

## ARTICLES

### THE DECENTRALIZATION METHOD AS A TOOL TO IMPLEMENT SOCIAL INITIATIVES OF CITIZENS IN MULTINATIONAL STATES

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DOI: 10.21684/2412-2343-2017-4-1-7-25

*In this article the decentralization process and decentralization method are reviewed. Decentralization is the process of redistributing or dispersing functions, powers, people or things away from a central location or authority. While centralization, especially in the governmental sphere, is widely studied and practiced, there is no common definition or understanding of decentralization. The meaning of decentralization may vary in part because of the different ways in which it is applied. In this article the concepts of decentralization are researched. Decentralization in any area is a response to the problems of centralized systems. Decentralization in government, the topic most studied, has been viewed as a solution to problems such as economic decline, government inability to fund services and the general decline in performance of overloaded services, the demands of minorities for a greater say in local governance, the general weakening legitimacy of the public sector, and global and international pressure on countries with inefficient, undemocratic, overly centralized systems. The authors also research the issues of personal federalism and the subsidiarity principle.*

*Keywords: decentralization method; subsidiarity; multinational state; delegation of powers; citizens' participation in state affairs.*

**Recommended citation:** Dawid Bunikowski & Kseniya Ivanova, *The Decentralization Method as a Tool to Implement Social Initiatives of Citizens in Multinational States*, 4(1) BRICS Law Journal 7–25 (2017).

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## Introduction

The aim of this article is to shed light on the decentralization method as a tool to implement social initiatives of citizens in multinational states. After some theoretical, mostly legal-political considerations concerning decentralization are presented, the article will focus on particular cases (Russia, France, the UK). Comparatively speaking, this is to find sound institutional inspiration for Russia's decentralization. At the end, a model for decentralization in multinational states (having in mind, first of all, Russia), including concrete actions, will be proposed.

At the dawn of mankind power was associated with the society as a whole. Problems of everyday life were solved by a council of leaders of families and elders, and compliance was expected from all adult members of society. Gradually power was institutionalized and the personification of power appeared, transforming it into public authority. The inheritance of power and its absolutization took place through gradual limitation and then complete denial of the right to self-government and the expression of the will of ordinary members of society.

But at a certain stage of social development absolutism sparks a crisis, giving life to the ideas of constitutionalism, separation of powers, elected officials and control over their activities. In fact, in the public consciousness the idea of the need to increase the opportunities of the citizens to participate in their government, including through public initiatives, is born.

Unfortunately, up to now Russian reformers have not considered citizens' initiatives a significant social force. Major economic and social transformations of society have been built with little or no reliance on constructive social initiatives. This seriously undermines the credibility of the government. But to effectively implement any reforms it is fundamentally important to have the support of the population, including the so-called "third sector."

The third sector encompasses public (non-governmental) organizations and associations of various forms, which are independent of the state and created by citizens for the implementation of initiatives and activities of a non-commercial nature seen as self-realization of their aims, to achieve a beneficial social change which is significant for society as a whole. This is a new public resource and a public initiative, by which we mean not only the legal form of organization (association, non-profit partnership, and so on), but also those groups, including professional, which carry out and ensure the implementation of socially important functions.

In different countries in the world different terms are used for the third sector, for example:

- Civil society (Brazil);
- The voluntary sector (United Kingdom);
- Sector associations (Germany);
- Civil structures (Egypt);
- Additional sector (India);
- Third system (Italy);
- Tax-exempt sector (U.S.);
- Social sector (France);
- Social Corporation (Japan).

In the absence of public participation and control, reforms lead to the result that the authorities lose their ability to effectively perform their functions. In this case, no one is immune from the desire of agencies to expand their competence (optionally together with its increase), have as many powers and privileges as possible, but at the same time reduce their liability to a minimum.

We believe it is in the third sector that the conditions and prerequisites for the development of civil society are shaped, and it is through the active participation of citizens that the effective implementation of community initiatives are realized.

As a result of reforms without the participation of citizens social tensions develop in the search for a way out of political detente, creating a split society; sharp stratification occurs. The decline in the standard of living of the majority of the population leads to the formation of differentiated social strata, the interaction between them is small. In Russia in 1996, the income of the richest 10 percent and the poorest 10 percent of citizens differed by a factor of 13. According to Rosstat, in 2013 the incomes differed by a factor of 16.2.<sup>1</sup>

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<sup>1</sup> Distribution of Total Cash Income and Cash Income Characteristics of Differentiation (Nov. 20, 2016), available at [http://www.gks.ru/free\\_doc/new\\_site/population/bednost/tab1/1-2-2.htm](http://www.gks.ru/free_doc/new_site/population/bednost/tab1/1-2-2.htm).

Where is the new fulcrum? This question worries the authorities and the people. Up to now, the installation of public administration reform has been dominated by the ideology of authoritarianism. People with problems were treated as regulatory objects and not as subjects of their own lives – subjects of self-organization, self-employment and mutual support. Currently, however, the situation has changed radically.

The right of citizens to participate in managing state affairs is becoming increasingly important; the political activity of citizens is growing, which means increasing the number of community initiatives.

For more effective development of the institute of social initiatives and for dialogue between the authorities and society, many European countries apply the principle of decentralization.

Decentralization begins with the realization that government – at every level – is not infallible. Imperfection is a fact of life that applies to everything that governments do – even to programs of decentralization. At a time when departments are dealing with many other urgent demands for reform, it is inevitable that improvements will be made when it comes to decentralizing power. The important thing is that as well as maintaining the pace of change, we should be willing to learn from the experience of those to whom power is devolved and make decentralization the genuinely cooperative process that it should be.

However, such instruments differ in countries with a federal form of ruling.

## **1. Concepts of Governing in Federal States**

If federalism is considered as a strictly legal concept, which is more characteristic of the European tradition, it can be identified with federal rule, that is to say, with a federal state as the type of state structure under which the central and regional governments directly rule over the people with each government acting independently within its respective and constitutionally determined jurisdiction and independently coordinating its relationships with other governments, while the remaining authorities belong to the governmental bodies of the subjects (i.e. the constituent parts of the federation, e.g. provinces, regions, states, etc.).

On the other hand, when considering federalism as a political concept, which in fact is done in the Anglo-American tradition, it is defined as a way of political organization which unites separate states into one, all-embracing political system, in which the power of the central government and the regional governments is shared in such a way as to protect their existence and authority.<sup>2</sup>

In spite of different approaches, both of these concepts single out constitutionally determined political balance as an integral element of the federal system. It is this

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<sup>2</sup> See Daniel J. Elazar, *American Federalism: A View from the States* (New York: Thomas Y. Crowell Company, 1966).

element of balance which transforms federalism into the basic institutional principle of the vertical distribution of powers aimed at ensuring mutual restriction and control of different levels of government in particular, and the political system in general. The modern world is too complicated to be described only within the limits of one concept or within the framework of one scientific stream. Ethnic conflicts hold the potential danger of escalating onto a much bigger and broader scale putting at risk entire nation states, and even civilizations. Thus, Samuel P. Huntington suggests the complex synergetic point of view: the synthesis of the humanities such as political science, jurisprudence, cultural studies, interpersonal communication theory, etc.<sup>3</sup> Complicated ethnic conflicts may be resolved only in that way. Therefore, this is the issue of the work: the existence of ethnic conflicts in multinational states, some of them continuing over centuries. The goal is in finding an effective way of solving the problem of the potential dangers of ethnic conflicts in federal multinational states by using the method of decentralization and the synthesis of different social and legal sciences.

## **2. Decentralization – the Notion and Essence of It**

Within the framework of the described basic approaches decentralization may be defined as a set of principles and institutional mechanisms accepted as laws (not constitutions) which delegate certain governmental authorities to the lower-level bodies of power, local communities or decentralized units.

Thus, decentralization is a process of redistribution or transfer of functions, powers, from the center to lower levels of government. At the same time, although decentralization, especially in the government sector, is widely studied and practiced, there is no common definition or understanding of decentralization.<sup>4</sup>

The sense of the notion “decentralization” may vary somewhat because the different ways to use it in any area is a centralized solution.

Decentralization in public administration is the most studied mechanism and is regarded around the world, especially in European countries, as the best way to solve problems such as economic recession, government inability to fund public services and the resulting reduction in the effectiveness of their implementation, demands of local communities for more participation in local government, general

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<sup>3</sup> Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (Feb. 20, 2017), available at [http://www.knigka.su/english/fiction\\_literature/5714-the\\_clash\\_of\\_civilizations\\_and\\_the\\_remaking\\_of\\_world\\_order.html](http://www.knigka.su/english/fiction_literature/5714-the_clash_of_civilizations_and_the_remaking_of_world_order.html).

<sup>4</sup> Pierre Tifine, *Droit administratif français* 19 (Saarbrücken: EJFA (Editions juridiques franco-allemandes), 2012).

weakening of the legitimacy of the public sector, as well as international pressure on a country's inefficient, undemocratic, over-centralized systems.<sup>5</sup>

A United Nations Development Programme (UNDP) report noted:

A large number of developing countries and countries with economies in transition started in one form or another... [a] decentralization program. This trend is accompanied by increased interest in the role of civil society and the private sector as partners of governments to find new ways of providing services to the public... these events, as we have noted... [occur] mainly due to the active participation of citizens and the private sector in the management of [the] State.

Thus, decentralization can be defined as a set of principles and institutional mechanisms established by laws that delegate some authority to subordinate government authorities, local authorities, local communities.

### **3. Decentralization and Subsidiarity – Cooperation of Principles**

Decentralization is closely connected with the notion of subsidiarity which presupposes the transfer of functions (or tasks) to the lowest levels of the social order capable of their execution. For efficient operation of the principle of separation of powers and in areas of its application, the "principle of subsidiarity" must be observed, the essence of which lies in the adequate distribution of power between the center and the subjects of the federation, taking into account their ability to solve effectively all problems arising in the given historical period in the region and in the country as a whole. In the narrow sense, the principle of subsidiarity presupposes the solution of problems at the level of their appearance. Power should be distributed in such a way that various regions, comprising the state, could function and deal with the problems in respect of their welfare independently; yet, the nation as represented by the federal government could exist as a whole and have all the authorities necessary to provide for all its needs.

Cultural, linguistic and religious minorities as a whole require a certain autonomy within several areas such as education, cultural activity, religion or even, to some extent, structural autonomy within the boundaries of their territories. They prefer to discuss problematic issues with representatives of their own group who will

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<sup>5</sup> Decentralization: the generalized approach of development. UN Economic and Social Council, Bottom-Up Approaches and Methodologies to Develop Foundations and Principles of Public Administration: The Example of Criteria-Based Organizational Assessment, Report of the Secretariat, E/C.16/2005/3, January 31, 2005 (Nov. 20, 2016), available at <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan019917.pdf>.

most probably better understand and be able to solve them. Minorities often try to create conditions for economic prosperity on their own territory, at the same time establishing lasting international relationships with the people of the same cultural background and protecting their uniqueness at the national (state) level. As a consequence, they demand legal guarantees of the fact that their interests will also influence the process of decision-making within the framework of the legislative, executive and judicial powers.

When minorities mainly reside in a certain local region, such problems can be easily solved exactly with the help of territorial decentralization. However, when one region is inhabited by several minority groups, as, for example, in the far north of Russia, decisions based on the principle of territorial "belongingness" will hardly put an end to the problems. This in fact is a seriously challenging problem in Russia, because Russia is one of the most multinational states in the world. Its population includes more than 100 major and minor nationalities differing in their origin, language, culture and life-style but united by common history. Twenty-two nations of over one million people each form 96.3 percent of the country's population. Thirty more nations ranging from 100,000 to 1 million people each comprise 3.4 percent of the population. There are also tens of indigenous nations in the north, Siberia and in the Far East. Art. 69 of the federal Constitution uses the term "small peoples" (small nations). Thus, about 0.4 percent of the remaining population falls within the several tens of other nations.<sup>6</sup>

#### **4. System of Personal Federalism**

A certain innovation in dealing with this problem can be stated in the system of personal federalism accepted in Belgium between the end of the 1970s and the beginning of the 1980s, which delegates power not only to its territories but also to language communities.

Though personal federalism is not a widespread form of government in modern Europe, it has long been applied in the Middle East, in Lebanon particularly. It is the so-called "federalisme integer" (corporate federalism), where decision-making power belongs to cultural communities, that is, to their representatives, regardless of their geographic location. In the future, this type of federal organization, ignoring the territorial entity, offers more acceptable legislative and constitutional mechanisms for all those multinational, multilingual or multi-religious societies in which different minorities can occupy one and the same territory (area). However, this method is good only for the states with a relatively small area and a limited number of nationalities. For countries such as Russia this practice is not suitable at the present stage of their legal and national development.

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<sup>6</sup> Statistics (Nov. 20, 2016), available at [http://www.gks.ru/wps/wcm/connect/rosstat\\_main/rosstat/ru/statistics/population/demography/#](http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/population/demography/#).

## **5. Applying the Decentralization Method in Russia**

The problem of decentralization is an especially burning issue in large multinational states where the most typical national conflicts and clashes between communities of citizens of different nationalities highlight the necessity of an effective distribution of powers. The preservation of the national entity will always be the priority posing a major dilemma: either tight control of all levels of the power hierarchy, where decisions are made exclusively at the top, or delegation of some authorities (powers) to local governments, allowing them to pass legislation specifically for their region with the view to reducing national hostility.

Contemporary national government has become extremely complicated and centralized with excessively bureaucratized and anonymous officials. The information process is becoming more and more complex. Officials at the central level often lack sufficient understanding and knowledge of the regions to be able to appreciate the ideas coming from remote areas or consider the consequences that their decisions have at the local level. Here, on the side of the center, exists administrative obscurity, arrogance and ignorance.

Federal and other decentralized systems accelerate and optimize the information process. Local authorities are able to protect the interests of their populations and are not obliged to strive for compromise regarding their relations with other regions. They can promptly react to problems and find solutions which better serve the interests of the populations of their regions. This type of governmental organization proves to be more rational, as the authorities do not waste time, energy and human resources on the implementation of their decisions. It is a more flexible system, as it allows autonomous decision-making. It is also a more creative system, as local experience allows avoidance of mistakes which might lead to negative consequences at the state level. Those mistakes that have already been made locally are easier to deal with than those made at the state level.

In the Russian Federation, the problem of developing a constructive dialogue between the authorities and society is currently particularly acute which, in turn, poses the problem of using state power to reduce social tensions. Therefore, improvement of federal relations and decentralization are among the priorities of the national policy of the state.

Modern public administration has become very complex and centralized, with a highly bureaucratic and anonymous staff. Information has become more complex as well. Officials at the central level often lack the awareness and information needed to properly assess the proposals that come from remote areas or the effectiveness of the decisions taken at the central level in relation to what is happening on the ground at the more local level.



But optimization of federal relations cannot be achieved by just any means whatsoever, for example, by turning national republics into provinces or turning “krais” and “oblasts” (Russian administrative units) into republics. (Traditionally in Russia, republics are formed on the basis of ethnic identity; “krais” and “oblasts” are formed on a territorial basis.) The uniqueness of Russian federalism lies in the combination of both ethnic and territorial principles. It is this “contradiction” which stands out while at the same time declaring the constitutional equality of the subjects of the Russian Federation and equal distribution of the spheres of power. We are witnessing a never-ending argument concerning equality of the national republics and the regional areas called “oblasts.” Equality does not imply absolute identity. Therefore, the question of how to achieve equality and preserve uniqueness remains on the agenda in the process of institutionalization of federalism in Russia.

## **6. French Experience in Applying the Decentralization Method**

The issue of decentralization has appeared in the past experience of a number of European countries, including France. In the mid-1800s, Alexis de Tocqueville wrote that the French Revolution began with “the desire for decentralization... [but became], in the end, the expansion of centralization.”<sup>7</sup>

France is traditionally represented as a paradigm of a unitary state. The traditional French system of “territorial control” is based on the principle of uniformity of administration throughout the country. It recognizes the supremacy of the central state interests over the interests of individual parties, individual groups and communities.

Thus, in France a system was formed with the vertical hierarchical model of organization of powers in which public policy is carried out by public institutions and administrative bodies; it is implemented by government agencies and local governments and subject to the agreement of the prefect – the representative of the French State in the departments. In practice, the relationship “center-periphery” has always been much more flexible than this model implied.

However, it was only in 2003 that a constitutional reform made permanent the role of local and regional authorities, securing in Art. 1 of the French Constitution the principle that “the state organization is decentralized,” and extending this principle not only in the regions and municipalities, but also in the overseas departments and territories in all French administrative divisions.<sup>8</sup>

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<sup>7</sup> Vivien A. Schmidt, *Democratizing France: The Political and Administrative History of Decentralization* 22 (Cambridge: Cambridge University Press, 1990).

<sup>8</sup> Constitution de la République française (Nov. 20, 2016), available at <http://www.assemblee-nationale.fr/connaissance/constitution.asp>.

The reform was extended by four laws:<sup>9</sup>

– Act 2003-705 of August 1, 2003, concerning local referendums: it clarifies issues of local referendums and establishes conditions for mandatory and optional referendums.

– Act 2003-704 of August 1, 2003, on experimentation by administrative units: it establishes the conditions for experimentation.

– Act 2004-758 of August 1, 2004, on income distribution for the administrative divisions: it determines the revenues collected from the administrative units and establishes a minimum share which they can keep.

– Act of August 13, 2004, concerning the powers and responsibilities of local authorities: it specifies the new powers transferred by the central government to local authorities.

After this reform, and application of the decentralization method to operate in France, the level of discontent with the authorities by the population was significantly reduced, the rating of trust in government increased, and the possibilities for the implementation by the population of various social initiatives increased substantially.

## **7. Pros and Cons of the Decentralization Method in the Case of Diversification of Powers**

Decentralized systems make the process of information interchange faster and more efficient. Local authorities can protect the interests of their populations, and are not required to find a compromise as regards the differing interests of other regions. They can quickly react and find a solution that is acceptable to the people of their regions. It is more flexible, because it allows making decisions independently, as well as being more creative, because local experience can be used to avoid mistakes that may lead to serious consequences at the national level; also, mistakes that have already been made are easier to rectify.

At the same time, in determining the competence of the authorities at various levels it is important to avoid duplication of functions, therefore important powers are to be full and exclusive.

Implementation of state powers should be performed, if possible, by territorial authorities, which are the closest to citizens. Decentralization is a complex process that goes beyond purely structural reforms. In the words of Elazar, "Partnership is a key aspect of decentralization. It involves the distribution of real power between several centers, which should by treaty develop mechanisms of interaction with each other to achieve common goals."

Such a federal democracy makes the availability of unlimited powers belonging only to one of the levels of the complex government unthinkable. Consequently,

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<sup>9</sup> Tifne 2012, at 31.

the powers of any federal state should be divided between different levels of government. Thus, decentralization implies an approximation to the ideal model of separation of powers by the gradual empowerment of regional authorities with a wide range of powers, to subordinate them to the national state territory.

Decentralization is a difficult process going far beyond structural reforms. It can reduce national hostility between nationalities within the state, extirpate poverty, solve ecological problems and improve the health-care system, education and technological development. Moreover, it is able not only to improve the management and operation of social services but also to promote the functioning of social organizations, the private sector and international organizations. Decentralization brings state officials closer to ordinary people and enhances the work of local social programs and services. The problem is only to ensure that all interested parties can and will speak their minds.

Federal relations as a form of democratic organization of society through the decentralization of the system of government allow not only to get directly down to the solution of the problem of ethnic minorities in Russia but also to distribute economic and power authorities, and spheres of jurisdiction between the center and the regions, keeping the balance of core interests of both at the center and in the subjects of the Russian Federation.

The harmonious development of statehood of the republics-subjects of the Russian Federation is the main condition for preservation of the regional and ethnic variety of Russia. At the same time, decentralization and the clear and legally established distribution of spheres of power and authorities in the system of state power, supported by legal agreements, are the so-called guarantees of the balance of interests of the Federation and its subjects. Contrasting symmetries and asymmetries of the subjects of the Federation, tendencies in the sphere of complex federal relations, concerning the essence of the problems of state organization in the transitional period, can and must be perceived by the public only in the context of constitutional unity and the entity of the Russian Federation. Taking into account the complexity and ambiguity of the problem, the incredible confusion and diversity of the approaches, and the stereotypes about the Russian model of federalism existing in our society, the aforesaid postulates must remain firm in the process of establishing a stable present and a happy future of the federal state.

Nonetheless, decentralization can have its disadvantages. In some cases a poorly performed distribution of power can only cause ethnic conflicts and a desire by some groups to take more power than the others.

An almost ten-year-old experience of federal relations in Russia shows that uncontrolled, chaotic decentralization of the system of state territorial government has negative consequences for the country's future. Many negative consequences were the result of the neglect of the regional component by the federal center. The absence of a clear understanding of the essence and principles of federalism and specificity of the process of decentralization led to the fact that the process

of creating the basis for the real federation was of a rather contradictory nature. As pointed out by many experts, the management of social-economic and other processes was performed with the help of methods typical for a unitary state and confederation rather than for a federation.

In the legal context, federalism can be identified with federal government, i.e. a federal state as a type of a complex governmental structure where political balance between the central government and the subjects is maintained constitutionally. According to Elazar, "Federative democracy makes absolute sovereignty of one of the levels of the complex governmental bodies impossible. The federative state and federative units have different bases for legitimacy. The principle of people's sovereignty underlying it refers to various 'peoples' – the people of the federation and the people of each federative unit respectively." Under such a definition, sovereignty in any federal state must be divided between different governmental levels, as it was claimed by Madison and Hamilton. It cannot serve as the basis for legitimacy of absolute power for either of the two governmental levels. Thus, decentralization presupposes some movement towards this ideal model of power distribution by gradual delegation of a wide spectrum of authorities to the regional bodies of power on their subordinate territory.

### **8. Decentralization as an Instrument of Solving the Separation Issue**

It is worth mentioning one more problem arising in any federal state – the problem of separation. Mainly because of its existence, the body of the central power is not eager to delegate part of its authorities to the regions, fearing an increase in separatist movements there. This apprehension is not groundless. In 1847, Catholic cantons of Switzerland established a union called "Sonderbund" and wished to separate, which led to the "guerre du Sonderbund." The secession of the southern states led to civil war in the United States. The same problem caused civil war in the former Yugoslavia. The Soviet Union and Czechoslovakia disintegrated peacefully. Today Russia faces this problem, as does Canada, and other countries as well.

Politicians and constitutional lawyers have been arguing for centuries as to whether federal units have the right to separate from the center or not. An affirmative conclusion to this issue would contradict the fact that all members of the federation are somehow parts of the central government, whose consent is necessary to legalize the act of separation. Another argument, challenging the right of separation, states that separation concerns not only the interested member of the federation, but also the federal state itself.

On the other hand, many federal states have an argument for the right of separation in the preamble to their constitutions: contractual relationships of the federal members and the fact that the new federation was formed by member states.

In other words, the federal state is created usually only by the free will of its member states that, thus, realized their original sovereignty.

In fact, the problem of separation cannot be solved merely by legal means. There are exceptional situations where traditional legal decisions are not applicable. For instance, there is no point in insisting on the preservation of the federation in the event all its members – or some of them – should openly express their desire to separate. However, unilateral separation even supported by the fundamental right of the people to self-determination should always consider and respect the same rights of the peoples residing in the federation. Moreover, we should realize that nowadays there are almost no such territories where only one nation of people or ethnic group lives. Therefore, the right to self-determination of a new national minority within the states newly formed as a result of separation from federations should also be respected. Consequently, reference to the right to self-determination can be made only in the situation where all the interested peoples are ready to compromise in order to find suitable solutions to the problem.

For example, in 2015 pro-independence parties in Spain's richest region, Catalonia,<sup>10</sup> pushed ahead with a historic plan for an independent state within eighteen months. Spain's economic crisis had hit Catalonia hard, leaving it with 19 percent unemployment (compared with 21 percent nationally). The region, which makes up 16 percent of Spain's population, accounted for almost 19 percent of the Spanish GDP, but there was a widespread feeling that the central government took much more than it gave back. This sense of injustice fueled the independence campaign.<sup>11</sup>

However, the non-binding poll of November 2015 was based on the relatively low turnout of 2.2 million voters out of a potential 5.4 million.

The coalition of two major separatist parties, which won this year's regional elections, relied on the support of a radical left-wing party, CUP, to secure its majority in the Catalan parliament. Even then, they fell short of a majority of voters, with 48 percent support.

So instead of the secessionists taking control over the regional parliament, the Catalan opinion on secession appears quite divided.<sup>12</sup>

In contrast we have the remarkable example of Scotland, whose government initiated moves to hold a new referendum on independence from the UK after the "Brexit" vote.<sup>13</sup> First Minister and Scottish National Party (SNP) leader Nicola Sturgeon

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<sup>10</sup> Simon Harris, *Catalonia is Not Spain: A Historical Perspective* (Nov. 20, 2016), available at <http://www.verkami.com/projects/9656-catalonia-is-not-spain-a-historical-perspective>.

<sup>11</sup> *Id.*

<sup>12</sup> *Catalonia's Push for Independence from Spain*, BBC, November 11, 2015 (Nov. 20, 2016), available at <http://www.bbc.com/news/world-europe-29478415>.

<sup>13</sup> Here and after, about the Brexit vote, the information and statistics were taken from Alastair Jamieson, *Scotland Seeks Independence Again after U.K. "Brexit" Vote*, NBC News, June 24, 2016 (Feb. 20, 2017), available at <http://www.nbcnews.com/storyline/brexit-referendum/scotland-could-see-independence-again-after-u-k-brexit-vote-n598166>.

said officials would plan for a “highly likely” vote on separation from the rest of the UK. The Scots voted 62 percent to 38 percent to remain in the EU, according to the Brexit results, in contrast to the overall UK-wide result of 52 percent to 48 percent in favor of quitting the bloc. In addition to this, a majority of voters in Northern Ireland also voted to remain in the EU, suggesting the UK faces internal constitutional upheaval as well as a contentious divorce from Brussels. The issue in Scotland is that the people are saying they are now faced with being taken out of the European Union against their will. A key argument in the 2014 poll was that Scotland’s continued membership of the UK would also safeguard its future in the EU. A new vote could see a significant swing towards Scottish independence. “We’ve got a united country in Scotland which wants to be part of Europe, and in the manifesto it said if Scotland was dragged out of Europe against the will of the Scottish people, then the Scottish Parliament should have the right to hold another independence referendum,” said Sturgeon’s predecessor, Alex Salmond.<sup>14</sup> His view was echoed by many in Scotland, including Harry Potter author J.K. Rowling, who tweeted, “Scotland will seek independence now,” adding that British Prime Minister David Cameron’s legacy “will be breaking up two unions.”<sup>15</sup> However, a new independence campaign would face fresh headwinds; in particular, Scotland’s oil-dependent economy has been severely dented by a collapse in global oil prices since the last referendum. In addition, Alex Salmond predicts that Scotland would likely have to join the euro currency zone in order to re-enter the EU as an independent nation, raising the prospect of a cross-border currency divide within Britain even though two-thirds of Scotland’s economic output is to the rest of the UK. Separation from the rest of Britain would end three centuries of shared history and would be the biggest constitutional upheaval since the Act of Union in 1707.<sup>16</sup>

The Brexit results and the possibility of the new referendum in Scotland will probably have a great influence in Northern Ireland, whose relationships with the British people traditionally and historically have been “difficult.” How all separatist tendencies will turn out – only time will tell. We believe, though, that separation will lead to the growth of economic and social risks.

Therefore, in spite of the existing threat of separation of the regions, the central body of power should always remember that the best guarantee of state unity is not total control over the people, but their desire to live together on the same territory, their perception of themselves as a unified nation. For this purpose it is vital to eliminate ethnic conflicts and to allow the regions certain independence in questions of providing for their basic needs.

At the same time, in the UK it is necessary to mention the term “devolution.” In the context of devolution understood as a form of decentralization that depends on the

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<sup>14</sup> Jamieson, *supra* note 13.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

statutory delegation of powers from the British Parliament to govern at a subnational level, such as a regional or local level, like, say, the National Assembly for Wales, we can point out that the case of Wales is a bit different.

Wales was incorporated within the English realm in the 16<sup>th</sup> century and has the same legal system that is binding in England.<sup>17</sup> Our impression is that the Welsh people and politicians focus on the idea of cultural autonomy. First of all, this means an appreciation of the Welsh language in education. Secondly, it relates to strong participation in decision-making processes on solving problems concerning local issues, such as economic development, transport, housing, tourism, etc. We should add that Wales won some political autonomy at the end of the 20<sup>th</sup> century.

However, the competencies of the National Assembly are strictly limited and enumeratively expressed. In this sense, Scotland's situation is completely different.<sup>18</sup> This institutional difference derives from the different legal traditions: Wales, like England, is a common law country, whereas Scotland is a civil law country. Also, Scotland was not incorporated within the English realm, but – that said – was deliberately joined and united with England on the grounds of the Acts of Union of 1706–1707. Both sovereign states created one kingdom with the name of Great Britain. This institutional difference does not mean that in the future Wales will not decide to “fight” for real self-determination and independence. The national (and Celtic) identity of the Welsh people remains very strong (and the English are ethnic Anglo-Saxon, not Celtic).

However, Wales voted “yes” in the Brexit referendum as did England. In our opinion, the reason is that the decision was clearly based on economic arguments, the feeling of injustice and lack of social cohesion or simply on rejecting the establishment in Westminster, which had failed to improve the quality of life in Wales. This has nothing in common with the process of the Welsh devolution.

Paradoxically, some notions about independence for London as an independent city-state have recently been put on the table by many Londoners.<sup>19</sup> Originally, the new mayor of the capital of the UK expressed his interest in a very deep decentralization and more power for London as a city (but this was stated before the referendum). However, after the Brexit vote his statement was clear: London will not become an independent state,<sup>20</sup> but remain the capital city. Of course, London

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<sup>17</sup> See Donald Gregory, *Wales Before 1536: A Guide* 152 (Gwynedd: Gwalch, 2008).

<sup>18</sup> See Colin Turpin & Adam Tomkins, *British Government and the Constitution: Text and Materials* 252–253 (7<sup>th</sup> ed., Cambridge: Cambridge University Press, 2012).

<sup>19</sup> James O'Malley, *Petitioning Mayor of London Sadiq Khan. Declare London Independent from the UK and Apply to Join the EU* (Feb. 20, 2017), available at <https://www.change.org/p/sadiq-khan-declare-london-independent-from-the-uk-and-apply-to-join-the-eu>.

<sup>20</sup> Richard Hartley-Parkinson, *No, London will not Become an Independent State after Brexit*, Metro.co.uk, June 28, 2016 (Nov. 20, 2016), available at <http://metro.co.uk/2016/06/28/no-london-will-not-become-an-independent-state-after-brexit-5970878>.

is very cosmopolitan and the quality of life seems higher there than in many areas of England and Wales. Still, the notion of independence for London remains very controversial and reminds us of the status of many Hanseatic cities in the Middle Ages. But this is not in the English or British tradition.

Determined decentralization forces the central government into a conscious consideration of what its own role should be. The irony is that in a centralized system no such thought is required: central control is the norm and local control the deliberate exception – it is a decentralizing government that has to define the extent of its power. Inevitably, this exposes us to charges of inconsistency when we do decide to reserve particular powers at a national level. Yet, far from being embarrassed about these decisions, for example, in the UK they found a way to actively encourage debate over which fourteen powers belong at the national level and which powers belong at the local or personal level.<sup>21</sup> Furthermore, by giving local institutions the right to bid to exercise any power not expressly reserved as the exclusive domain of the central government, the process of defining the role of the center could – and, indeed, should – be used to drive the process of decentralization.

### Conclusion

To sum up, what is necessary is that plans concerning decentralization should be strategic and not strictly pre-planned. Decentralization must be a flexible process providing freedom of action in case of various unexpected situations.

It is worth mentioning that many theorists and politicians support decentralization. For example, the libertarian thinker Hoppe supports such a process that should be understood as a way to make Europe “a thousand Liechtensteins.”<sup>22</sup> On the other hand, it was one of the greatest legal philosophers in Europe (and Scottish nationalist) Neil MacCormick’s dream to make Scotland a part of the “federal” UK which could be a part of the “federal” European Union. Also many Catalan nationalists believe more in the EU’s support for their claims concerning independence than in Madrid’s good faith and will to cooperate. Obviously, support for decentralization comes also from many liberal political thinkers and their environment. They think that decentralization is closely related to democracy, municipal self-government, and even the principle of the separation of powers or the rule of law. Such thinking was expressed, for example, in the Polish Constitution.<sup>23</sup>

<sup>21</sup> Rt Hon Greg Clark MP, *Decentralisation: An Assessment of Progress* (London: Department for Communities and Local, December 2012) (Nov. 20, 2016), available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/16593/Decentralisation\\_an\\_assessment\\_of\\_progress.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/16593/Decentralisation_an_assessment_of_progress.pdf).

<sup>22</sup> *Hans-Hermann Hoppe on War, Terrorism, and the World State: Interview*, Québecois Libre, December 7, 2002 (Nov. 20, 2016), available at <http://www.quebecoislibre.org/021207-8.htm>.

<sup>23</sup> The Constitution of the Republic of Poland of April 2, 1997 (Nov. 20, 2016), available at, <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.



The key question is whether decentralization will stoke centripetal or centrifugal forces. We argue that a well-designed reform that decentralizes power and resources to a level below that of major social or regional cleavages is most likely to identify local government with issues of efficiency and service provision, as opposed to social identity and grievance. Such a decentralization can undermine secessionist movements by peeling away layers of support from citizens whose demands can be satisfied by more limited measures of autonomy. In practice, a key factor will be the regional specificity of elite interests. To support national integrity, regional elites must be made to have more to lose than to gain from national schism, so that they do not invest in politicians, parties and events (including violent ones) that promote national breakup. Complementary reforms promoting a single internal market for goods and services, and improved infrastructure and transport links, can help convince elites that continued access to national markets and policy-making trumps dominance of local resources and power. Such reforms can also facilitate the flow of people and ideas across an economy, binding it together from the bottom up. By reducing secessionist tensions, decentralization designed in this way should also reduce the threat of conflict in a society. Strong local accountability mechanisms combined with strong national safeguards of minority rights can help by aligning the incentives of leaders with those of local citizens, preventing subnational governments from ignoring or oppressing local minorities. These should be paired with electoral measures that support open, competitive local politics on a level playing field, and campaign finance regulations that support transparency and fairness, thus promoting power-sharing.

To ensure its success, the mass participation of citizens and all interested parties is necessary. In addition, it is important to understand that not all governmental functions should be delegated to the regions. Keeping in mind the principle of subsidiarity, governmental functions can be delegated only if doing so is important for the achievement of the set goals and existing guarantees of their realization.

The assessments also allow us to draw some conclusions as to government's overall progress under each of six actions:

**Action 1: Lift the burden of bureaucracy.** There has been widespread action across government to reduce bureaucratic burdens, including centrally coordinated initiatives. Furthermore, it will simplify the welfare system and ensure that the system always incentivizes work and that work always pays. Nonetheless, this is unfinished business. For example, the introduction of the Data Lists makes it easier for local government to be clear as to what information is required by the central government – but it also exposes the fact that the extent of these data demands should be reduced even further.

**Action 2: Empower communities to do things their way.** Through the Localism Act and other decentralizing reforms, the government is giving individuals and communities important new rights. However, additional rights should be enacted to give local people access to powers, resources and information still monopolized by the center.

Action 3: Increase local control of public finances. The removal of the great majority of ring-fences is an important step towards localizing control over finances. Nonetheless, little has been done so far to reduce the proportion of public funding that is determined and raised centrally or to put those resources directly into the hands of communities.

Action 4: Diversify the supply of public services. The government has taken some important first steps to diversify supply, and initiatives on public service mutualization will reinforce this. Work to map barriers to entry will help foster a level playing field. Some departments are also pushing ahead on the choice agenda.

Action 5: Open up government to public scrutiny. For example, in Russia with the launch of the Open Data Law in February 2009, all government departments have Open Data Strategies that set out how they will seek to release information in more open and useful forms.

Action 6: Strengthen accountability of local people. Choice (*see* action 4) is the main way of increasing accountability in the case of “individual” services like adult social care. But when it comes to “collective” services like neighborhood policing, the key is the development of new forms of democratic accountability. A good example is that democratic accountability mechanisms now need to be demonstrated across a wider range of public services. Government should take some steps to ensure appropriate accountability to the parliament of decentralized systems.

Though decentralization is basically a political process, it will not be successful if the regions do not receive relevant financial and other resources. Decentralization is a complicated process requiring tolerance and attention. Yet, it promises to be an important mechanism for government improvement, and steady and dynamic development of the state.

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