Decentralization of Education

Legal Issues

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Foreword

This book was produced by the Education Team of the Human Development Department of the World Bank. It is one in a series covering a range of topics relating to restructuring education systems. As part of education and public sector reforms, many countries are choosing to decentralize the administration and financing of education services to the regional, local, or school level.

Successful decentralization of school systems is neither quick nor easy. It requires changes on many fronts, behavioral as well as institutional. This book deals with one aspect of the institutional changes needed in the decentralization of primary education systems: the legal aspect. It gives an overview of the legal issues involved and provides suggestions for designing the necessary legislation. The approach is practical. The book attempts to give suggestions to those who plan and implement education decentralization programs on the legal issues that they are likely to encounter and on preparation of the necessary legislation.

We hope that the practical nature of the book will make it useful to a wide audience of educators and administrators dealing with the complexities of education system development.

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The responsibility for providing basic education is firmly written into the law in nearly all countries. National constitutions often mandate free and universal primary education, national and state legislatures enact laws to govern the provision of basic education, and governments and local administrations adopt regulations to implement these laws. To the lawyer, education law is part of administrative law, although education issues also spill over into a number of other branches of law. Every major attempt to decentralize basic education systems throughout the world has involved changes in the law.

Of course, other factors also influence the outcome of decentralization. While a formal education system is a product of the law, and reform efforts will require changes in the law, it is also true that

Decentralization does not come with the passing of laws or signing decrees. Like most types of reform it is built rather than created. It happens slowly because the organizational culture (e.g., "the way we've always done things around here") must be transformed, new roles learned, leadership styles altered (e.g., shifting from controlling to supporting behaviors), communication patterns reversed, planning procedures revised (e.g., bottom up and top down), and regional policies and programs developed.

(Hanson 1995: 9)

Indeed, decentralization has sometimes taken place without any legislative action. In a number of African countries and in Haiti, for example, "the transfer of service provision has been more de facto than de jure as central governments have simply become unable to exercise their established financial and administrative responsibilities in various sectors, instead passing them along to the local level by default" (Blair 1995: 19). Even in these cases, as governments resume the role they are expected to play in providing basic education, legal issues will need to be addressed.

The purpose of this book is to inform education policymakers, planners, and practitioners about international experience in the legal
aspects of decentralizing basic education. It also provides a basic understanding of how instruments such as laws and regulations can be used for education reform. There are four main sections. The first examines the general legal aspects of decentralization; the second looks more closely at decentralization laws and regulations; the third is, in effect, a checklist of items that should be included in decentralization laws; and the fourth sets out a road map to help the planner prepare and implement the laws required for reform.

Each country has different laws, and the terms used in one country may have different definitions in other countries. We have tried to keep the discussion of legal matters as general as possible here, so that this book can be used in any country. Still, the legal analysis is based on the legal systems of the Western world or the legal systems that they inspired.

Finally, the term decentralization will be used in two different ways. First, it will denote all efforts aimed at transferring decisionmaking power in basic education from the administrative center of a country (such as the central ministry of education) to authorities closer to the users (such as countries, municipalities, or individual schools). Second, it will be used in a more technical sense to describe one of the many forms this type of reform can take, and in this narrow sense it will be contrasted with deconcentration and devolution (see glossary).
Acknowledgments

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Decentralization: Differences in Form, Degree, and Context

In a centralized primary education system most decisionmaking, monitoring, and management functions are concentrated in the hands of an education ministry or department. The central government regulates all aspects of the system, including those related to students, teachers, funding, and facilities. It sets policy and performs management functions, such as paying teachers, and providing preservice and inservice instruction. Since in practice some matters might be dealt with locally, school officials are given some power, but it is limited to day-to-day management, and they have very limited scope for initiative.

By contrast, a decentralized system is characterized by the exercise of substantial power at the local level on many aspects of primary education, subject to some limited control by the central government. Responsibility may be decentralized to a region, a province, a district, a town, or an individual school or a group of schools.

In practice, most basic education systems have both centralized and decentralized elements. In a partially decentralized system some powers remain in the hands of the central authority, and some are exercised locally. Planners involved in a decentralizing reform must identify which components of the system are more appropriately managed at the central level and which at the local level, given the country's particular circumstances and the objectives of reform.

Countries decentralize their basic education systems for a variety of reasons: to save money and improve management efficiency and flexibility, to transfer responsibility to the most capable level of government, to raise required revenues, to conform with a wider administrative reform or with the general principle that administrative responsibility should be vested in the lowest capable level of government, to give users a greater voice in decisions that affect them, to better recognize local linguistic or ethnic diversity. It is important to define the objectives of decentralization at the outset, so that they can act as measures of its success.
Deconcentration, Decentralization, and Devolution

So far, we have used only the broad meaning of decentralization: to move decisionmaking away from the center and closer to the users of the service. We now must look at the different kinds of decentralization. The general literature identifies three types of decentralization: deconcentration, decentralization proper (or delegation), and devolution. In the context of basic education we are concerned mainly with deconcentration and devolution.

Defining Deconcentration

Deconcentration is “the handing over of some amount of administrative authority or responsibility to lower levels within central government ministries or agencies” (Rondinelli 1984: 10). From a legal standpoint the key feature of deconcentration is that the people given additional responsibility are part of the central ministry, and they continue to act under the supervision of that ministry. In other words, decisionmaking authority is transferred within the same legal entity. Deconcentration puts more responsibility in the hands of central ministry officials who are located closer to the users of the service and will thus, it is expected, be more responsive to local needs. But deconcentration does not modify the basic notion that the people managing the education system are agents of the ministry. They act in the name of the ministry and are accountable to it. The central ministry remains responsible for the acts of its agents and for funding the system.

Distinguishing between Decentralization and Devolution

Devolution and decentralization in its narrow sense are characterized by the idea that the body or agency receiving the new powers is legally separate from the central ministry, which initially held those powers, and does not report to the central ministry. Authors differ somewhat in distinguishing between decentralization and devolution. In the case of decentralization (which is sometimes referred to as delegation) the body receiving the powers is typically a public corporation or a regional agency that may be subject to significant control by the central ministry.
There are few instances of this type of decentralization in the area of basic education.

In the case of devolution—a term found mainly in the English-language literature—the power to regulate the provision of basic education is given to local governments or to other local bodies that are associated with local governments. Often, the local body made responsible for some aspect of basic education is a local government (such as a county or a town government) or an agency with a territorial jurisdiction matching that of a local government (such as a county or municipal school board). Sometimes responsibility can be handed over to a body exercising jurisdiction over one or several schools. The French equivalent is décentralisation or décentralisation territoriale.

Devolution has four key features: the body that exercises responsibility is legally separate from the central ministry; the body acts on its own, not under the hierarchical supervision of the central ministry; the body can exercise only the powers given to it by law; and the body can act only within the geographic limits set out in the law. Also, such bodies are often supervised by a board of officials elected by the local population. Because the local body is legally separate from the ministry, it can enter into contracts and conduct other transactions in its own name. The local body is fully responsible for its acts; the central ministry has no responsibility unless the law specifies other arrangements.

Although the local body is not under the control of the ministry, it is nevertheless not entirely free to do as it pleases. Local governments must act within the limits set for them by law. These constraints also hold for special bodies established specifically to control certain aspects of the provision of basic education. Such bodies can act only within the limits set out in the legislation establishing them.

As a consequence of devolution, the local body is responsible for the functions assigned to it by law. Its agents act on behalf of the local body, and only the local body, not the central ministry, is responsible for them. As will be seen later, this has important consequences for the financing of basic education. A local body may be given responsibility for managing schools or paying teachers. Without a reasonably assured source of funds or the power to raise funds independently, the local body may not be able to discharge its new responsibilities. Similarly, granting authority to local bodies can be successful only if those bodies have the administrative capacity to discharge their responsibilities.

One of the usual objectives of decentralization is to improve the efficiency and equity of primary education by transferring responsibility to local authorities. However, unless the reform is well planned and implemented, these objectives may not be fully realized. For example, if legislation decentralizes the source of funding, leaving it up to local
authorities to raise funds, there may be a significant lag between the time when the central authority is freed from its responsibility and the time when local authorities have the capacity to raise and allocate funds. In such a case, if legislation does not provide for a transitory solution, such as a compensating grant scheme, regional disparities may develop.

The law generally specifies the duties and obligations of school boards. In New Zealand, for example, The Education Act of 1989 gives a school’s board of trustees “complete discretion to control the management of the school as it thinks fit” (section VII, paragraph 75). A board “may from time to time, and in accordance with the State Sector Act 1988, appoint, suspend, and dismiss staff” (section VII, paragraph 65).

In Nicaragua the municipal education councils, established by decree of the Ministry of Education, are responsible for administrative functions delegated by the center to the local or municipal level (Gaynor 1996).

Local bodies may be subject to a wide range of general laws, in addition to those dealing directly with education. For example, in Ontario, Canada, “in addition to legislation, regulations and policies on education, school boards must comply with other legislation such as the Occupiers’ Liability Act and the Occupational Health and Safety Act, unless exempted by the statute.” Thus there are “many non-education statutes both federal and provincial which directly or indirectly govern or determine the conduct of school boards” (Brown and Zuker 1994: 11). For instance, they may have the general duty of caring for students, and “failure to have an adequate playground supervision policy could result in a finding of negligence against the board where the failure results in an accident” (Zuker and Brown 1994: 50). Similarly, a school or school board may have the legal responsibility for hiring and could be sued for employing inadequate personnel.

The Question of Formal Control

A key question in any decentralization effort is to define how much control the central ministry will exercise over the local body. At one extreme, if the central ministry controls local bodies as tightly as it controls its own agents, the situation would be that of deconcentration, not decentralization or devolution. At the other extreme, if the central government exercised no control, the local body would have political power, and the situation would be that of a federal state. It is between these extremes that the control of the central government will be defined.
Generally, local bodies can act only within the limits of the law that established them or regulate them. In some cases a government ministry may exercise control over them. For example, local governments are often under the indirect control of the ministry of the interior. In other cases control may be exercised through court actions. In some rare cases control may be exercised only before a decision of the local body becomes effective (such veto power would end the autonomy of the local body). In others control can be exercised only after the decision has been made.

The decisions of the local body may be subject to annulment under certain conditions specified in the law. Alternatively, the controlling body may have the power to force the local body to reconsider its decision. The law may also provide an emergency scheme, under which the local authority’s powers would be repealed if it failed to act in a manner consistent with the law. In either case the law would determine whether remedial action could be taken by the central ministry or by a court.

When devolving decisionmaking authority, policymakers may want to balance local bodies’ autonomy with some control by the central authority or the judiciary. A careful balance must be struck between the need to provide safeguards against local bodies taking arbitrary actions and their need to maintain autonomy. One option is to leave it to individuals affected by an allegedly arbitrary decision of a local body to seek redress through court action. Another option is to provide a repeal or suspension mechanism, such as granting veto power to the central authorities or allowing for the reversal of power from the local bodies to the center. However, if procedural requirements for vetoing or repealing an act are too strict, they may inhibit the exercise of such an option.

An example of such a control mechanism is found in Papua New Guinea, where the national government has been given the power to veto provincial tax laws if it regards them as discriminatory (particularly against residents or products of other provinces) or excessive (if they affect taxpayers’ capacity to pay central taxes). This power to repeal is limited. The vetoing process involves not only the central government but also the National Parliament and the National Fiscal Commission (NFC). It ensures that the Parliament and the NFC provide protection against arbitrary actions by the central government but limits their power to disallow provincial laws even if they reveal themselves as inefficient or inequitable (Ghai and Regan 1988).

Even if local authorities are given the exclusive right to take initiative on education matters, a certain level of control may still remain at the center. That level will indicate the extent to which there is a
move toward decentralization. Limiting the powers of local authorities may influence their willingness to undertake new functions. Nevertheless, such a restriction may be justified if local bodies are inexperienced. If they fail to perform the newly allotted functions correctly, the central authority would be allowed to override their powers.

Shared Responsibilities

The formal controls established by law are not the only limits placed on local bodies' freedom to act. Since the components of the education system are by and large interdependent, the actions of local bodies may also be limited by the actions of the central authority. For several aspects of the system there are many types of relationships that can be established between the central government and local bodies.

For example, even if local authorities are given responsibility for the curriculum, their freedom of action may be limited by national requirements dictating the minimum standards students must meet to move up to the next level. The central government may also set the broad parameters of the curriculum and then let local authorities choose textbooks, or it can impose topics for a part of the school day, leaving the rest of the time for local curriculum. Funding school systems may also raise issues concerning shared responsibilities, depending on the freedom local authorities have to establish their own budgets and raise their own resources.

Such shared distribution of power may affect local accountability and efficiency. If decisionmaking capacity is awarded exclusively to local bodies, accountability may be enhanced. On the other hand, shared responsibilities may promote efficiency and consistency if the central authority can better the process or if local bodies are not ready to assume full responsibility.

Decisionmaking Authority

Countries that decentralize their primary education systems will start from varied governmental structures (very centralized, moderately decentralized) and distribute responsibilities for education functions differently (see box 1). Several factors will influence where within the local government structure education powers and responsibilities are
transferred. These factors include financial considerations, such as the potential to raise funds, proximity (geographic and administrative) to the facilities and to the users of the system, and the present and potential management capacity of the bodies involved.

In Argentina reforms initiated in 1978 resulted in the transfer of responsibility to the provinces, but "no deconcentration to the municipalities has been ever attempted within the decentralization process" (Prawda 1992: 60). In Ghana "the decentralization of the education administrative system has shifted the locus of responsibility and managerial functions from regional to district level" (Asare-Bediako and others 1995: 24). In Zambia the Ministry of Education recognized that the existing system was too centralized and in August 1995 proposed a reform of the Education Act that would establish district education boards.

**Context and Pace of Decentralization**

Decentralization can take place as part of wider political reforms, as in South Africa and Eastern Europe, or it can be undertaken in the absence of such reforms. Decentralization can be completed quickly, as was the case in New Zealand, or be achieved more gradually.

The many variations can be summarized by three broad categories. First, when education reform is undertaken as part of an overall decentralization program, there is usually room for effective geographical and functional decentralization. Assuming that a consensus on the need for reform is reached, legislation mandating the decentralization of government may also include provisions on the decentralization of education (see box 2).

Second, if the decentralization of government has already been provided for (or taken place), then at the time of reform local and regional government structures will already exist legally and in practice. Decentralizing education may be facilitated if strong regional infrastructures are in place. For example, in Chile in the early 1980s, "the relative ease of institutionalizing decentralization was attributable to the strong administrative capacity at all levels of government and by effective public financial management and control at the center" (Espinola 1995: 1). However, problems may arise if existing local entities are poorly suited to carry out education functions. Parallel structures may have to be created for education. If responsibilities are not clearly delimited, local school authorities may end up competing for power with local government structures.
Box 1. Local Government Structures

Government bodies below the national level vary from country to country in terms of their degree of autonomy, legal personality, and governance structure. Within federal countries there may be significant differences among the federated states. Also, names of local government units can have different meanings in different countries.

Generally, two levels can be identified below the central state (or in the case of federal countries, below the federated states, which usually have responsibility for education): an intermediate level between the central state and the municipality (such as counties or districts in many English-speaking countries, or regions and departments in France), and municipalities. In some countries, however, the bodies exercising responsibility for education may not have the same territorial scope as any of the government levels. For example, the territorial jurisdiction of the French académies does not match exactly the territory of the régions.

Ghana

Three levels of local government share responsibility for education: the district, the municipality, and the metropolis. Under the 1993 Local Government Act the governments are to be created by the president according to (at least) the following criteria:

- For a district, a minimum population of 75,000.
- For a municipality, a geographic area consisting of a single compact settlement and a minimum population of 95,000.
- For a metropolis, a minimum population of 250,000.

Philippines

The Local Government Code of 1991 distinguishes four principal local government units:

- Third, the decentralization effort may be confined to the education sector. This may be the case in a centralized government, where at the outset responsibility for education functions were not well defined. It also may be the case if education is considered a test sector for decentralization. Moreover, political pressure may also reduce wider decentralization schemes to only the education sector. When education is decentralized in such a context, the task goes beyond creating new laws and regulations (see box 3).

   It becomes crucial at the beginning to ensure that all implementation issues, such as the establishment and administration of local governance structures (whether under a deconcentration or a devolution scheme), are dealt with in order to avoid the risk that the reforms will
The barangay, which "may be created out of a contiguous territory which has a population of at least 2,000 inhabitants" (Section 236) and which "as the basic political unit . . . serves as the primary planning and implementing unit of government policies, plans, programs, projects and activities in the community" (Section 384).

The municipality, "consisting of a group of barangays, serves primarily as a general-purpose government for the coordination and delivery of basic regular and direct services and effective governance of the inhabitants within its territorial jurisdiction" (Section 440). A municipality may be created if it has an average annual income as certified by the provincial treasurer of at least 2.5 million pesos for the last two consecutive years based on the 1991 constant prices, and a population of at least 25,000 inhabitants.

The city, "consisting of more urbanized and developed barangays, serves as a general-purpose government for the coordination and delivery of basic, regular, and direct services and effective governance of the inhabitants within its territorial jurisdiction" (Section 448). A city can be created if it meets a composite list of criteria on income, size, and population (Section 450).

The province, "composed of a cluster of municipalities, or municipalities and component cities, and as a political and as a corporate unit of government, serves as a dynamic mechanism for developmental processes and effective governance of local government units within its territorial jurisdiction." A province also must fulfill a minimum income criterion and a geographic size or population criterion.


be made in an institutional vacuum and suffer from a lack of experience, infrastructure, and implementing bodies. The experience of Papua New Guinea is telling in this regard. Administrative decentralization of the education sector was introduced in 1970 with the creation of district education boards (DEBs). It was only in 1977, however, that political decentralization was undertaken and provinces created. The DEBs were transformed into provincial education boards with extended powers (Bray 1996).

In most cases reform was not accomplished by the passage of a single law, and there were several waves of legal reforms. In Chile, for example, the decentralization process was accomplished in two stages: financial decentralization between 1973 and 1989 followed by a ped-
agogic decentralization in 1990–95. The financial decentralization was carried out through the enactment of two decree-laws: the municipal revenues law that enabled municipalities to make use of a higher share of fiscal funding and to administer education, health, and other social services (Decree Law No. 3073: 1979), and the subsidy law, which improved the existing subsidy to private schools by substantially increasing the subsidy value and by allocating resources according to the number of pupils attending each school (Decree Law No. 34676: 1980)” (Espinola 1995: 3). In fact, Chile “induced privatization of primary education through decentralization.” Also, “the Chilean private sector participating in the delivery of primary education is obliged to comply with the existing educational legal frame set by the central government, and is only accountable to the consumer (students and parents) for the services provided” (Prawda 1992: 14).

Box 2. India’s Experience with Decentralization

The decentralization of the Education Service in India is the outcome of a democratic decentralization that was initiated a few decades ago and whose main thrust was the implementation of the panchayati raj institutions, three-tiered governance structures of locally elected bodies. The present decentralized system was initiated by constitutional mandate (Constitution 73rd Amendment Act, 1992, or CSTA) leaving each state the initiative of passing the appropriate Conformity Act by April 1994. The constitutional mandate itself left considerable room for the state governments to design their own functional mapping of local governance subject to “the availability of funds” and as they “deemed fit.” As a result some states devolved a considerable number of their education functions to the local level, making the panchayats models of self-governance; others did not and had their panchayats remain only “agents” of the state government.

Fiscal autonomy varies. Some states have empowered the panchayats at all levels to approve their own budgets and by-laws, levy taxes, borrow from financial institutions without the approval of a higher tier of panchyat or of state government, while others have left the preparation and presentation of budgets to the executive authority rather than to the elected representatives.

The links between different tiers of government, especially those between the state and substate levels, vary from one state to another and determine the degree of decentralization of the education sector. Certain states (such as Kerala) have not devolved education functions to the panchayati raj institutions.

Source: Fiske 1996.
Box 3. Major Stakeholders’ Accord in Mexico

After more than a decade of abortive attempts consensus on decentralization was reached in Mexico through an Acuerdo Nacional para la Modernización de la Educación Básica signed on May 18, 1992 by the federal government, the government of each state, and employees of the National Syndicate of Education (Sindicato Nacional de Trabajadores de la Educación). The acuerdo is meant to address “the ambiguity in the distribution of responsibilities between the federal, state, and municipal governments.”

The introductory chapter of the document states that the Mexican constitution gives the federal government legislative capacity in education and that the federal government has issued an educational law calling for agreements among the three levels of government on the distribution of responsibility for education functions. Thus the acuerdo is considered an instrument for implementing the law.

Through the acuerdo the management of education employees is devolved from the federal to the state level, and municipalities are made responsible for “maintenance and equipment.” Financing is shared between state and federal governments, the latter having the duty of subsidizing less wealthy states in order to safeguard equity. Nevertheless, the federal government remains responsible for most important functions of the education system, such as the planning of basic education, the choice of textbooks, assessment, and teacher training (Mexico 1992:9).

Source: Mexico 1992 (p. 9).
Once the objectives of the decentralization program are established and the context in which it will take place is known, the legal instruments that will be used must be defined. These will vary from country to country, depending on the existing legal and regulatory frameworks. In most cases a basic law governs the provision of education. This law must be amended to provide the new legal framework for the decentralized system.

Two sets of questions will need to be addressed. First: which aspects of the reform must be addressed in the law itself and which can be left to decrees or regulations? Second: which other laws must be taken into account or modified in order to implement the reform? Reformers may need to consider certain provisions of the national constitution and may need to amend the laws governing the powers and functions of local authorities and the laws governing the status of teachers as civil servants.

**Diversity of Legal Instruments**

The rules of the existing legal system in a given country may be set out in several sources. Apart from the constitution, the highest source is the law. Laws are adopted by parliaments or national assemblies, enacted according to formal steps (such as signature), and then published. Parliaments have the widest latitude in choosing the contents of legislation and are limited only by the requirements of the constitution and, in some systems, by international treaties to which the country is a party. In some countries “organic laws” defining the organization and attributes of government institutions may have constitutional status. Laws are adopted by the national assembly after a complex and often lengthy procedure and can be amended or repealed only by the same body, following similar procedures. For this reason laws should contain only the basic principles of the new decentralized system.

Administrative and procedural details that may have to be modified as problems arise may be dealt with through government decrees.
ministerial regulations and orders, which also have the force of law if they meet requirements for this purpose. These instruments are adopted by the executive branch rather than the legislative branch, and the process of adopting or modifying them is generally simpler, as it does not involve the legislature. If properly adopted and published, decrees are generally compulsory. They are more flexible tools than laws. However, in each system there are limits as to what can be dealt with in decrees rather than in laws. Indeed, decrees are intended to facilitate the application of laws and to deal with procedural matters. (These instruments have many different names and different bodies can adopt them. In some cases the executive may have the power to adopt “decree-laws” or similar instruments in emergency situations or when, for other reasons, the executive acts in lieu of the legislature.)

One of the objectives of decentralization is to give the power to regulate parts of the education system to local bodies. These bodies normally act by adopting regulations, which, when adopted in accordance with the limits of the powers granted by law, are legally binding.

In practice, the system often emerges from a series of laws, decrees, and other instruments adopted at different times. In Colombia a new constitution and general education law, as well as a decentralization law, provided the legal framework for the decentralization of education in 1991. In Ghana decentralization was implemented with the passing of the 1988 Local Government Law, which was reinforced in 1994 by the Local Government Act. The decentralized regime in Chile was supported by ad hoc presidential decrees for nearly a decade, with an education law enacted only in 1989. In Brazil decentralization involved the enactment of new constitutions at both the federal and state levels in 1988 and 1989 (dos Santos and Camilo 1993: 397). In England a complex series of acts of parliament and statutory instruments governs the education system, notably the 1994 Education Act (the Butler Act), the Education Reform Act of 1988, the Further and Higher Education Act of 1992, and the Education Act of 1993 (United Kingdom 1995: 7).

**Contents of the Legislation**

A review of several countries’ experiences with decentralization leads to the conclusion that decentralization legislation should have three basic features:

- It should be comprehensive enough to clearly define the rights and obligations of the respective entities involved.
• It should be flexible enough to allow for efficient implementation.
• It should be realistic, primarily in taking into account implementation constraints.

Three decades ago, discussing educational planning and administration in East Africa, Roger Carter noted that, “good legislation is a matter of balance. The main consideration is whether it allows elbow room for initiative and development both at the center and in the parts.” He added that, “the amount and nature of the legislation that is necessary in a particular country will depend upon local circumstances, traditions and temperaments as well as on the activities that are to be regulated” (Carter 1966: 32). This is still the case today.

The required “elbow room” will be provided if the law is cast in terms that are general enough to allow its implementation to evolve, and if it defines the power given to other bodies in terms broad enough to eliminate undue constraints. At the same time the legislation should be precise enough so that the parties involved in the administration of the system know their respective responsibilities.

Foresight is crucial. For example, one common consequence of decentralization is that local authorities become liable for their acts or omissions, including those resulting in unsafe school buildings. Examples of local responsibility for schools abound. In Chile in 1980 the Decentralization Act transferred responsibility for school premises from the Ministry of Education to the municipalities (Bullock and Thomas 1996). In Zimbabwe church authorities or district councils own most schools (Bullock and Thomas 1996). Unless care is taken to specify the respective roles of the various bodies involved, the lines of responsibilities may become blurred. In France, for example, schools are established as autonomous local bodies, but these bodies are headed by a principal appointed by the central government who must rely on funds provided by the local authorities to maintain the schools. When planning the devolution of school ownership or management, planners should beware of such legal implications and try to assess the capacity of local authorities to take on these responsibilities.

Transitory arrangements are often required. If the legislator moves too fast, chaos may ensue. The new functions transferred to the local authorities may exceed their capacity. Responsibilities must be matched with authority and resources. A law that is not realistic in this regard will not be complied with.

Gaining consensus and establishing a realistic timeline for enacting different pieces of legislation are also important to successful implementation. Formal mechanisms for gaining consensus, such as consul-