

Decentralization under Ghana's Fourth Republican Constitution

By *Joseph R. A. Ayee*

I. Introduction

The aim of this article is to discuss the constitutional position of decentralization under Ghana's Fourth Republican Constitution (adopted in a referendum on 28 April 1992), which comes into force from 7 January 1993. Two factors make this analysis opportune. First, it has been asserted by members of the Consultative Assembly - the body that drafted the Fourth Republican Constitution - and some government functionaries that the decentralization provisions of the Constitution are more far-reaching and fundamental than those of the previous Constitution of the Second and Third Republics. Second, decentralization has featured prominently on the political agenda of the Provisional National Defence Council (PNDC), culminating in the inauguration of the District Assemblies (DAs) in the early part of 1989. Indeed, it is natural to expect that the strong points of PNDC's achievement in the area of decentralization would be consciously or unconsciously incorporated into the "new order". One expression of this effort was the constitutional cognisance of, and guarantee for, the District Assemblies which were regarded by the PNDC as "the pillars upon which the people's power would be erected..., the focal points of development at the village and town levels..., the solid foundations for participatory democracy throughout the country."¹

We begin with an examination of the concept of decentralization, since great confusion surrounds its use in the Fourth Republican Constitution. We would then discuss the decentralization provisions of the Fourth Republican Constitution vis-à-vis those of the Second and Third Republican Constitutions, pointing out the areas of innovation, if any.

II. The Concept of Decentralization

In general, the concept of Decentralization means "reversing the concentration of administration at a single centre and conferring powers on local government".² We may also define decentralization as the "transfer of authority to plan, make decisions and manage public

¹ *Rawlings, J.J.*, Broadcast to the Nation on New Year's Day, January 1, 1991, in: Republic of Ghana, *A Year of Bold Actions*. Information Service Department, Accra 1991, p. 14.

² *Smith, B.C.*, *Decentralization: The Territorial Dimensions of the State*, London 1985, p. 1.

functions from a higher level of government to any individual, organization or agency at a lower level".³ This definition seems to cover most of the organizational changes described as "decentralization" in Ghana and other developing countries.

Three characteristics could be discerned from the definition. First, it restricts attention to "territorial" decentralization. This excludes the transfer of functions from the central to "peripheral" agencies at the same level (for example, from central government ministries to parastatals), which some writers like Rondinelli⁴, Cheema and Rondinelli⁵ refer to as "functional" decentralization. Second, the definition also focuses on the decentralization of "public functions", that is, those activities which are most likely to be undertaken by government departments or agencies - rather than, for example, the decentralization of industry or other forms of economic activity.⁶ Third, the definition allows decentralization to include the transfer of some governmental functions to non-governmental organizations or individuals at the local level, a form of decentralization which has received increasing support from the World Bank and the United States Agency for International Development.⁷

III. Forms and Connotations of Decentralization

Brian Smith contends that decentralization involves the delegation of authority.⁸ Confining ourselves to "territorial" decentralization, such delegated authority may be broadly classified as either devolution (political/democratic decentralization) or deconcentration (bureaucratic/administrative decentralization).

Devolution or political decentralization is the conferment of legal powers to discharge specified functions upon formally constituted local agencies or bodies. In this case the determination of policies and supervision of certain functions are transferred either to political sub-divisions or local bodies (normally elected by universal adult suffrage) and

3 *Rondinelli, D.A.*, Government Decentralization in Comparative Perspective: Theory and Practice in Developing Countries, in: *International Review of Administrative Sciences*, Vol. 47 (1981), p. 22-42.

4 *op. cit.* Fn. 3.

5 *Cheema, G.S. / Rondinelli, D.A.* (eds.), *Decentralization and Development: Policy Implementation in Developing Countries*, Beverly Hills 1983.

6 *Conyers, Diana*, The Management and Implementation of Decentralised Administration, in: Commonwealth Secretariat, *Decentralised Administration in Africa: Policies and Training Experience*, London 1989.

7 *Hyden, G.*, *No Shortcuts to Progress: African Development Management in Perspective*, Berkeley 1983.

8 *Smith*, *op. cit.* Fn. 2.

verstreuen, daß solche unmittelbare Wirkung im innerstaatlichen Recht ...
 Paktbestimmungen zukommen könnte, die er beispielhaft aufzählt.²⁵ Der Umstand, daß Art. 2(1) des Paktes die Vertragsparteien grundsätzlich zur progressiven Verwirklichung der in ihm anerkannten Rechte verpflichtet, schließt also keineswegs aus, daß ausnahmsweise entsprechend konkret und unbedingt formulierte Bestimmungen "self-executing" sein können. Die übrigen Vorschriften des Paktes stellen sich als Aufträge an den oder die innerstaatlichen Gesetzgeber dar.

Ganz unabhängig vom Vorliegen oder Nichtvorliegen unmittelbarer Anwendbarkeit seiner Bestimmungen wird schließlich auch der Pakt der Wirkungen des Gebots völkerrechtsfreundlicher Auslegung des innerstaatlichen Rechts teilhaftig.²⁶

Last, but not least, eine kurze Stellungnahme zu der philosophisch wie politisch umstrittenen Frage, ob es sich bei den Rechten des Paktes um echte "Menschenrechte" handelt. Es wurde bereits darauf hingewiesen, daß die Idee zur Internationalisierung (auch) der wirtschaftlichen, sozialen und kulturellen Rechte in den vierziger Jahren nicht etwa aus dem kommunistischen Lager, sondern von den Vereinigten Staaten unter der Präsidentschaft F.D. Roosevelts stammte.²⁷ Desgleichen wurde erwähnt, daß in den Gremien der Vereinten Nationen seit Jahrzehnten die Gleichrangigkeit dieser Rechte - als Menschenrechte! - mit den bürgerlichen und politischen Rechten betont wird, ja, daß diese Gleichrangigkeit geradezu die Prämisse der UN-Menschenrechtspolitik bildet. Bei genauerem Hinsehen geht es im Falle beider "Generationen" von Menschenrechten auch um den Schutz derselben Rechtsgüter, die sämtlich in der Menschenwürde wurzeln. Schließlich hält die gebräuchli-

²⁴ Dazu allgemein *Verdross/Simma* (Anm. 10), §§ 863 ff.

²⁵ General Comment No. 3; Vgl. Anm. 7.

²⁶ Dazu *Geiger*, Grundgesetz und Völkerrecht, 1985, S. 210 f.

²⁷ Vgl. oben im Text vor Anm. 2.

Promoting African Decentralization, in: *Public Administration and Development*, Vol. II (1991) 3 (May-June), pp. 285-291.

¹¹ *Smith, B.C.*, Field Administration: An Aspect of Decentralization, London 1967.

¹² *Leemans*, op. cit. Fn. 9; *Mawhood, Philip* (ed.), Local Government in the Third World: The Experience of Tropical Africa, Chicester 1983; *Smith*, op. cit. Fn. 2; *Oluwu, Dele / Smoke, Paul*, Determinants of Success in African Local Governments: An Overview, in: *Public Administration and Development*, Vol. 12 (1992), pp. 1-17.

¹³ *Smith*, op. cit. Fn. 2, p. 10.

¹⁴ *ibid.*, p. 11.

system of government but are also forms of it.¹⁵ The use of the term "decentralization" rather than "local government" or "local administration" therefore facilitates comparison between

"widely differing forms of decentralized government and encourages policy makers to consider all the alternatives available and choose that form most appropriate in a particular situation."¹⁶

IV. The Meaning of Decentralization in the Second, Third and Fourth Republican Constitutions

The concept of decentralization has not been defined in any Ghanaian constitution, whether pre- or post-Nkrumah period. The concept therefore has been a source of confusion to constitution framers. This is reflected in the subheadings which contain the decentralization provisions of the 1969 Second Republican Constitution and the 1992 Fourth Republican Constitution. Chapter 16 of the 1969 Constitution had the subheading "Chieftaincy and Local Government". The use of the term "local government" in the Constitution is too restrictive, since it excludes the other form of decentralization, that is, deconcentration (field or local administration). In fact, although the nomenclature "local government" was given to the units, in actual practice they did not possess the characteristics, like smallness/localness, participation, local accountability, independent sources of finance, recruitment of own staff, of "local government", which give the term its logic and dynamism.¹⁷ In other words, the so-called "local government" units under the 1969 Constitution functioned as units of deconcentration (local administration) because they remained extensions of the central government - which guided, controlled and influenced their activities.¹⁸

¹⁵ *Rondinelli*, op. cit. Fn. 3; *Smith*, op. cit. Fn. 2.

¹⁶ *Conyers, Diana*, Future Directions in Development Studies: The Case of Decentralization, in: *World Development*, Vol. 14 (1985) 5, pp. 593-603 (599).

¹⁷ *Oluwu*, op. cit. Fn. 9.

¹⁸ *Tordoff, W.*, Ghana, in: *D.C. Rowat* (ed.), *International Handbook on Local Government Reorganization*, London 1980; *Harris, David*, Central Power and Local Reform: Ghana During the 1970s, in: *Mawhood* (ed.), op. cit. Fn. 12; *Nkrumah, S.A.*, Centralized Administration and Rural Development in Ghana: Hypothesis and Consequences, in: *Journal of Management Studies*, Vol. 11 (1979) 1 (March), pp. 22-27. See also *Nkrumah, S.A.* (ed.), *Formative Period of Decentralization in Ghana: An Evaluation. A Report on the Third Annual Seminar on Decentralization in Ghana*, 8-14 October 1989; *Nkrumah, S.A.* (ed.), *Ghana's Local Government Law: Issues of Implementation. A Report on the Fourth Annual Workshop on Decentralization in Ghana*, School of Administration, Legon, 1-5 October 1990.

Chapter 20 of the Third Republican Constitution of 1979 has the subheading "Local Government and Administration". This seems appropriate since the subheading entails the two forms of decentralization already identified, namely devolution and deconcentration.

Chapter 20 of the Fourth Republican Constitution, on the other hand, is subheaded "Decentralization and Local Government". Apparently influenced heavily by the Report of the Committee of Experts on Proposals for a Draft Constitution of Ghana published in 1991, Section 240 (1) of the Fourth Republican Constitution proclaims that "Ghana shall have a system of local government and administration which shall, as far as practicable, be decentralized". The subheading and the section deserve two comments. First, the use of the terms "decentralization" and "local government" portrays a situation as if the two terms were different. This cannot be the case since we have already pointed out that local government is a devolved form of decentralization. The use of the two terms together may therefore be regarded as a tautology. Second, a careful reading of Section 240 (1) reveals that the Constitution makers were referring to "local government" and "local administration" to be "decentralized as far as practicable". We concede the idea that if administration is overcentralized then it could be decentralized. It is, however, difficult if not impossible to decentralize "local government" and "local administration" because the two terms are already forms of decentralization. Thus, while the subheading of decentralization of the 1969 Constitution is narrow, that of the Fourth Republican Constitution seems broader but tautological. However, the subheading of the 1979 Constitution embraces the two connotations of decentralization already identified.

It is important to note that the common thing about the decentralization subheadings of the three constitutions is the significance attached by them to types of decentralization rather than the criteria on which the types are based. It is therefore pertinent for us to look more carefully at the main criteria which distinguish different types of decentralization. In other words, when analysing or comparing systems of decentralized administration it is necessary to ask a number of basic questions about these systems before (or instead of) attaching labels to them. The questions which are particularly important to ask are:

- (i) What are the functional activities over which some sort of power or authority has been transferred?
- (ii) What types of powers or authority have been transferred with respect to each functional activity?
- (iii) To what level(s) or area(s) have the powers been transferred?
- (iv) To whom at the level has authority been transferred?
- (v) What legal or administrative means have been used to transfer the authority?¹⁹

19 *Smith, B.C.*, The Measurement of Decentralisation, in: *International Review of Administrative Sciences*, Vol. 49 (1979) 3, pp. 214-222; *Conyers, Diana*, Decentralization and Development: A

When systems of decentralized administration are analyzed in this way it becomes apparent not only that there is an enormous variety of types but also that comparisons of the degree of decentralization are more complex than one might expect, since they depend on which criteria one uses.²⁰ In this way degrees of the measurement of decentralization can be meaningfully conducted.²¹ Statements such as "Country A is more decentralized than Country B" or "the present system of government in Ghana is more decentralized than the one before" are often misleading or confusing, because they do not allow for the fact that a system of government can be more decentralized than another (or that it was) in terms of one of the above questions, while being less decentralized in terms of another. For example, a wider range of functional activities may be decentralized in Country A than in Country B, but if in Country B the powers which the decentralized levels of government exercise over these activities are more significant, or these levels of government are smaller or "closer to the people", or those exercising power at that level are more representative of local interests, it is impossible to state categorically that either country is more decentralized than the other.²² Similarly, it is sometimes difficult to say whether a particular organizational reform is really "centralization" or "decentralization" because both are

"processes of change rather than fixed states and that it is not realistically possible to have either a totally centralized or a totally decentralized system of government."²³

Ghana's constitutional drafters may have erred and therefore confused the public because they focused mainly on types or forms of decentralization rather than on the criteria on which they were based.

1. *Functions*

Unlike the 1969 and 1979 Constitutions which did not specifically assign any function to "local government" units, the Fourth Republican Constitution lists two functions of the District Assemblies (DAs): they are the "highest political authority in the district" with "deliberative, legislative and executive powers".²⁴ These specific functions are:

Framework for Analysis, in: *Community Development Journal*, Vol. 21 (1986) 2 (April), pp. 88-100; *Conyers*, op. cit. Fn. 6.

²⁰ *Conyers*, op. cit. Fn. 6.

²¹ *Smith*, op. cit. Fn. 19; *Smith, B.C.*, Measuring Decentralization, in: *G.W. Jones* (ed.), *New Approaches to the Study of Central-Local Government Relationships*, Aldershot, Hants 1980.

²² *Conyers*, op. cit. Fn. 6; *Smith*, op. cit. Fn. 19.

²³ *Conyers*, op. cit. Fn. 19, p. 90.

²⁴ Draft Constitution of the Republic of Ghana, 1992 (Ghana Publishing Corporation, Tema), Sections 151-153.

- (a) the formulation and execution of plans, programmes and strategies for the effective mobilization of the resources necessary for the overall development of the district;
- (b) the levying and collection of taxes, rates, duties and fees.

Parliament is, however, enjoined to prescribe by law other functions of the DAs. The assignment of specific functions or tasks is one of the measures of decentralization.²⁵

2. *Structure*

The Constitutions of 1969 and 1979 clearly stated the three-tier structure of decentralization. For instance, while the 1969 Constitution established Local, District and Regional Councils, the 1979 Constitution stipulated Town, Village and Area Committees, District and Regional Councils. The Fourth Republican Constitution, on its part, stipulates the establishment of District Assemblies (DAs) and Regional Coordinating Councils (RCC), while it is silent on the lowest tier of the structure of decentralized administration. The reference to "other local government units lower than a District Assembly" in Section 247 and "any lower local government unit" in Section 248 is vague and does not in any way tell us how many tiers will form the structure of devolved units. The omission of the lowest tier seems unprecedented because, as we have already pointed out, the 1969 and 1979 Constitutions spelt out their lowest tiers.

3. *Membership Provisions*

The membership provisions of the Second, Third and Fourth Republican Constitutions contain a number of points of interest. The Second Republican Constitution restored to the chiefs their place in local government units from which they were excluded under the 1961 Local Government Act (Act 54). This the Constitution did by reserving one-third of the number of seats in local government councils to the chiefs or their representatives. Two-third of the membership were to be elected by universal adult suffrage. The Third Republican Constitution not only retained the two-thirds elected and one-third nominated by traditional authority membership, but also went ahead to include the "member of Parliament within whose constituency falls the area of authority of any such council as ex-officio member".²⁶

The composition of the DAs under the Fourth Republican Constitution differs significantly from the two previous constitutions in three respects. The first difference concerns the

²⁵ *Smith*, op. cit. Fn. 19.

²⁶ Constitution of the Republic of Ghana, 1979, Section 135.

enlarged membership of the DAs. Unlike previously where two-thirds of the members were elected by universal adult suffrage, the Fourth Republican Constitution stipulates in Section 242(a) that "one person from each local government electoral area within the district" should be elected by universal adult suffrage.

Secondly, the District Chief Executive (DCE) is included in the membership of a predominantly popularly elected DA. The DCE is appointed by the President "with the prior approval of not less than two-thirds majority of the members of the District Assembly present and voting at the meeting".²⁷ The DCE is not only the chief representative of the Central Government in the district but also the chairman of the powerful Executive Committee, which is "responsible for day-to-day performance of the executive and administrative functions of the District Assembly".²⁸

The nomenclature "District Chief Executive" (DCE) is not new in the literature on decentralization in Ghana. Under the Local Administration (Amendment) Decree (NRCD 258) of May 1974 the post of DCE (a professional civil servant) was created to perform not only those duties connected with the good order and security of the district, but also to coordinate the programmes of all government agencies in the district, including boards and corporations, to ensure their harmony with those of the District Council. In fact, the DCE was also given sole supervisory and disciplinary powers over the departments of the District Council. As Harris has rightly pointed out, the DCE acted as a

"'sub-prefect', had command over its subdivisions, both functional and geographical. He (DCE) had often been the key officer in the nomination of representatives to District Councils. ... He not only combined the dual functions, i.e., those of order and control and of development, but also played the roles of the former DAO, clerk of council and council chairman."²⁹

It must be emphasised that in heading both the executive and deliberative functions and through his additional chairmanship of the District Council's statutory committees, the control of the DCE over the decentralization reforms of 1974 was complete and total.

The DCE under the Fourth Republican Constitution differs from the one in 1974 not only because he will be working with a predominantly elected DA but also he is not the chairman of the DA. Also, unlike the DCE in 1974 who owed his position to the Head of State and could not therefore be removed by the District Council, the DCE under the Fourth Republican Constitution can be removed from office if "a vote of no confidence, supported

²⁷ Draft Constitution of the Republic of Ghana, 1992, Section 151.

²⁸ *ibid.*, Sections 151-152.

²⁹ Harris, *op. cit.* Fn. 18, p. 210.

by the votes of not less than two-thirds of all the members of the District Assembly, is passed against him".³⁰ Despite these limitations the DCE still has the potential to become the "monarch of all he surveys" and not just a mere *primus inter pares*.

Third, unlike the two previous constitutions which exclusively reserved one-third of the number of seats in District Councils to traditional authorities, the Fourth Republican Constitution deviates from this practice by stipulating that "other members not being more than thirty per cent of all the members of the District Assembly be appointed by the President in consultation with traditional authorities and other interest groups in the district".³¹ The altered and enlarged composition of the DA proves that the issue of membership is a vexed one which has not been settled since 1951.

4. Finance

A reasonable measure of financial independence is an essential element of decentralization. Indeed, financial responsibility lies at the core of the concept of decentralization. All the three constitutions have recognized this fact by the provisions made to finance decentralized units. Section 160 of the 1969 Constitution stated that the Government shall make grants-in-aid to regional, district and local councils, the determination of which is to be made and reviewed at no less than five-yearly intervals by a Local Government Grants Commission the membership of which was specified in some detail. The 1979 Constitution also followed similar lines, but improved the 1969 provisions by stipulating the establishment of a development fund out of which "fund moneys shall be made available for the execution of projects undertaken by a local government council on behalf of the government".³² The Constitution further enjoined that "not less than fifteen per centum of the net revenue accruing the Government from dues, rents, royalties or from the operations of any enterprise or undertaking of any person ... within the area of authority of a District Council in respect of land or mineral resources shall be paid by the Government to that Council for the purposes of development in that area".³³

The Fourth Republican Constitution, on the other hand, takes a further leap above the two previous constitutions by making provisions for the establishment of the District Assemblies Common Fund into which "not less than five percent of the total revenues of Ghana" are to be paid annually in quarterly instalments for the development of the DAs. In other words, the Fourth Republican Constitution drafters have found it desirable to assign a

³⁰ Draft Constitution of the Republic of Ghana, 1992, Section 152.

³¹ *ibid.*, Section 151.

³² Constitution of the Republic of Ghana, 1979, Section 137.

³³ *ibid.*

portion or share of the total tax base of the national revenue to the DAs. In this way the DAs have a reliable source of funding unlike grants-in-aid and ceded revenue which were irregular and inelastic. The Constitution goes a step further than the two previous ones by stipulating that the moneys accruing to the DAs in the Common Fund be distributed among all the DAs on the basis of a revenue sharing formula, details of which were to be worked out by Parliament. To ensure effective and equitable administration of the Common Fund, the post of a District Assemblies Common Fund Administrator is created. Other functions of the Administrator and his tenure of office are to be prescribed by Parliament.³⁴

5. *Personnel*

Although personnel constitutes the "sinews" of decentralization, none of the Constitutions has found it expedient to devote even one clause to it. This silence on the part of the Constitutions may be attributed to the absence of a Local Government Service, which was integrated into the civil service by the recommendations of the Mills-Odoi Commission of 1967. The rationale behind the merger was not only to eliminate the evils of nepotism and victimization associated with local government personnel during the Nkrumah period, but also to give local government employees the same security of tenure of office as their counterparts in the civil service.³⁵

In spite of the merger of the Local Government Service with the civil service, the "local government" units are unable to attract the best qualified personnel mainly because of the lack of basic amenities in the rural areas and the low status accorded to local government in Ghana.³⁶

6. *Revocation of Mandate by Electorate*

One of the fundamental innovations of the Fourth Republican Constitution, which was of course borrowed from the 1988 Local Government Law (PNDC Law 207), is the revocation of the mandate of a member of a District Assembly by either the electorate or the appointing body for failing to perform his statutory duties. The process of recall is supposed to ensure accountability, which has featured prominently on the agenda of the PNDC since December 1981. Indeed, the process of recall is one of the examples of a conscious and successful effort to incorporate into the Constitution the strong points of the PNDC's achievement in the area of decentralization.

³⁴ Draft Constitution of the Republic of Ghana, 1992, Section 154.

³⁵ Woode, S.N., *Making the District Assembly Work*, Tema 1989.

³⁶ *ibid.*

7. *Non-Partisan Politics in the District Assemblies*

Another major innovation of the Fourth Republican Constitution, unlike previous ones, is the non-partisan nature of elections to the DA. Section 248 (1) states categorically that "a candidate seeking election to a District Assembly or any lower local government unit shall present himself to the electorate as an individual, and shall not use any symbol associated with any political party". For the avoidance of doubt Subsection 2 stipulates that:

"a political party shall not endorse, sponsor, offer a platform to or in any way campaign for or against a candidate seeking election to a District Assembly or any lower local government unit."³⁷

The Constitution framers may have been influenced by the Report of the Committee of Experts, which adduced the following two reasons for excluding partisan politics from the DAs:

- (i) incumbent governments of Ghana have exerted undue influence on local government bodies to win political advantage;
- (ii) the non-partisan nature of the District Assemblies has tended to facilitate the mobilization of the people and to be more conducive to consensus formation, factors that are crucial to development efforts at the grassroots level.³⁸

These reasons given by the Committee of Experts are not convincing enough. Even if Ghana has a non-partisan decentralization system, it is possible for the central government to continue to exert "undue influence" over it. This is because the central government, using paternalism, has a wide array of human and material resources with which to either cajole or influence the DAs. One also doubts whether the DAs have been able to facilitate the "mobilization of the people", as the Committee of Experts claims, since most of not all District Secretaries had complained of apathy on the part of people living in their districts.

In spite of the above comments, it is important to identify some advantages of partisan politics in local government:

³⁷ Draft Constitution of the Republic of Ghana, 1992, Section 153.

³⁸ Report of the Committee of Experts (Constitution) on Proposals for a draft Constitution of Ghana, Tema 1991, p. 148.

Advantages

- (i) In the complex society of today, opinion needs to be organized to be effective. Individual opinion cannot possess the width of specialized knowledge necessary for the management of modern administration, nor can it, except in rare cases, carry sufficient weight to command attention. Party politics in local government produces both the accumulation of the necessary specialized administrative techniques and the weight of concerted opinion.³⁹
- (ii) The involvement of the major parties in local government tends to increase the national significance of local government and the key to the rejuvenation of local governments probably rests in its acceptance as a projection, on an active local basis, of national policy. This widens the whole concept of the role and significance of local government.⁴⁰
- (iii) Effective local government administration may only be obtained if there is consistency of policy in the management of local affairs and without some form of party discipline this may be difficult to achieve. Party organization ensures a definition of policy and its aims, and in doing so, provides focal points for local affairs.⁴¹

Disadvantages

- (i) Local decisions tend to be taken in prior party meetings rather than in open local government council meetings. The council may thus be in danger of becoming a mere rubber stamp of party decisions already taken. It also takes away from the public view the discussions of matters for which it is in the public interest to have been discussed openly.⁴²
- (ii) The use of the whip system and its subsequent party discipline stifles the initiative of individual local government councillors and discourages able individuals from undertaking council service.⁴³

³⁹ *Baber, M.P.*, Local Government, 3rd edition, London 1974.

⁴⁰ *Bowman, M. / Hampton, W.* (eds.), Local Democracies: A Study in Comparative Local Government, Melbourne 1983.

⁴¹ *Alexander, A.*, The Politics of Local Government in the United Kingdom, London 1982.

⁴² *Greenwood, R. / Stewart, J.D.*, The Institutional and Organizational Capabilities of Local Government, in: Public Administration, Vol. 64 (1986, Spring), pp. 35-50.

⁴³ *Leemans*, op. cit. Fn. 9.

From some of the advantages and disadvantages of partisan politics one is tempted to believe that there is a place for partisan politics in the DAs. In this regard an assembly member who stands on a party ticket should regard himself as a "local government" councillor and not just a spokesman for an electoral constituency or merely a representative of a political party. The assemblyman is a member of a welfare assembly, responsible for the interests of the DA area as a whole and although he may be influenced by his constituency and by his party, the assemblyman should not sacrifice his right of using his own judgement.

V. Conclusion

What lessons can we learn from the decentralization clauses under the Fourth Republican Constitution? First, the unusual incorporation of the decentralization clauses into the Constitution, as was the case in 1969 and 1979, gives them exceptional prestige, signifying their recognition as "fundamental rights". Second, decentralization under the Fourth Republican Constitution seems to be a "refinement" of that of the Second and Third Republican Constitutions. We however need to caution that it is not path-breaking as some people have claimed. Third, innovations, such as the revocation of the mandate of an Assembly member and the banning of partisan politics from the DAs, must be considered as a conscious, deliberate and successful effort to incorporate in the Constitution the strong points of the PNDC's achievements in the field of decentralization reform. Finally, there is a need to recognize that there is not one "right" approach to decentralization, even at a particular point of time. Any form of decentralization will have both positive and negative effects, the relative importance of which will depend on both the circumstances in which the policy or programme is introduced and the objectives behind it. This mode of analysis, which in organization theory would be described as a "contingency" approach, helps to reduce the conceptual and terminological confusion surrounding decentralization; for example, it may help to explain the complex relationship between "centralization" and "decentralization".

ABSTRACTS

The protection of economic and social rights through the United Nations

By *Bruno Simma*

The paper deals with the International Covenant on Economic, Social and Cultural Rights adopted by the UN General Assembly in 1966. After a short description of the content of the Covenant, it analyzes the nature and the specific sociological features of the inter-State obligations arising from it (progressive realization). Following that, the paper describes the method of international implementation of the Covenant, in particular the work of the Committee on Economic, Social and Cultural Rights established in 1985. It continues with a discussion of the relevance of the Covenant for private persons on the international as well as the municipal level and concludes with some observations on the character of economic and social rights as "genuine" human rights.

Decentralization under Ghana's Fourth Republican Constitution

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This article examines some of the major innovations introduced by the decentralization provisions of the Fourth Republican Constitution, which comes into force on 7th January, 1993. In the pursuance of this aim, a comparison is made between the decentralization provisions of the Second and Third Republican Constitutions on one hand and those of the Fourth Republican Constitution on the other.

The article finds the major areas of innovation to be: the enlarged composition of the membership of the District Assembly, the revocation of the mandate of a District Assembly member, the allocation of 5 per cent of total revenues of Ghana to the District Assemblies for development and the banning of partisan politics from the District Assemblies. These innovations, it must be pointed out, may be considered as the "legacy" which the Provisional National Defence Council (PNDC) has bequeathed to the Ghanaians in the realm of decentralization during over a decade of its rule.