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**Research Paper**

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# Decentralisation Projects in the Context of Resolving the Crisis in Ukraine



*Photo: Kyiv Metro Bridge spanning across the Dnipro River in Kyiv*

## Summary

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- The article discusses three decentralisation designs considered by either of the parties to the conflict in the east of Ukraine as instrumental in resolving the crisis: the devolution of power to local territorial communities, territorial autonomy of Donbas, and the federalisation of the state.
- Each of the decentralisation projects bears risks for territorial integrity and long-term development given the current level of state capacity.
- Only the devolution of power to local territorial communities, if properly implemented, will delegitimise claims of the rebel groups in the Donbas region, prevent any secession attempts in the future, and strengthen the state.

## Introduction

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Amidst the raging war in the Donbas region of Ukraine, the Minsk Agreement signed by Ukraine, Russia, Germany and France on 12 February 2015, calls for decentralisation as a key element of the constitutional reform of Ukraine to be enacted by the end of 2015. Despite the fact that the terms of the Agreement are being breached by parties to the conflict, decentralisation of power is widely seen as crucial for resolving the crisis and bringing peace to the country.

*With decentralisation being too vague a notion, what kind of a decentralisation project will achieve the stated objectives?*

The paper will discuss three main institutional designs aimed at decentralising the central government in Ukraine – the devolution of power to local territorial communities, territorial autonomy of Donbas, and the federalisation of the state. While the devolution of power to local communities is already being implemented by the government of Ukraine and regarded the most optimal design by Ukraine’s donors and partners – the World Bank, the EU and OSCE – the autonomy of Donbas and the federalisation projects are part of the rhetoric of the self-proclaimed entities in the eastern regions of Ukraine at the negotiation table with Kyiv.

Confederation is not brought up by any of the parties to the conflict as an option, and is a very unlikely institutional design under the given circumstances as there are no two distinct nations to form clear-cut units (Gagnon & Keating, 2012), and therefore, for practical reasons, this design will not be covered in the paper.

While language plays an important part in the political life in Ukraine and constitutes one of the concerns of the separatists in the east of the country, culture and other forms of non-territorial autonomy will not be discussed in the paper since territorial control is at the core of the demands of the rebel groups.

Realising that each of the mentioned institutional designs for decentralising governance in Ukraine bears risks for territorial integrity and long-term development, the devolution of power to local territorial communities, if properly administered, may not only delegitimise claims of the separatists in Donbas, but also address the underlying social-economic grievances of both the citizens of Donetsk and Luhansk, as well as the population in other regions.

## Decentralisation designs for Ukraine

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Ukraine is a unitary state comprised of 24 regions and the autonomous republic of Crimea, currently occupied by the Russian Federation. Ethnic Ukrainians (77.8%) constitute an absolute majority in all regions of the country, except Crimea where they make only 24.3% of the population. The biggest ethnic minorities are: Russian (17.3%), spread across all regions, and more geographically concentrated Romanian (0.8%), Belarusian (0.6%), Crimean Tatar (0.5%), Bulgarian (0.4%), Hungarian (0.3%), Polish (0.3%) and others. In linguistic terms, Ukrainian is considered native for 67% of the population, Russian – for 30%, but it is being spoken by more than 50% of the citizens in Odessa, Luhansk, Donetsk regions and Crimea; 3% of Ukrainian citizens speak other languages – Crimean Tatar, Bulgarian, Romanian, Polish, Hungarian and others (State Statistics Service of Ukraine, 2001). Although language is a highly politicised issue in Ukraine and usually exploited before and during election campaigns, as a means of voting mobilisation, mainly of citizens in the southern-eastern regions, the division of the Ukrainian society is rather over the path of the state development – conducting comprehensive reforms and integration to the EU or largely maintaining the old Soviet structures and pursuing closer cooperation with the Customs Union and Russia.

The key consideration in making the mentioned choice is of socio-economic nature – small and middle businesses in the west of Ukraine see more economic opportunities within the EU while state subsidised large industries in the east find Russian market more appealing (Sasse, 2001, pp. 67–100). Therefore, to be successful, a decentralisation project in Ukraine should first address socio-economic grievances of the population and tackle the language issue so it will not be used for political mobilisation in the future.

### **1.1. Devolution of power to local communities**

The devolution of power to local territorial communities aims at improving the provision of public goods and quality of governance by empowering the lowest level of administration – local communities – to take the initiative and realise their own projects for the benefit of their community. This design clearly falls into the dynamic approach to decentralisation, outlined by Fleurke and Willemse (2005, pp. 523–544), and recognises local non-governmental actors as equally important for the success of the reform.

Under such institutional design, local territorial communities will be granted a number of exclusive competencies for independent economic development and infrastructure building, which, with significant fiscal autonomy, means an actual power to create welfare and meet the needs of citizens (Tiebout, 1956, pp. 416–424). Bringing decision-making process closer to the people, such devolution will stimulate local participation (Black, 1997, pp. 5–20), promote more accountability of local authorities before their community, strengthen the role of civic society, and therefore, facilitate democratisation of the country (Weller & Wolff, 2005, pp. 262–270).

The delegation of school and cultural institution administration to local territorial communities and the provision on free usage of any language for community business grants a substantial degree of cultural autonomy to new administrative units, which will be likely to both fully satisfy the needs of geographically concentrated ethnic minorities (Hungarians, Romanians, Crimean Tatars) and remove the language issue from the political agenda of the country (Coakley, 1994, pp. 297–314).

The devolution of power to local territorial communities will stimulate political dialogue and the search for constructive solutions to the pressing problems of communities, which will decrease the level of frustration with the state and prevent further claims for separatism both in Donbas and other regions of Ukraine (Lustick, Miodownik, & Eidelson, 2004, pp. 209–229).

However, there is a number of potential risks with such an institutional design. First, the consolidation of separate contiguous districts (*rayons*) into bigger local territorial communities, required for the devolution to be effective, will most likely be done along the ethnic lines in the regions of geographic concentration of ethnic minorities. This might give rise to regional ethnic identities (Mozaffar & Scarritt 1999, pp. 230–253) and encourage the growth of regional parties (Brancati, 2006, pp. 651–685), which can undermine two decades of political efforts to build a strong inclusive society in Ukraine. The Romanian experience is indicative in this regard – its 2011 administrative reform project stimulated the revival in different forms of the liquidated Hungarian Autonomous Region. One of the ruling parties – the Democratic Union of Hungarians in Romania – pushed this idea contrary to the views of other coalition partners, who insisted on the consolidation of counties to the limits of large regions of economic development. These conflicts between the coalition partners led to the overall breakdown of the reform of the administrative-territorial structure in Romania (Maxfield, 2012, pp. 12–20).

The establishment of ethnic-based local territorial communities in regions adjacent to the ethnic-kin state will make institutionalisation of closer cooperation with ethnic-kin states more appealing than promoting ties with partisan non-ethnic communities in Ukraine. Moreover, local competencies, under this decentralisation project, are tantamount to those of a functional autonomy, making local territorial community equipped with institutions they can use to claim either autonomy or even secession from the state (Cornell, 2002, 245–276). The devastated state of the Ukrainian economy makes the prospect of joining ethnic-kin countries, which are faring better economically, quite attractive.

Second, the system of relative majority in single-member constituencies facilitates the election of deputies and heads of local councils with relatively low results (i.e. with low level of trust from the citizens). Such system, if not reformed, will alienate ethnic minority groups in a larger territorial community and only encourage forming communities on ethnic basis (Horowitz, 1985; Reilly, 2006, pp. 811–827).

Third, socio-economic regional disparities will be more acutely felt under such institutional design, as local governments will cease to receive equalisation grants, which would mean that resource-endowed and industrial regions will grow wealthier while usually subsidised regions, reorganised in new territorial communities, will be burdened with problems of providing for people in need rather than investing in development (Lynn, Kodras & Flint, 1997). Decentralised decision-making in the field of budget forming and finance is found to be associated with poor economic performance (Remmer & Wibbels, 2000, pp. 419–451; Samuels, 2003) and growing tensions between different society groups in developing countries (Bunce, 1999; Suberu, 2001).

However, a set of auxiliary reforms of the administrative-territorial division and the electoral system for local elections, as well as a clear framework for intergovernmental relations (Agranoff, 2004, 26–65) and fiscal transfers (Weller & Wolff, 2005, pp. 262–270; Keating, 2012, pp. 81–97) will mitigate the risks mentioned above and prove the devolution of power to local territorial communities a viable option for settling socio-economic grievances of the population in general and the citizens of Donbas in particular. No less important, since the devolution is planned to be state-wide, it will not discriminate any region on any basis and will help save the face of the central government, which is striving to end the conflict in the eastern regions, but is highly unwilling to set a dangerous precedent of granting autonomy of any kind to a break-away “republics” (Walter, 2006, pp. 313–330).

The demilitarisation and decriminalisation of Donbas is essential for forming local territorial communities and a successful introduction of the decentralisation process there

(Danspeckgruber, 2005, pp. 26–48), which is something beyond the state’s control for the time being.

## **1.2. Territorial autonomy of the Donbas region**

For an interim period, territorial autonomy is advocated by Weller and Wolff (Weller, & Wolff, 2005, pp. 262–270) as a desirable institutional design, most likely to bring a certain degree of stabilisation and serve as a better alternative to the continuation of fighting.

Not doubting the value of peace, granting territorial autonomy to the Donbas region means only facilitating its secession. Both self-proclaimed “republics” in the east have been advancing their “borders” deep into the centre of Ukraine and gained enough military victories in battles with the national army to feel emboldened to pursue their cause – which from the first days of insurgency was to secede from Ukraine and join Russia as Crimea “successfully” did. Even the prospect of the conflict becoming a frozen one is not likely to make autonomy look appealing for the rebel groups, since it would be less than what they have already gained – *de facto* statehood (Palermo, 2012, pp. 81–97). Massive military and economic backing from Russia not only sustains the insurgency but also seems to substitute the government’s provision of goods for the population of the affected area, strengthening their ties to Moscow while severing those with Kyiv – the tactics Russia applied in Caucasian conflicts (Cornell, 2002, pp. 245–276). Unlike the Caucasian context, the conflict in Ukraine is not ethnicity-based and, therefore, can spread to the southern regions where pro-Russian sentiments can be mobilised when the Ukrainian government public support is at its weakest.

Granting the autonomy to Donbas, in the light of Crimea’s annexation, will most likely be perceived as a signal of failure of the Ukrainian state project and the government’s weakness and, therefore, it might trigger autonomy claims by regional elites of at least two other major industrial regions, sharing the same socio-economic grievances as Donetsk and Luhansk citizens (Ghai, 2000, pp. 1–26; Cornell, 2002, pp. 245–276), as well as secession claims of geographically concentrated ethnic minorities in the west of the country.

## **1.3. Federalisation of the state**

The federalisation of the state is believed to be an absolutely unnecessary decision when it comes to accommodating one or two minority groups (Ghai, 2000, pp. 1–26). In Ukraine’s setting, the federal model – either symmetric or asymmetric – will not only negate the nation-building efforts but multiply the vices of both institutional designs discussed above and threaten the very existence of the state.

First, stable and successful federation states are usually established as the result of a voluntary agreement of several units to delegate part of their sovereignty to the supranational institution – the federal government – to facilitate their successful cooperation and security (Riker, 1975, pp. 93–172; Elazar, 1997, pp. 237–251; Lane & Ersson 2005, pp. 163–182). Top-down creation of federations was mainly the result of expansive politics (e.g. the nominal federalism in the Soviet Union and its successor Russia) (Watts, 1981, pp. 3–19; Hughes & Sasse, 2001, pp. 1–35) or more rarely an attempt at resolving a conflict between constituting ethnic groups of roughly equal size (as was undertaken in Belgium after the failure of regionalism policy). Although Ukrainian regions were under control of several foreign states in the course of history and were united for the first time only in the middle of the 20<sup>th</sup> century under the Soviet rule, Ukrainian national identity has been largely preserved before and enhanced after the proclamation of independence, making it extremely problematic, if at all possible, to draw lines between potential federation subjects. Moreover, given the overtly contradictory perceptions of security threats prevalent in different parts of the country in the light of war in the east, the federation project will lack both the consolidating federal goal and the supportive federal political culture of tolerance and acceptance of divergent views on the current and historic events, necessary for the functioning of a federal state (Hooghe, 1993, pp. 44–68).

Although, geographically, government bodies will be closer to their constituencies compared to the unitary system, this will not guarantee the participation of civic society and the democratisation of the political process in the state, as there are no effective institutions on all levels of the state (Lane & Ersson 2005, pp. 163–182.) and subjects of the federation, in the absence of any prior expertise of governance, will recreate the current state structures (Ghai, 2000, pp. 1–26). The federal model is not likely to successfully address the socio-economic grievances of the citizens since regional elites will be interested in the concentration of power at the level of federation units (Cornell, 2002, pp. 245–276), largely ignoring the problems of local communities and shifting the blame for unsatisfactory provision of public goods or poor economic performance on the federal government (Inman & Rubinfeld, 1997, pp. 43–64; Volden, 2005, pp. 327–342). Moreover, the economic inequalities between federal subjects will be seriously exacerbated without substantial central government transfers, fervently opposed by the relatively more economically advanced units of the federation (Obinger, Leibfried & Castles, 2005; Rodden, 2005).

In the setting of a federal model, the existing parties in Ukraine can easily abandon their policy of seeking to have a state-wide electorate and focus on strengthening their



positions in their primary regions/federation subjects of support, which will only enhance the regionalisation of politics and increase the risk of intergovernmental conflict (Agranoff, 2004, pp. 26–65). This is most likely to occur, first of all, regarding the main foreign policy strategic course – with eastern federation subject(s) advocating the pro-Russian vector and joining the Customs Union and western sub-units striving for integration to the EU. Political mobilisation will be pursued along a strategic political line, deepening the division of the society. Significant weakening of the centralised party system will put the survival of such institutional design to a test the actors will not be particularly interested in passing (Riker, 1964).

Moreover, as foreign policy strategic direction preference will be exploited for federation subject consolidation, it will become an issue of indivisibility (Fearon, 1995, pp. 379–414) and a ground for units to secede from the federation. The presence of a contiguous border with a strong ethnic-kin state (Cederman, Gleditsch, Salehyan & Wucherpfennig, 2013, pp. 389–410) and a history of its substantial support (Saideman, 1997, pp. 721–753) will only strengthen the resolve of the newly formed federation subject, incorporating Donbas territories, to pursue secession.

The federalisation of the state will create serious intergenerational tensions, as there is an emerging nationalist elite of young people, identifying themselves as Ukrainians and supporting the EU integration no matter the language they speak or the region they come from. They will strongly oppose the project of a federal state and mobilise around the idea of the government betrayal of the state-building project, leading to social unrest likely to result in state failure.

## Conclusion

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The dominant view in the literature on governing divided societies holds that decentralisation projects facilitate better governance, local participation in political processes and accountability of sub-state units gaining power (Inman & Rubinfeld, 1997, pp. 43–64; Watts, 1998, pp. 117–137; Riker & Føllesdal, 2007, pp. 612–620). Although, since such projects are likely to be undertaken when the central state is weak and needs to accommodate local elites growing in power (Treisman, 2001; Kulesza, 2002, pp.189–217; Boone, 2003, pp. 355–380), the government’s very weakness prevents proper implementation of the reforms and opens up a “window of opportunity” for aggrieved groups to demand more in terms of exclusive and delegated competencies or to insist on secession (Ghai, 2000, pp. 1–26).

In the light of the on-going war in the east of the country, the massive interference of third parties into the state’s internal affairs and growing economic problems, the government of Ukraine is extremely weak and vulnerable to any additional challenges to the state’s sovereignty and territorial integrity.

Rothchild and Hartzell (Rothchild & Hartzell, 1999, pp. 254–271) found that granting regional autonomy is correlated with the most stable negotiated settlements as compared with centralised and decentralised federalist political arrangements, though the scholars admit that such effect might also be attributed to incorporation of provisions regarding the use of force by the sub-state units. Agreeing to the preservation of paramilitary units by the self-proclaimed “republics” in the Eastern regions will not only corrode the state’s internal sovereignty and deprive it of the legitimate monopoly on violence (Weber, 1919/1958, pp. 77-128), but also keep the option of the Donbas secession open to be used as a bargaining chip in demanding exclusive autonomy rights from Kyiv or a means of securing ultimate secession.

Of the three institutional designs discussed in the paper, only the devolution of power to local territorial communities does not pose an imminent risk of secession of any territorial units and, if properly implemented, will delegitimise claims of the rebel groups in the Donbas region, prevent any secession attempts in the future and strengthen the state.

For the devolution of power to local territorial communities to achieve its stated goals of securing better governance, the state needs to bring current legislation on self-governance, local elections, budget forming and state subsidies to alignment with the decentralisation project, undertake major administrative-territorial reform, and adopt transparent and elaborated principles of the government relations with local communities and introduced regional councils. Moreover, the central government should build effective institutions at all

levels and undergo serious reforms within its apparatus. This is quite a challenging task, particularly since it will not tolerate a half-hearted approach.

Without exaggeration, the choice of the decentralisation institutional design and its implementation will have tremendous ramifications for the future of Ukraine as a state and a society.

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