

## **Government decentralization: why and how**

W. Kälin

### **INTRODUCTION**

What makes decentralized government work? What are the factors which are conducive to the creation and existence of strong local governments and what factors hamper such a development? From the experiences made in countries in different parts of the world some general conditions for successful decentralization can be deduced: They are set out in the first part of this paper. From a pure technical perspective, these factors are sound and they apply to most contexts. Experience, however, indicates that such an approach might not be sufficient and that both the constitutional framework applicable to the center as well as the political culture prevailing at that level are more important for the well-being of the local level as might seem at first glance. Therefore, the second part of the paper attempts to identify some factors which have been and still are important for federalism and local autonomy in Switzerland. The third part tries to draw some general conclusions from this analysis.

### **I. CONDITIONS FOR SUCCESSFUL DECENTRALIZATION**

Experiences in many countries as well as scholarly studies show that several conditions are necessary for successful decentralization. Among them are the following:

1. *Security of Existence*: A first necessary condition for strong local government is security of existence. Clearly, local governments cannot perform properly if their existence is in jeopardy by the ability of authorities on higher levels of government to dissolve them easily at any time. Secure existence requires that members of local bodies only be dismissed for specific, pre-determined, reasons and under formal procedures that require the dismissing authority to show that the dismissed person has violated the law. Clear criteria and procedures are also needed in cases of dissolution of communes and municipalities or for the alteration of their territories.
2. *Resources and Autonomy*: The success of decentralization efforts depends to a very large extent on the availability of sufficient resources and the possibility of using these resources autonomously. This requires, *inter alia*, the right of local governments to collect local taxes and fees and to get funds from the central government necessary for the execution of tasks transferred to them; the right to spend this money without excessive prior control by higher levels of government; the right to take decisions on local activities including local development projects without undue interference by national planning authorities and line ministries; a sufficient and well-qualified local staff and the right to appoint and dismiss such staff; and technical support and advice from the center.
3. *Accountability and Transparency*: In every administrative organization, clear concepts of accountability are of paramount importance. Such accountability has two dimensions:

- Making local governments and their members *accountable to the people* means that the citizens can elect those who rule them and who have the possibility to assess their performance at the time of reelection. This requires transparency of governmental actions and the possibility to access relevant information such as budgets, accounts, plans, etc. Citizens must also know that office-bearers who have violated the law will be sanctioned in all cases.
  - Local governments are also *accountable to the higher levels of government*. Accountability to several authorities might create confusion and insecurity at lower levels that would be detrimental to the idea of efficient administration. Only well-defined responsibilities provide for the degree of transparency and security needed by authorities at lower levels who have to make certain decisions on their own. Therefore, a high degree of transparency in the relations between local governments and the supervising authorities is necessary. For example, local bodies must know in advance what criteria will be applied when approving decisions or denying approval. There is also a need for transparency regarding all financial matters. Supervising authorities should exercise a tight control but such control should have a retrospective (*ex post*) character.
4. *Political Will and Partnership*: Experience has shown that the success of decentralization efforts depends, to a large extent, on a clear vision regarding the position and function of local governments and on a strong political will to implement that vision. It also depends on the willingness of both the central and the local level to see each other as partners in an ongoing process.
  5. *A Strong Legal Framework*: Without a strong legal framework setting out the powers, rights and duties of local governments clearly, it is often impossible to know who is responsible for what. This allows central authorities to interfere easily with local affairs and leaves the local authorities with no possibility of stopping such interference.

## II. LESSONS FROM SWITZERLAND: SPECIFIC FACTORS IN FAVOR OF STRONG LOCAL GOVERNMENTS

If we look at the case of Switzerland, it becomes apparent, that these factors are important but not sufficient to explain the success of decentralization in Switzerland. Besides these general conditions which are applicable everywhere and constitute a minimum for successful decentralization, specific historical, cultural, political and constitutional factors may enhance or limit the potentials of strong local governments. The following factors which played a paramount role in Switzerland.

### 1. AT THE LOCAL LEVEL

- (1) *A strong tradition of participation at the local level*: Switzerland has a long tradition of village and cantonal assemblies where all citizens participate and play an active role in the political life at the local level. While the tradition of "Landsgemeinde" (literally "community of the canton's inhabitants has been abolished in all but a few small rural cantons, it still prevails in the form of "Gemeindeversammlung" (communal assembly) in most communes with less than 8'000 inhabitants (i.e. the majority of the Swiss communes). In

larger communes and municipalities as well as at the cantonal level citizens can participate through their rights of initiative and referendum which go beyond those granted at the federal level.

- (2) *A strong identification of elected politicians at local level with their community:* Most elected people at village level don't seek a political career at the cantonal or federal level, although almost every federal politician has started at the local level. Local politicians are most often elected because of their involvement in several associations or user groups at the village level. In other words, their election relies more upon their social involvement in the community than upon their political affiliation. Some elected people at local level don't even belong to a political party or they belong to a very small local party.
- (3) *A strong identification of citizens with their commune or canton:* Many Swiss people identify first and foremost with their canton and not with Switzerland. In the rural areas, the village comes first. At the communal level, this identification with the local level finds its expression in the fact that many administrative tasks are not carried out by professional staff but by ordinary people who devote between a few hours per month and up to several days per week to specific tasks.
- (4) *A strong tradition of constitutional making at the local level:* Cantons have their own constitutions which allow for a great diversity both regarding the internal organization of the canton and the position of communes. The communes can, within the limits set by the cantonal legislation, determine their own organization. The result is a large variety of solutions, especially regarding the communes. They are very strong and independent in some parts of Switzerland and have only limited functions and resources in other cantons with more centralist traditions. To grant constitution-making power to the cantons and communes not only enhances their sense of ownership but also allows for diversity which can accommodate many different interests and thus reduce conflicts.

### 3. IN THE AREA OF RELATIONSHIPS BETWEEN THE CENTER AND THE LOCAL GOVERNMENTS

- (1) *The Bottom-Up Approach of the Swiss Constitution:* In Switzerland, the cantonal governments created the nation-state. Looking at the process, Switzerland, therefore, has a history of centralization and not of decentralization. However, this centralization is based on a bottom-up approach. In 1848, the cantons made sure that not only at the moment of the creation of the federal state but also in the future they, and not the federal authorities, would have the right to decide about the specific content of the federal powers. According to Article 3 of the present Swiss Constitution all powers rest with the cantons unless the federal constitution explicitly transfers a specific power from the cantons to the federal level. Such constitutional amendments are automatically submitted to a referendum and they only enter into force if they are accepted not only by a majority of the voters but also by a majority of the cantons. This means that in a majority of cantons the voters must have said yes to the amendment. In the course of time, many such amendments have been accepted and today the cantons have in fact lost much of their original powers. However, the shifting of power from the cantons to the federal level does not mean that the cantons

lose all influence as these amendments very often delimit the federal and the cantonal powers in a very detailed manner, thus limiting federal interference to what is necessary. In addition, cantons have the right to legislate in federal matters as long as the federal level does not use its constitutional power to enact its own legislation. Concerning the distribution of responsibilities between the federal level and the cantons, we find a variety of solutions: In some areas such as national defense, tariffs, currency, postal services, railways, aviation and nuclear energy, the federal level has exclusive legislative power. In other cases, including areas such as agriculture, civil and criminal law and social insurance, the federal authorities legislate; the cantons, which are responsible for the implementation, may, however, regulate the details as well as the procedural aspects of such implementation. Still in other areas, and they are rather common, legislative power is shared by the federal level and the cantons; examples are the utilization of water power, roads, trade and industry, education and taxes. Finally, some areas are left entirely to the cantons: Here, the areas of police and churches provide important examples.

- (2) *Implementation by the lower levels of government:* Finally, federal law is normally not implemented by the federal ministries and their agencies but by the cantons or even the communes who hire and appoint their own staff for carrying out these federal tasks. Thus, for instance, forests and forestry services are regulated in a federal law. However, it is the cantonal forestry agency which is responsible for applying this law. The so-called Federal Office for Environment and Forests only supervises the cantons by carrying out some inspections and issuing guidelines if this is necessary for a uniform application of the law; in addition, it examines and approves requests for federal subsidies. It is only in a few limited areas that the federal administration implements its laws either through the ministry concerned as in the cases of the army or of border and custom controls, or through specialized, semi-autonomous agencies such as the railway and postal services. In some other cases, such as the construction of national highways, federal and cantonal agencies work together very closely. On the cantonal level, the situation is similar for the communes: They implement not only their own laws and projects but are also responsible, in many areas, for the implementation of cantonal laws and programs, e.g. in areas such as education, health or environmental protection. Together with the clear delimitation of tasks between the central and the cantonal, as well as the cantonal and communal level, the almost total absence of line agencies at the regional and local level reduces the problem of overlapping powers and activities to a very large extent.
- (3) *Institutionalized possibilities to influence the central level:* In Switzerland, cantons have many such possibilities. The cantons can influence federal law-making as they are represented in the second chamber of parliament - the Council of States - which is composed of two elected representatives per canton (a solution inspired by the US Senate). They also must be consulted before the federal government proposes a law to parliament. Finally, they have organized themselves in a so called "conference of the cantons" where they coordinate their positions vis-à-vis the federal government.
- (4) *A balanced distribution of financial strength:* The importance of the cantons is reflected in their strong financial position. In Switzerland, the tax share of the federal government is only 30% and the expenditures of the federal level are 31.6 %.

#### 4. *At the Central Level*

At the central level, there is a one single element which is probably more important than all the other factors for the effective functioning of decentralized government in Switzerland: Power-sharing. Power-sharing is institutionalized in different forms and at different levels:

- (1) Government and Parliament have to share their power with the people who can interfere through initiative and referendum.
- (2) Parliament consists of two Chambers, one (the National Council) representing the people, the other (the Council of States) representing the cantons. Thus the people and the cantons have to share their powers, through their representatives, already at the stage of making the federal laws. The members of parliament are elected on the basis of proportionality and their composition very clearly reflects the wishes of *all* voters: Thus, the majority has to share its power with the minority.
- (3) The Government consists of seven Ministers only: The composition mirrors power-sharing between different parties and cultures. The four largest parties are represented according to their strength and at least two of the members of government must be from the French- and Italian-speaking parts of Switzerland. The members of government are elected by Parliament and only have to leave if they are not reelected. The fact that the Government loses in Parliament or in a referendum does not affect its position. There is no vote of confidence. This system has led to a very stable coalition which is in power since 1959.
- (4) The Federal Court, the highest Court in Switzerland, also reflects in its composition the relative strength of political parties, cultures and regions. The same is true, although to a lesser extent, for the higher positions in the federal administration.

All of this leads to a political culture which forces decision-makers to search for compromises and consensus if they want to achieve any result at all. This is not only true for the federal level but applies similarly to the cantons and communes. Decentralized government with the strong cantons and communes is just the vertical dimension of this culture of power-sharing. It forms part of what has been called "consensus democracy". This type of democracy which can be contrasted with majoritarian democracy which is based on the Westminster model where "the winner takes all" and the political majority in Parliament holds all the power "avoids majority decisions thanks to negotiations and compromise" (Linder, *Swiss Democracy*, 171). This pattern of trying to reach a compromise also applies for the relationship between the central and the lower levels, thus giving the decentralized units considerable possibilities to negotiate decisions by the central level. It seems to me that consensus democracy at the national level facilitates the introduction of decentralized government at the local levels as the idea of power-sharing in the vertical dimension can be more easily accepted if it is already a reality at the central level.

### III. CONCLUSIONS

Swiss federalism is not an article of exportation. The degree and the forms of decentralization depend to a very large extent from the specific context of the country concerned. Furthermore, the necessity to have or to create conditions as they exist in Switzerland as well as the level of intervention (local, regional, “provincial”) are very much determined by the goals to be achieved by decentralization measures.

#### 1. EFFICIENT AND ACCOUNTABLE ADMINISTRATION

The desire for a more efficient administration has motivated many of the recent constitutional and legislative changes in countries all over the world. However, experience has shown that central governments are often unable to successfully implement efficiency-building policies and programs.

Local governments have the potential to perform better. This is based on any of several reasons, listed below. One must remember, however, that better administration is not an automatic result of decentralization. Still, if local governments are properly equipped to fulfill their tasks, the chances for achieving „better government“ through decentralization increase:

- On a local level, programs and services can be more easily adapted to particular local circumstances and needs as the necessary information to plan such programs and services is more readily available and the chances of success are consequently higher.
- The close relationship between citizens and government at the local level fosters accountability. Decision-making close to the people is an excellent instrument to prevent governments from abusing their powers for several reasons: First, it is more difficult to hide corruption among those in authority when the citizens know the officials than in situations where „the Government“ is far away and inaccessible. Second, it is easier to hold local officials and elected office-bearers accountable for their actions than it is to impose accountability on politicians at higher levels of government, as members of local governments are often less protected politically than the corresponding official at the central government.
- Both the availability of information necessary for taking proper actions and the potentially higher degree of accountability enhance the chance of a better use of available resources. This will allow doing more with limited resources.

If the main goal of decentralization is the creation of more efficient and responsive administration at the local level, a very high degree of decentralization such as forms of federalism is not necessary and it may be sufficient to focus reforms on the local level (communes, municipalities, districts). Such modest forms of decentralizations are possible even in the absence of many of the factors that have been instrumental in Switzerland.

#### 2. BETTER LOCAL DEVELOPMENT

In many countries, one of the primary motives for decentralization is the prospect of improving local development. Development is possible without decentralization, but the advantages of strong local governments for a more efficient administration just outlined above also help to improve local development projects.

- Decentralization removes institutional and legal obstacles to self-help and it encourages innovative forms of solutions for local problems.
- Local resources for social and economic development can be more easily mobilized if such projects are decided by and implemented on the local level. Development activities undertaken with the participation of those involved allows for tailoring the activities to the specific needs of the local population. Experience has shown that people are ready to contribute to local development projects if they can participate in the decision-making and feel that the particular project improves their situation. By letting the local people determine how a particular program should be designed, involvement of the local government enhances the sense of ownership and responsibility for the project. It also gives the citizens a personal stake in the program's success. The citizens are therefore more likely to invest their time and resources into furthering the project's goals. This in turn helps to produce better results than if the development activities were decided upon from the distance of the central government.
- Local government may make development activities more sustainable by involving the people affected more directly in the implementation of projects. Beneficiaries who „own“ a project will be more likely to assume the responsibility for the project's maintenance. The ability to help in the early planning phases of a development project in turn also encourages the local population to carefully monitor and protect the results of the planning.

If better local government is the goal, the emphasis of decentralization measures can be on the local level (communes, municipalities, districts) for those development activities that do not require much technical expertise. However, the following factors seem to be important elements if one wants to be successful:

- Local participation and a bottom up approach in identifying and planning local development projects as well as possibilities of local governments to influence the central level in planning matters are important factors of success.
- Implementation of national policies by local authorities is desirable. If this is not possible, a clear delimitation of powers and competencies between the line agencies of the central government and the local authorities are necessary.

### 3. DEMOCRACY AND PROTECTION OF LIBERTY

The notion of democracy is not restricted to participation in national elections. Although the right to elect leaders of national government is certainly a part of the democratic principle, democracy also includes the ability to influence the decisions that directly affect a person's life and the ability to live in freedom and liberty. Local governments are able to provide these aspects of democracy in a way that central governments often cannot.

As stated above, local level administrations can be more accessible for the average person -- and thus more "human" -- than a very distant and mighty central administration can be. This gives democracy a clear local dimension.

Although a state's respect for democracy and individual freedom does not depend on decentralization, such form of government may further these two fundamental values. The idea that

local self-government promotes democracy and individual liberties is deeply rooted in many decentralized countries. The right of citizens to participate in decision-making procedures on a local level furthers true democracy. This, however, implies that local entities are organized in a way allowing for real participation and that national authorities do not tolerate the creation of autocratic and authoritarian forms of government on the local level.

Distribution of power to different levels of government and the competition between these levels allows for a system of checks and balances that is likely to set limits on the central government if it attempts to overstep or abuse its powers. Thus, decentralized government also constitutes a specific and extended expression of the basic constitutional principle of the separation of powers.

Where local democracy is the goal that goes beyond deciding about small local administrative matters and development projects, it is necessary

- to create strong local governments not only at the grassroots level but also to think about regional autonomy, as well as
- to strengthen local participation, strong identification of politicians with the local level, a bottom up approach in matters of relevance for the central level as well as mechanisms of power-sharing at the central level.

#### 4. PROTECTION OF MINORITIES

A further traditional argument for decentralized government is that it has the potential to protect ethnic and other traditional minorities. If minorities inhabit an area with a certain degree of self-government, decentralization essentially grants them the right to be free as a collective.

If the protection of minorities is the goal, it is not enough to strengthen local governments at the grassroots level. Here, forms of regional autonomy or even of federalism may constitute appropriate solutions. However, because such “strong” forms of decentralization may create dangers of disintegration and therefore should not be encouraged if factors enhancing cohesion such as cultural elements crisscrossing the national territory are lacking. Furthermore, without a system of power-sharing at the central level such far-reaching measures of decentralization will hardly work.