the government of the day has to take into account. Increasingly, in UK, there is co-production of services as non-formal bodies establish relationships with formal; as in the case with Neighbourhood Watch with the police services.



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‘arms length’ agencies or privatised. In many countries education services take this form, likewise elements of health care.

- **Delegation;** a central authority passes specific powers and responsibilities to a local agent which is then empowered to act on behalf of the central agent, and is accountable to the central agent for carrying out those responsibilities.
 - In UK, local government is large and complicated but many of its functions, such as enforcement of building regulations as well as some social care and welfare funding, are delegated to it by central government which specifies the tasks and accountabilities in detail, sometimes attaching specific grants for carrying them out.
- **Devolution;** the centre grants a properly constituted local body the authority to be responsible for specified functions, within legal parameters. Alternatively the centre may empower the local body to do anything in the local public interest that is not specifically prohibited in law [powers of general competence].
 - UK local government has a broad range of functions for which it has devolved responsibility, including much of education, social care for the young and the elderly as well as roads, transport, parks, recreation and so on. The distinction between delegated and devolved functions has however become blurred as the centre enacts legislation and sets up regulatory regimes which specify standards; so that these responsibilities are treated more like delegations¹¹. Recent legislation in the UK has however broadened the remit of local government in the direction of ‘general competence’. This in principle gives authorities the scope to form their own policies and programmes in areas such as the environment and legitimates activities that have previously not had specific legal support.
- In some recent discussions privatisation and devolution to civil society or community bodies is presented as a version of decentralisation.
 - Although these are lumped together they are actually quite different strategies. The privatisation of a public function enables central or local government as commissioning bodies, to specify the required levels of service and outcomes. The private agent is thus harnessed to the public interest. Devolving a function to a community body, or allowing a community or other civil society organisation to provide a service allows that body more say in the defining of that interest – a true form of devolution¹².

10 In many post-colonial countries I.g. systems combine a [deconcentrated] rep of the state, with an elected body with devolved powers. France retains such a structure. Britain never had such, though ‘The Crown’ is represented in the counties by a Lord Lieutenant for largely ceremonial purposes.

11 UK local government is highly professionalised so standards and quality of delivery of any particular service is in part governed by the commitments of technical service officers as well as their political masters.

12 In UK there has been quite a lot of privatisation while devolution to community or other civil society type institutions is on the Big Society Agenda, but still in need of formulation.



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These basic forms can be found in most countries, even when constitutionally one or other is favoured in law¹³.

The decentralisation strategy in any particular country has to be responsive to the realities of national history and contemporary socio-economic and political realities. In most countries social diversity is one of these realities.

Accommodation of diversity

Can decentralisation promote the goal of a unified nation of diverse people and interests? There is much evidence from different parts of the world that local governance strategies are inevitably bound up in ongoing political struggles around this aim, without clear favourable or unfavourable outcomes. Perhaps the best that can be said of the outcomes is that the game players remain at the table. Three strategies can be seen;

- Accommodate difference within a uniform system; that is allow local governments that fit within a nationally determined structure the political room for determining priorities that affect minority interests
- Require power-sharing between significant identity groups within a uniform structure
- Allow different types of regional or local governance structure to emerge [asymmetric federalism]

These can be considered in turn;

In principle one aim of local government should be to provide a framework within which different interests or identities can find legitimate expression and accommodation. Municipal leaders in a plural democracy are likely to represent the interests of a section of the population that they have persuaded to vote for them, but are likely to be aware that a sustainable development strategy must have something in it for other sections of the population. Pluralist political strategies on the ground usually involve 'reaching out' to different interest groups through formal processes of consultation and informal networking amongst local elites.

13 UK local government is also a contested field but it is worth noting a much neglected element or layer in British local government which largely escapes contest. This is the parish. Many accounts of the 'UK system' [actually English system only in this case] do not mention parishes, although there is legal provision for them within the constitution. It is the lowest tier of local government, that can be created where 1000 or more people want it [less and the law provides for a Parish Meeting]. A parish may raise a limited fund [max£5/house] through a precept on the local government tax raised by the next tier of government. One interesting feature of this tier of government is that its elected officers are mostly volunteers. A second is that council can vote itself out of existence. With very small revenue parishes have a long history of successful fundraising, of partnership arrangements with local trusts and associations, of supporting local amenities and promoting their village or town in the public domain. Many parishes have quite interesting websites through which to promote their 'brand'. These well established parish characteristics are examples of 'light touch' governance that UK government policy has been attempting to promote in the higher tiers of local government with only modest success.



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The scope for local bargaining and accommodation may in practice be limited by national level processes where the exercise of political power tends to demand standardised policy and uniformity of service.

The requirement of power-sharing tends to be a post-conflict device. It is sometimes conceived as a step towards majoritarian rule. It was accepted as a formula for elections to the interim municipalities in post Apartheid South Africa where it was replaced by 'first past the post' systems at the next elections. It is current practice in Northern Ireland; where 'post-conflict' seems to have become a long term condition.

Power-sharing is sometimes labelled as consociationalism [a word I reluctantly add to my spell check]. However guaranteed group representation in governance is of itself a good notion. It is apparently one that emerged out of practice [as indicated in the above section]. According to a Wikipedia article the notion was pioneered by political scientist Arent Lijphard who himself claimed that he had simply identified best practice amongst responsible political leaders who had been faced by the problem of strongly divided ethnic or religious or other social groups. At base, elite representatives are aware of the dangers of non-cooperation and discover formulae for cooperation, seeking legitimacy in proportionality, giving minority representatives the ability to veto when a proposal is antithetical to their perceived interests as well as voice within the councils of state or locality.

Whether compulsory sharing arrangements can achieve the same support and legitimacy when they are imposed as part of an internationally imposed or mediated settlement is another matter. The Northern Irish settlement certainly involved international actors as well as by-lateral pressure from the central UK government and the Irish government, but was a long time coming. It only emerged when the leadership of the rival religious based parties saw that it was the only way out of continued bloodshed.

Is power sharing exceptional? The Wikipedia article locates the discussion in The Netherlands where the practice evolved in a society strongly divided historically into 'pillars' of Calvinist (protestant), Catholic, and later, Socialist and Liberal persuasions. Many European countries have histories of internal or regional involvement in religious, ethnic or ideological conflicts that have left their mark on current personal allegiances. It might be a rewarding study to trace the various ways in which such differences have found accommodation within political structures in different places. However the main thrust of the development of the nation state from the 18th to the 20th Century has been the attempted elimination of difference in language, organisation and loyalty.

Asymmetric federalism

One way of accommodating diversity that has become more important in recent years is **asymmetric federalism**¹⁴. This would seem to be an arrangement as awkward as its name. Asymmetric structures

¹⁴ Kosovan readers will find a 1977 paper by R. Michael Stevens Asymmetrical federalism: the federal principle and the survival of the small republic Publius Vol. 7(4)) interesting if ahead of its time.



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are evidence of emergence and accommodation rather than design. For example, the UK, though not a federal government, is three nations in sport, one in international affairs and a curious conglomeration in terms of regional government. Scotland, Wales and Northern Ireland all have legislative parliaments or legislative assemblies with differing powers, financial resources and governing constitutions. The absence of such devolved powers in other regions is a matter of current dispute in political circles. However there is not much interest amongst the public at large for a solution that would impose regional institutions upon other potential areas, with the exception of the South West where there is a political party that clamours for full Cornish independence.

In Europe, a good example of asymmetric government (though technically not federal)¹⁵ is Spain which has granted considerable extra local powers to Galician and Catalan regional governments as well as the Basque country. Outside Europe, Canada is an example of a country where a distinctive linguistic and cultural region, Quebec, has at one point or another pressed for a greater degree of autonomy and does indeed enjoy additional fiscal and other powers.

Other examples of federal asymmetry included until recently India. Some form of asymmetric structure similar to a federation has been advocated as a solution to the continuing division of Georgia. Abkhazia and (in a different context) South Ossetia lie outside Georgian national control and a constitutional settlement offering these provinces enhanced autonomy has been widely discussed.

A federal solution requires a federal constitution; that is one which divides powers and responsibilities between states and a centre. The United States and India are large and diverse enough to justify this. With smaller countries, it is hard to see on what constitutional division can be based and it is better to look for different forms of local autonomy, as in Spain, as a means of reconciling difference. Asymmetric local government is possibly the best term to use.

The hazards of decentralisation

While decentralisation is usually thought desirable; like motherhood, what's not to like, there are three major hazards in implementing it that stem, in part at least, from the moral dilemmas that arise when power and responsibility become separated from the need to find common purpose in mobilisation around issues of the local common good. These can be summarised as 'capture', separatist tendencies and inefficiencies.

Capture and partisanship; the 'strong municipality problem'

Many countries, including Britain, are currently looking to strong local government leadership as a means of regenerating local economies and societies. The 'strong Mayor' model is thought to deliver this objective. However, if local government becomes a vehicle by which a particular local political interest can "capture" control over resources and allocation this can be both divisive and alienating for other parts of the population. Even if a completely transparent electoral process is followed the result can be a "winner takes all" outcome which marginalises losers. Multiparty local democracy is

¹⁵ Spain has been called a "federation in all but name"



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always prone to capture in this sense but the problem is acute and divisive when the local government leaders do not feel the need to gain consensual support of the citizens as a whole; as would be the case if they are dependent upon local fundraising or other forms of mobilisation of resources. Many forms of municipal organisation are "strong" models of government unlike, for example, county or regional administrations and this has its implications for political dominance and exclusion.

For convenience we can distinguish two very broad types of non-federal devolved authorities: area based and city based municipalities. Typical forms of area government include the county in the UK and the US, the departement in France and the rayon or raion in many post Soviet states. These are characterised by relatively strong administrations (in some instances including central officials delegated to the area authority, or paralleled by deconcentrated national administrative agencies) and relatively diverse political representation. A number of factors contribute to this. Area administrations may include very different regions economically and socially; area administrations may form part of a hierarchy of territorial administrations (the EU NUTS system for example) and there may be relatively little inherited legitimacy to political administration; that is a history and an identity. Britain replaced or modified several of its historic counties in the 1970s; The West Midlands in which Birmingham is situated was one of them and our experience is that these new counties never commanded any significant affection or support among their citizens but were seen rather as a bureaucratic imposition.

By way of contrast municipal administrations – city or town governments – can be characterised by relatively strong political (in the broadest sense) governments and relatively weak administrations. This stems functionally from the fact that cities tend to have well established and organised political interests – the term bourgeoisie (city dwellers) reflects this – and indeed in mediaeval times when municipalities first came into being, occupational guilds came into being to express these interests. Cities too have high population densities, tend to be characterised by higher levels of education and have high information levels: people know what's going on. The outcome is that some forms of municipal administration, or strong forms, are characterised by executive Mayors with considerable personal powers, sometimes in alliance with political groupings on local councils. High levels of information within towns and cities lead to a greater interest in political alliances than is the case in area administrations and these alliances may very often be sectional. Municipal administrations are also more likely to be part of national political processes: the path in France from the Hotel de Ville to the Presidency is well known.

Strong municipality government is not without its problems however. Perhaps the chief of these is political exclusion: those who are not with the Mayor are seen as against the Mayor and this can mean that rival interests, not just political parties can be excluded from decision making. Strong Mayors can allocate resources in their own group interests, over-ruling attempts by administrators to obtain more equitable distributions. Decision making can sometimes be capricious, with resources directed to projects or services that are hard to justify but give the Mayor considerable publicity. Corruption is easier in strong municipalities with so much concentrated executive power, potential critics excluded and checks and balances (audit for example) exercised by a relatively weak administration. Above all, if local accountability of a strong leader to the local citizens is limited to a periodic exposure to voters rather than an on-going requirement to secure willing tax contributions then capture and exclusion is a relatively easy game to play.



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"Strong" municipal government is prized in a number of countries, not just as an expression of local democracy but also as the embodiment of a long tradition of self-government, of mediaeval origin in some cases; and as a means of embedding accountability into local politics. Increasing the regulatory powers of central governments may be one solution to corruption and political favouritism but in a sense frustrates the point of local democracy and can itself be subverted. Deliberately manipulating the rules such that political groupings are more widely represented, through reservation of council seats or the institution of deputy Mayor – a form of power-sharing – can be tried. Increasing the dependence of local leaders on ability to raise local resources is another approach.

Response to separatist tendencies

Conditions that encourage capture can also provide a platform for parties that have separatist tendencies, seeing, or pretending to see a future in some other political domain. If separatism gains momentum this can lead to division and possibly the break-up of the nation state. Decentralisation is not the only contributor to this of course and the "velvet divorce" of the Czech Republic and Slovakia in 1989 (bringing to an end Czechoslovakia) is a case in point. But, creating local government institutions with significant powers can provide a base and focus for separatist movements.

Experience suggests that progressive devolution of powers to local institutions where there are linguistic or historic differences can work providing several conditions are met. After the First World War, Italy acquired the Trentino and Alto Adige provinces from the Austro-Hungarian empire. These provinces are mountainous and ethnically and culturally different to the rest of Italy. German is widely spoken. In a series of measures Italy has given these two provinces local financial powers, language equality for German, and the right to education in the mother tongue. These last two points are important because one characteristic of the Italian approach has been to avoid justification by ethnicity but rather by language and, implicitly, culture. The outcome has been that Italy's decentralisation has been asymmetrical with regions like the Alto Adige, or the Val d'Aosta (French speaking) exercising local powers greater than other parts of Italy. But this has been subsumed into a more general move towards decentralisation, accommodating Italy's longstanding commitment to financial transfers to the poorer South. It is notable also that the political centre in Italy has for long taken the form of political alliances that have been most sustainable when they have accommodated individuals and parties representing very different economic and social interests North and South. Arguably Italy's policy approach has reduced pressures for separation and a return of Northern provinces to Austria or the exit of Sicily or other islands in the South¹⁶.

But the context is significant: Italy's policies have been increasingly exercised within a growing common economic space within the European Union, increasing cross border movement and trade and of course a common currency. The idea of Europe as an overarching framework of governance within which political leaders as well as citizens work out their social compacts was probably also

16 There is a good introduction to Italian experience in the chapter by Stefan Wolff "Cases of asymmetric territorial authority"; chapter 1 in: Weller, Mark and Kathleen Nobbs (eds) (2010) *Asymmetric authority and the settlement of ethnic conflicts* University of Pennsylvania Press. There are chapters too on Moldova and Georgian experience.



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significant to the Peace Agreement that was achieved in Northern Ireland. The European framework clearly plays a part in the governance debates within and between the states of the former Yugoslavia and Czechoslovakia.

Responses to the inefficiency problem

Inefficiency in local government, or in government as a whole, is in part attributable to inappropriate incentives that stem from separating income raising from expenditure. If local government income is mostly built on grants from central government, or if there is a substantial element of donor funding, accountability for this money is primarily directed to the government or the donor and not to the citizen. The citizen expects something for free, and does not understand when cuts in grants lead to declining levels of service. Both local governments and central governments face mounting transaction costs¹⁷ in arguing over numbers on balance sheets. The lack of clear accountability can contribute to increasing inefficiency in providing public services and encourage corruption.

There is also an issue of scale. This is a complex question that comes to the fore in considering decentralising functions to small units of local government: small towns or municipalities. The functions in question would probably include the conventional responsibilities for local infrastructure, waste collection and certain services; utilities might be included. While the subsidiarity principle of the European Union suggests that management of such services should be located as close as possible to the citizen - which in practice means something like a municipality - there are arguments against. One is that the smaller the municipality for instance, the less likely it will be to be able to afford competent staff, procure goods and services at the cheapest rate (because sources are restricted and there are no discounts for quantity) and manage service delivery efficiently.

These are all questions of economies of scale however and there are other benefits from local procurement that can easily balance these. For example, national level procurement not only has a dismal record in many countries as far as savings are concerned (IT projects in the United Kingdom are a case in point) they are also accompanied by major transaction costs in the form of civil service time. More to the point, local procurement and recruitment channel benefits to the local economy. Overall management skills are another problem but one whose importance can be exaggerated. The "inflation of expected competence" ¹⁸ assumption applies here as elsewhere in public service

17 A transaction cost is the administrative cost of carrying out, in this case, a government action. Since staff and other costs are met by central budgets, they are often missed when trying to calculate the cost of that action.

18 This is a re-working of the "conspiracy of optimism" explanation of why defence contracts go over budget but built upon a similar explanation. In local governments, it can be in different parties' interests to exaggerate the competence required of people in political or administrative positions. In political terms, a party that exaggerates the abilities needed to become Mayor benefits from the performance of the person in the job. "He or she has done the impossible – let's re-elect them". In administrative terms, exaggerations of competence lead to exaggerated rewards. And so a conspiracy develops in which the main players in contractual negotiations have an interest in a high cost outcome. After all, the taxpayer will pay the bill.



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internationally; the assertion that the management of local services requires exceptional and therefore scarce and expensive skills.

The transfer of responsibility or buck passing problem

The issues of local accountability, capture and buck passing¹⁹ are perhaps most apparent in fiscal and financial systems. Local financial responsibility and accountability to the citizen is limited where local expenditure is met in large part by central funding. In these circumstances, local government leaders may prefer to lobby for central funds rather than raise money locally - where the consequence might be unpopularity. This leads to the paradoxical outcome that decentralising powers increases pressures for central funding.

Financial decentralisation often does not follow the transfer of other powers; local governments with a full portfolio of responsibilities can still be financed in whole or in part by central transfers of funds. This is to differing degrees the case in several major European countries although the share of transfers differs dramatically: in Denmark, about 78% of total government spending in 2002 was sub-national, compared to less than 30% in the UK and less than 20% in France²⁰. Other Scandinavian countries have transferred revenue raising powers, typically property and sales taxes. The argument for decentralising fiscal responsibilities of this kind is that they enhance local democratic responsibility and accountability; electors vote not only for the benefits that their candidates will bring them but also accept the cost. "Ownership" is a common term for this principle. Local taxes tend to be direct taxes (property, sales and local income taxes) and can be immediately linked to whoever has most recently been elected. In consequence, and particularly where there are strong partisan or patronage relationships with the central government, local politicians much prefer lobbying for central money than raising it locally. In Georgia prior to the election of Sakaashvili, it was widely said that municipality funds could only be obtained through the direct soliciting of President Shevardnadze. Consequently, considerable energy was put into this. The price of course was continued support for Shevardnadze.

Fiscal decentralisation is however a particular problem in poor rural economies or in other places where the size of the fiscal base is small: there is little or nothing to tax. Here a support grant is likely to be necessary. An alternative approach is to reduce the responsibilities of the local government, taking back to the centre national type responsibilities and leaving the local government with specifically local public good responsibilities.

19 "Buck passing" is transferring the responsibility for something to somebody else. It is a skill every civil servant knows. There is a story that President Truman in the US had a sign on his desk saying: "the buck stops here. There was nobody else to pass it to."

20 Osterkamp, Rigmar and Markus Eller (2003). How decentralised in government activity? Research report, IFO Institute Munich (p.32)



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Localism

There is another way of thinking about decentralisation which is built upon a more flexible interpretation of the term. This way, which might be called localism, takes as its basis the principle of subsidiarity which is central to the European Charter and indeed European Union thinking in general, for example, the Lisbon treaty²¹. As we have seen, subsidiarity means that decisions should be taken as close as possible to the citizen; in other words, what can be done best locally should be done locally.

What localism might mean in practice is this.

Firstly, as the concept of subsidiarity suggests, there would be no standardised formula for the powers and responsibilities of a local government. If things are to be done at the level where things can be done best, factors like the local economy and geography and the resources available need to be taken into account. A remote resource poor area, heavily dependent upon central grants, is likely to be less able to take on responsibilities than a big city. A town with a history of social or ethnic division can and should try to provide different services to towns without these problems. Nor is it just a question of more or less responsibility with smaller or poorer local governments doing less and leaving some services to central government or not at all. It is also a question of doing things differently at the local level through, for example, cooperation with NGOs or the private sector in areas like education or primary health care. Making room for different forms of local government also makes space for special needs: for example, school curricula in more than one language which, as we have seen from the Italian experience, is an important element in incorporating different communities.

Secondly, taking powers closer to the citizen implies greater participation by the citizen in decision making. There is arguably a problem in our thinking that we emphasise the word government in the phrase "local government" and our mental model of that word is a centrifugal structure, that is, one in which responsibility is centralised and decisions radiate out from that centre. In an important sense, the way we think about central governments is transferred to the local context. We conceptualise the Mayor as the Prime Minister or President, the Council as Parliament. The municipal model is a case in point as anybody who has seen the queue of supplicants waiting outside the Mayor's door in certain European countries can testify. What does not seem to have been grasped is the "self" in the Council of Europe's Charter whose full title talks of Local Self Government. The "self" in this case are the local citizens who are governed. Because there are many of them and they differ in economic and social characteristics, some form of facilitating shared decision making which works on adjustment and compromise is probably needed. To go back to Rousseau, what is needed is "freedom in civil society ... active participation in the general will"²².

21 The Lisbon treaty (2007) replaced the constitutional arrangements embodied in the earlier Maastricht agreement. Subsidiarity is taken as a principle for government in Article 5.

22 See Koritansky, John C. (1975) Decentralisation and civic virtue in De Tocqueville" Publius 5(3) (p.66)



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We have said that one of the problems of the "strong" municipal model is its propensity to capture resources through control of the executive which is sustained over the period between elections. Many local decisions – for example, urban planning approvals or waste collection procedures – are ones which lend themselves to some form of direct involvement, through opinion poll or referendum. In many cases in town or countryside, people know what the decision is about, have some information about its content and, not untypically, an opinion on the desirable outcome; something that is not always true nationally. Most people will have a clearer idea of what is a good waste management service than what is good foreign policy.

This is an idea that can be taken beyond simply expressions of opinion however. If we are serious about moving away from the notion of centrifugal authority to a "self" driven system, we must talk about forms of collective decision making about choices and the use of resources. The idea of user groups of some kind has a long history: current examples include the Water User Associations that manage irrigation systems in a number of countries and, an entirely different parallel, school governing boards in the UK or Parent Teacher Associations in a number of countries including the United States. School governors have executive authority derived from central or local government but can be locally elected. PTA's don't have such authority but have some fund raising and facilitative roles (arranging social events, school trips and so on). They are extremely useful in bringing together all the stakeholders in a school. It is not impossible to see this idea extended to other service users in a local government area, for example, waste management. Whatever the approach, flexibility in the sense of tolerating different organisations and ways of working is important.

Flexibility is particularly important where small or remote local communities are concerned. There are several options service delivery is concerned worth exploring. These range from different combinations of central and local funding to contracting out or services shared between individual local governments. The advantage of shared services is that economies of scale reduce costs or in some cases make local provision possible. There is no reason why several local governments should not share waste disposal facilities or, for that matter, road repair depots or primary health clinics.

There are signs that some countries at least are beginning to move towards these ideas. In Britain, the Localism Act of 2011 provides for local referenda on any local issue – and, interestingly the power for residents to veto local tax increases. It also gives voluntary and community groups the right to challenge local authorities over service provision. It reforms the planning system. It could be argued that, in the absence of proper fiscal decentralisation, referenda have little effective power; and indeed the low electoral turnouts in Britain for local government elections may well correlate with the exceptionally high level of central funding. But nevertheless, the idea that shared decision making is more than just claiming to listen to people is beginning to gain ground and make sense of this idea of subsidiarity.

Conclusions

Earlier on in this paper, we raised the question of moral hazard, as an outcome of unequal relationships and buck passing between central and local governments. Moral hazard is symptomatic of deeper moral and practical problems that are generated by these inequalities. We have touched



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upon these problems from a number of perspectives and it is time now to try to summarise them. Briefly, they are either problems of equity – how can local governments be treated equally and in turn treat their citizens with fairness. Or they are questions of unequal relationships, of a form of clientilism in which central and local governments enter into relationships characterised (at least as far as central governments are concerned) by passing the buck of unpopular tasks or rewarding doing what the centre wants. In return local governments try to manipulate relationships to their own ends, not untypically by creating information asymmetries, in plain language, telling central governments what they want to hear.

How can these problems be solved? The answer of course is that they cannot, at least in the short term; but there are ways of thinking about how decentralised local governments are constructed – and particularly taking a flexible approach to local powers in the light of local circumstances and clarifying the regulatory role of central governments that can help. The evidence seems to be that, in any country, discussion if not political argumentation over appropriate powers functions and resources in local government will be on-going. Outcomes will be complex and imperfect. Asymmetric local government does not require a federation to work. There is evidence from a variety of contexts, from Hong Kong for instance which is treated as a Special Autonomous Region in China, from Catalonia or the Basque country in Spain, from isolated island territories (the Andamans) that it is better to be flexible and allow a degree of asymmetry to emerge through continuing dialogue within the national political arena.

In the midst of the argumentation will be assertions of principle. The principle of subsidiarity which is embodied in the European Union's Lisbon treaty will be heard. Stripping the idea of the usual legal language, subsidiarity means that decisions should be taken as close as possible to the citizen; in other words, that decisions should be taken as far down the hierarchy of authorities (state, region, municipality or village) as possible. There are no preconditions in the form of constitutional or governmental arrangements for the idea to work: it applies to unitary states, federations, countries with un-written constitutions such as UK. This paper has argued that this principle should be balanced by another apparently contradictory principle which is that if a function can be most easily managed, with least transaction costs and dispute by central government then it should be centralised. This is most likely to be politically acceptable when the function entails services that must be uniform throughout the country to be equitable.

A further conclusion from the above review is the notion of balanced accountabilities. Strong local government is good if it represents the local common good and bad if it leads to capture of powers by particular, divisive interests. We have said that local governments are usually based on one of two models: (i) area administration and (ii) urban administration which we have collectively termed the municipality model. History has made the municipality model, with mayor and council, particularly common. The municipal model, particularly the 'strong mayor' model is now seen in many countries as a way of securing local initiative in economic recovery, but can be divisive when such leadership is absolved, by a lack of fiscal decentralisation, from the requirement to gain support for resource mobilisation and to find common ground in policy matters.



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Underlying these conclusions is the idea that on-going political discourse, as well as administrative rational, forms the substance of the social compact between citizen and government. In this there is no ultimate conclusion. In fact it is vital that political regimes seek continuous support, with elements of negotiated consensus both about governance systems themselves and about particular policies. Only on this basis will the moral hazards of capture, arbitrary power and alienation be avoided.

Additional issues and readings

Micro-regionalism China; argues the case that cross border linkages between regions with a degree of autonomy and external micro-regions can be exploited with economic advantage; viz Hong Kong and Guanzhao

<http://www2.warwick.ac.uk/fac/soc/pais/people/breslin/research/decentralisation.pdf>

India; rehearses the old discussion of whether decentralisation simply gives local elites opportunities to extract rents

<http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2440.pdf>