Lecture six: Governance beyond the Centre

In those countries where the bulk of decisions taken by public bodies are made at the centre, the country is said to be centralised. Where the proportion is small to very small, the country is said to be decentralised. In **unitary states**, all legal power flows from one source: for example Parliament in the United Kingdom. Power is concentrated in national government, and the operation of lower tiers of government derives not from a written constitution but from the centre.

In Britain, local authorities exist but they do so at the behest of Westminster, and they are entirely subordinate to it. Some devolution of power is possible, but this does nothing to breach the idea that control derives from Parliament; local and devolved power can be revoked. Unitary systems normally exist in relatively homogeneous countries which lack significant ethnic, geographical, linguistic or religious distinctions.

In **federal states**, legal sovereignty is shared between different tiers of government: a federal (central) government and regional governments. Under federalism, the states have guaranteed, protected spheres of responsibility, and the central government conducts those functions of major importance which require policy to be made for the whole country. Both tiers may act directly on the people, and each has some exclusive powers.

Federalism thus diffuses political authority to prevent any undue concentration at one point, but lacks the very high degree of decentralisation which characterises a confederation. Under federalism, it is still likely that there will also be a system of local government, although it can vary significantly in form. In the USA, the federal government has little role in regulating the functioning of this tier, which falls under the direction of the states.

Developments in the British unitary state: the move towards devolution

The attempt to introduce devolved assemblies in the late 1970s was unsuccessful. In the 1990s, Labour argued the case strongly that devolution was the only way to keep Scotland in the United Kingdom. The Blair leadership took up the devolution theme, resting its case on firm democratic foundations. The truth of a remark by the nineteenth-century Liberal Prime Minister, Gladstone, was appreciated: 'Making power local, makes it more congenial'. Ministers certainly hoped that devolution would stave off the threat from the Scottish National Party (SNP), and ensure that the unity of the kingdom was preserved. A Devolution Act for Scotland was on the statute book by 1998. First elections took place in 1999 and the Scottish Parliament began to function later that year.

A watered-down version of devolution was made available to the people of Wales, who obtained an assembly rather than a Parliament with tax-varying powers. Finally, as a result of the Good Friday Agreement, a Northern Ireland Assembly is up-and-running in Northern Ireland. The three countries have therefore been singled out for special treatment, in comparison with England. Moves to go ahead with the regionalisation of England have been initiated, through the creation of indirectly elected Regional Chambers and government-appointed Regional Development Agencies, which might in time evolve into elected regional assemblies. The pattern of centralisation in British government is being slowly eroded.

The merits and difficulties of devolution

Devolution involves the idea that there should be some redistribution of power away from the centre to subordinate assemblies which can, if necessary, still be overridden by the parent authority. It usually springs from dissatisfaction with centralised government when ministers appear to be unwilling to recognise local needs. In this vein, it is widely seen as democratic, in that it allows people to express their distinctive identity and have a say in the development of the life

of their own particular regions. It has the merit of countering the dangers of an overpowerful, excessively centralised state.

Opponents see devolution as fraught with danger, often claiming that although in the United Kingdom the sources of unity are much greater than the sources of diversity, once parts of the whole are allowed to enjoy a measure of self-government then there is a danger of the whole edifice splintering apart. Moreover, the Conservatives who resisted the Blairite proposals in the 1997 referendums in Scotland and Wales suggested that there was no real necessity for change, because unlike the situation in some other countries, the UK has not developed as a result of previously autonomous states coming together recently. They feared a 'Balkanisation' of the British Isles if parts were able to go their separate ways, because the Scottish Nationalists would not be satisfied with devolution which is a half-way house between unity and independence. The SNP is a separatist party, its long-term goal being national independence for Scotland. It would do its best to expose the flaws in devolution and this would fuel pressure for separation.

One of the difficulties of devolution which is often mentioned by its critics is the **West Lothian (now more usually referred to as the English)** Question: 'Why should Scottish MPs at Westminster be allowed to have a say on purely English matters while English MPs will no longer have a say on Scottish matters?' If ministers had opted for a system of elected regional councils for England, then each region (and Scotland and Wales) could have similar devolved powers, leaving the United Kingdom Parliament to deal with the residue of issues, those key ones affecting the four countries collectively. But as yet there is no widespread public demand for legislative devolution across the UK, and even if this were ever introduced it is doubtful whether the powers granted to regional bodies would ever be equal to those of the Scottish Parliament, so that statutory responsibility for English devolution would probably remain at Westminster.

Is Britain becoming a federal state?

Britain is a unitary state, but some of the changes in recent years to the pattern of government seem to indicate a move in a more federal direction. Devolution has been the British route to decentralisation, so that power remains theoretically in Westminster's hands although it is politically hard to imagine any administration in London seeking to recover control over areas which have been delegated to Edinburgh or Cardiff.

Northern Ireland had a devolved assembly in the days before Direct Rule, so that the relationship between London and Belfast was essentially federal in character, with certain functions allocated to the national level of government and the rest to the provincial one.

At some point in the future, Regional Development Assemblies in some areas may well be accountable to elected regional assemblies rather than as at present to an indirectly elected forum of local councillors. The creation of the devolved assemblies, the possible development of democratic regional machinery and the arrival on the local scene of elected mayors who could in time become a kind of 'Mr London' or 'Ms Birmingham', are all indications of a less centralised structure of government. This has led some writers to speculate on whether Britain is becoming more federal in character.

In fact, the creation of devolved assemblies in Britain is the logical outcome of accepting subsidiarity in Europe. It is hard to see how one can argue the case for government at the lowest possible level in the EU, whilst not being willing to concede that the Scots, Welsh and Northern Irish should be able to benefit from the same degree of local control.

Developments in American federalism

In its early days, the USA operated a system of **dual federalism** as laid down in the Constitution. Sometimes known as **layer-cake federalism**, the model presupposed a clear division of responsibilities between the central and state governments. The system prevailed until the 1930s. When Franklin

Roosevelt introduced his New Deal for Americans at a time of deep economic depression, the programme of interventionist economic and social changes led to an increase in governmental action. The new model was known as **cooperative or concurrent federalism**, a system in which both parts, federal and state, worked together to resolve the nation's difficulties. This was not true of the experience of the 1960s, for in the years of President Johnson's Great Society programme a new, more active version of **creative federalism** emerged, in which the motivation was political rather than economic or social.

Washington set out to insist on certain uniform standards, so that there were measures to ensure an end to discrimination in education, employment and housing. By the end of that decade, this variety was sometimes called **coercive federalism**. Another label was **redistributive centralism**, that is a recognition of the way in which Washington was insisting on bringing about changes in the nature of state policies. This creative or coercive form survived the attempt by President Nixon after 1969 to return power to the states. It survived in part because Congress and many state governments remained under Democratic control throughout the period. Nixon may not have had much success in implementing his desire to see states assume more responsibilities and powers, but he firmly believed in what he called the **New Federalism**.

The next Republican President, Ronald Reagan, had more success. He wished to re-structure the federal system as it had developed. By the end of his 'devolution revolution', the states were funding more of their own programmes, and the number run by the federal government had been substantially curtailed.

Bill Clinton stressed the importance of cooperation between the federal and state/local governments, and was keen on the idea of local experimentation. The new-found vitality of state capitals has sometimes been referred to as what Dye has called **'competitive federalism'**. Nowadays, good practice in one state may be copied elsewhere and just as state initiatives have often in the past

reflected national thinking, so today national thinking may be influenced by what is happening across America.

After all, the experience of American history reveals that the nature of federalism has changed over time. There was a broad tendency towards central control from the beginning and it accelerated with the greater state regulation following the establishment of the New Deal. The trend reached its peak in the 1960s. Sometimes this greater central power came about as a result of constitutional amendment; more often it was a response to prevailing economic and social conditions. Sometimes too the tendency towards central control was given a push by judicial decisions, so that clauses in the Constitution were interpreted widely to provide the federal government with a broad scope for legislation. The result was that in America the centre gained power at the expense of the 50 states, especially in the area of major economic policy. The centralising tendency has been arrested in the closing decades of the twentieth century. In practice, American federalism has experienced growing interdependence.

- *Merits of federalism:* Federalism has been beneficial to the United States in many ways, its advantages to Americans including:

- The states act as a safeguard against excessive centralisation and the overbearing control of Washington.
- It recognises the distinctive history, traditions and size of each state, allowing for national unity but not uniformity.
- It provides opportunities for political involvement to many citizens at state and local level; state governments provide thousands of elective offices for which citizens can vote or run.
- Citizens can identify strongly with their state as well as with their country.
- States provide opportunities for innovation, and act as a testing-ground for experiments which others can follow.

The British unitary and American federal systems Compared

The old distinctions between the British and American systems are less clearcut than used to be the case. However, by British standards, America remains a very decentralised country in which political power is diffused across the country, whereas even allowing for recent experiments in devolution Britain is still much more centralised than even many other unitary states. The way in which national governments removed the powers and in some cases terminated the existence of local government is an indication of that process. This could happen in Britain by the passage of national legislation, whereas in America whenever Washington has attempted to increase its power at the expense of the states there has usually been considerable state resistance.

Local feelings and the tradition of self-government count for more in America than they do in Britain. The Constitution guarantees to the states a degree of independence and self-government never recognised by sub-national units in United Kingdom, where the Scots and the Welsh faced along wait in the struggle for devolution. Federalism in America is very much alive today. As for local government, it is not mentioned in the American Constitution and the diverse array of units has no constitutional standing recognised by the Supreme Court. Such sub-state governments were created by legal charters granted to them under state law, and their pattern varies enormously as does the amount of power they exercise. In Britain, local government has no constitutional status. It has been created by legislation and the functions of the different councils are only those which are specifically granted to them. This tends to limit the autonomy of British local authorities. **In Britain**, there is far more talk of the **death of local democracy**, whereas in America the various local units are often held in higher esteem.