

The Devolution Paradigm

Susanne D. Mueller

Abstract

Devolution's assumptions presume democracy, yet its proponents view it as an antidote to repressive centralized states, where its assumptions do not hold. This contradiction explains why devolution mostly reproduces the status quo rather than transforming it in transition political economies. Scholars have both supported and criticized devolution, while numerous donors, civil society activists, local politicians, and ordinary citizens still view it as a solution.

Disaggregating the theoretical assumptions underpinning the devolution paradigm and juxtaposing them against a case study of Kenya demonstrates how old incentives undermine new formal legal changes and why institutional change may be a dependent rather than an independent variable. Thus, a range of institutional initiatives from organizational tinkering, to devolution and constitutional engineering often fail in autocracies and nominal democracies.

Key Words: decentralization, devolution, institutions, democracy, accountability, corruption, change.

Introduction

By the late 1990s, most governments had experimented with some form of political devolution ranging from decentralization to federalism. It was, as one author put it, all “the rage” (Bardhan 2002, 185), including, initially, among scholars. Local critics and international organizations supported it as an antidote to corrupt unaccountable governments (Faguet 2014). They continue to herald devolution as a panacea for the many problems besetting centralized states, particularly in

developing countries at various stages of political and economic transition, thereby explaining its prevalence. Behind this positive view is a paradigm with a set of rarely discussed optimistic assumptions about how government works and how changing its architecture would improve it.

Yet, is this optimism justified? The discussion below suggests it is not, absent certain pre-conditions. It highlights a significant disjuncture between the predictions of devolution's enthusiasts and the reality on the ground, particularly in countries that are not fully democratic. Bringing government closer to citizens does not necessarily transform it. Instead, it may reinforce the status quo, contrary to the expectations of its supporters.

Below, I examine theories behind what I call the "devolution paradigm". I outline the main assumptions behind the paradigm, analyze key critiques of them, and assess how devolution has operated in practice, concluding with a detailed analysis of Kenya's experience against this backdrop. I utilize the Kenya case, along with other examples, to illuminate the political mechanisms used to undermine devolution, thereby shedding light on the process itself and not just on the results as is more common. More generally, I argue that the political economy of the state affects both the validity of the assumptions behind the devolution paradigm and the belief that its adoption leads to transformative political and developmental outcomes.

Critics have taken note of devolution's disappointing results in various countries and sectors. However, they have not viewed devolution as a paradigm, identified its assumptions, discussed the conditions under which they hold, analyzed in detail what ensues when they do not, or connected the above to specific features of democracy.

Instead, theories supporting devolution often focus on the utility of changing the formal rules and structure of government while ignoring or underrating the norms and incentives of various actors

seeking to undermine them. The discussion here emphasizes the interplay between the two, thereby highlighting the difficulties of institutional change, the power of the past in subverting it, and a consequent tendency towards “path dependence” (North, 1984). It also responds to scholars who lament the inattention paid to governance in explaining devolution’s unexpected outcomes (Bardhan 2002; Faguet 2014).

A paradigm is a worldview. It helps us understand and interpret what we see (Kuhn 1962). Competing paradigms in the social sciences shape analysis just as they do in the hard sciences. Yet, unlike the hard sciences, social scientists do not always discard paradigms when their assumptions do not hold. In part this is because paradigms and their assumptions mostly are not identified or spelled out.

Embedded in the paradigm of devolved government are a set of assumptions about the improved and fairer operation of government when it is less centralized and more decentralized (Bardhan and Mookherjee 2006; Oates 1972; Weingast 1995). They suggest that if the architecture of government changes and is closer to the people it will become more participatory and accountable, with citizens having more information, greater control over officials, and improved access to resources and public goods. Theorists also have argued that market competition would check badly performing local authorities as informed and mobile citizens would then move elsewhere (Tiebout 1956; Oates 1999; Qian and Weingast 1997).

The sections below highlight these insufficiently discussed assumptions and raise questions about them both generally and in Kenya. Decentralization’s proponents have argued that subnational authorities by virtue of being smaller and closer to citizens, would escape the dysfunctions of national governments where they exhibit fragile rule of law, weak checks on executive behavior, widespread corruption, and political competition rooted in ethnic and other types of clientelism.

In many circumstances, including in nominal democracies, these problems are either similar to or worse at the subnational level rather than better. In part, this is because old norms and incentives often undermine new formal legal changes when trying to introduce change (North, 1984), entrenched political elites are more powerful than anticipated, the basic freedoms associated with democracy are violated, and citizens frequently have fewer avenues for redress than expected.

Thus, moving from a centralized to a devolved system of government often becomes a battle between the old order and the new with numerous successful attempts to claw back whatever seeks to undermine the status quo. Looked at this way, none of the optimistic assumptions and predictions underlying the devolution paradigm are inherently true or necessarily hold. Instead, they depend on the political economy of the state in question. This feeds more broadly into North's observation that adopting the formal rules of one political economy will result in very different performance characteristics in another because of different norms, incentives, and enforcement mechanisms that shape actors' choices (North 1984, 366). Hence, the outcome of introducing devolution in Canada and Outer Mongolia is likely to be different. This reality raises broader questions about the role of institutional change and the conditions propelling or derailing it.

The Historical Roots of Devolution

A standard definition of decentralization is "the devolution by central government of specific functions...to regional and local governments that are independent of the center within given geographic and functional domains" (Faguet 2014, 3).

Devolution can take different forms ranging from various degrees of decentralization to federalism (Agrawal and Ribot 1999). Its historical roots are varied. Principal among them is the idea of self-government operating best if it is closer to the people with power shared between central and local

authorities, especially in societies with a large land mass, a large population, and diverse regional characteristics. Here federalism in Canada and the United States come to mind, as do examples from Brazil, Germany, Switzerland, Argentina, Australia, India, Pakistan and South Africa, among others. However, there also are other forms of devolution encompassing different types and degrees of decentralized power in political systems with different characteristics.

In Africa, governments mostly have been highly centralized in part due to the imposition of colonial rule and the desire of Africa's new rulers to keep that power intact. Yet, factions of the political class also have supported devolution when it dovetailed with their changing political interests, as the examples below suggest.

Kenya's federal constitution at independence in 1963, known as "majimboism", and consisting of eight regions with their own elected assemblies, ended within one year after which government became increasingly centralized. Yet, the yearning for federalism never totally died. Before independence, Kenya's smaller ethnic groups, and their political party, the Kenya African Democratic Union (KADU), supported federalism. They feared Kenya's larger ethnic communities, particularly the Kikuyu and Luo, would overpower and marginalize them. These same ethnic groups controlled the independence movement and its political party, the Kenya African National Union (KANU). Hence, the fears of ethnic domination persisted as government became more centralized and the power of the president increased. Later, as state repression mounted, opposition politicians, supported by civil society, promoted federalism while they were out of power to check executive authority. However, they themselves were less keen to devolve central government's authority once they were in power.

Following independence and a civil war, Uganda adopted a decentralized government with local Resistance Councils (RCs) after President Yoweri Museveni came to power in 1986. One rationale

was to provide Museveni with a political antidote to former President Milton Obote's powerful civil service inherited from the colonial period, and known as the provincial administration. While the RCs introduced a system of elected local authorities, another of its aims was to act as government's eyes and ears in the countryside and to reduce the dominance of the provincial administration's old guard (Green, 2015).

Apart from the above, pressure for decentralization in Africa largely came from civil society activists and aid donors beginning in the 1990s after the collapse of the Soviet Union. By this time, there were widespread internal and external demands for democratization to curtail central government repression and corruption, to increase local participation, and to improve accountability. Both the World Bank and various United Nations agencies began to promote decentralization to improve the delivery of their aid and to increase transparency (World Bank 2014), often becoming "fervent advocates" (Grindle 2007, 5). Initially, this included bypassing centralized governments by using local civil society and non-governmental organizations and later by promoting decentralization. Donors supporting devolution often proposed administrative and technical "capacity building" solutions for what in reality were political problems.

Notwithstanding the need for improved aid delivery and transparency more generally, the desire to promote or stifle various forms of decentralization had a political impetus and generally did not stem from evidence about its broader utility or feasibility as the above examples from Kenya, Uganda, and donor driven initiatives all demonstrate.

Positive Assumptions

Devolution's advocates believe it improves government and promotes democracy. Yet, the assumptions underpinning the devolution paradigm mostly depend on the existence of

democracy, including its basic freedoms and the rule of law. Hence, there is a contradiction between the assumptions, initially discussed by scholars of federalism and decentralization in advanced democracies (Oates 1972; Weingast 1995), and the conditions necessary for them to work elsewhere (Boone 2003; Rodden and Rose-Ackerman 1997).

The first assumption is that the law fundamentally shapes institutional performance. Hence, the focus on constitutional engineering without taking into account government's willingness to enforce the law. The emphasis on the law and institutions stems from early works in U.S. public administration known as "formal legal" analysis (Sait 1938; Friedrich 1968). Its proponents mainly understood government as a set of structures and functions flowing from different types of formal legal institutional arrangements rather than from the informal incentives of powerful actors with conflicting interests who might subvert rather than uphold the law.

The second assumption is that under devolution citizens would have greater access to local information and greater opportunities to participate, leading to better oversight and accountability over local politicians and administrators. The anticipated result would be positive changes in the behavior of citizens and officials, leading to improved outcomes. Yet, many of the conditions and basic democratic freedoms necessary to act on that information to check officials and politicians, including the freedom to do so without retribution, do not always exist.

A third assumption is that the incentives of local policy makers would make them less prone to clientelism, ethnic favoritism, and corruption than their national counterparts; they would be among their own and subject to greater checks on their authority, including from social norms and elections. Hence, the belief that the allocation of public sectors goods and other outcomes would improve under devolution with citizens getting more of what they wanted, less of what they did not want, and feeling less marginalized than before. However, the assumption concerning

improved local incentives does not necessarily hold. Politicians often have an even freer hand in small rural societies than they do nationally as citizens lack anonymity, surveillance of them is easier, and they may fear reprisals from officials, whose power may go unchecked (Mueller,1984). Additionally, even in more ethnically homogeneous devolved authorities, clientelism is operative. Politicians often favor their own ethnic group, home areas, and clans (Sheely 2018) or support national government preferences over those of citizens to obtain favors for themselves. Furthermore, in many parts of the world, citizens' mobility is limited legally or by socio-economic factors, including access to land or the desire to be among one's own, with dissatisfaction not necessarily leading to mobility or competition among devolved authorities (Levy 2007, 459-60).

Critiques of Assumptions

Behind the assumptions just outlined are expectations about the power of formal legal changes inducing actual changes in structure, political behavior, and substance.

Against these positive assumptions, critics argue that legal changes to promote devolution often are undermined by entrenched powers and interests determined to maintain the status quo and that the much heralded bottom may engage in behavior that is similar to or worse than the top. This explains why constitutional change, improved information, and other theoretical legal checks do not automatically induce new behavior and better outcomes and why old behavioral patterns often persist and undermine new legal changes (Mueller 1984; Mueller 2014; North 1984). Juxtaposed against these realities, the positive assumptions behind the devolution paradigm seem overly optimistic, if not Rousseauian.

First, in spite of a legal devolution of power, some countries have experienced a recentralization of state power or "state capture" instead (Ribot et. al. 2005). Political elites do not necessarily

support the legal spirit of devolution and may instead undermine it. Governments have a variety of ways of strangling lower level devolved authorities, including starving them of funds, creating more and more units that are fiscally and substantively unviable, or simply buying off local elites (Grossman and Lewis 2014). Argentina provides a reverse example of powerful provincial governors, with strong clientelistic networks and limited competition, capturing the state and national politics to the detriment of democracy and accountability (Ardanaz et. al. 2014).

Second, even when power is successfully devolved, local governments sometimes become a form of “decentralized despotism” with government officials at the bottom behaving the same as those at the top (Mamdani 1996). The assumption of various forms of citizen checks on local politicians may not happen either because the costs of doing so are too high or because of clientelism and collusion. These tendencies are accentuated in rural settings where politicians with considerable power are supported by local and national administrators leaving citizens with little regress and fearing sanctions if they object. In such cases, the bottom may be no better than the top, but instead a microcosm of it, demonstrating that it is part of the same political economy. The bottom, like the top, is full of cleavages and disparities in power that can and often do undermine the way devolved authorities operate in practice. Hence, many of the assumed checks on local authorities fail to operate as anticipated for the same reasons as they do nationally: insufficient information, complicity, and fear.

Third, rather than inducing greater fiscal integrity, devolution may increase corruption. If the assumed conditions of devolution’s success including formal legal checks on local politicians from citizens, the law, social sanctions, and elections do not hold, devolution may increase fiscal irresponsibility rather than accountability (Fan et.al. 2009). Corruption then may worsen under devolution due to the combined proliferation of lower level units and a lack of oversight. Even

citizens aware of increasing corruption by local officials in devolved governments may not act on it because they themselves are beneficiaries, because more information about corruption's pervasiveness makes them want to join in rather than halt it (Corbacho et. al, 2016) or because they fear retribution. Furthermore, if citizens possess information but do not check politicians as the paradigm assumes, then there are few incentives for politicians to behave differently or better than their national counterparts do. Even losing elections may not be sufficient to improve behavior if the short- term financial rewards from various types of rent seeking are high enough.

Fourth, findings from different parts of the world suggest that devolution may propel rather than improve political and economic discrimination against ethnic and religious minorities thereby further marginalizing them. (Manby 2009). As lower level units increase, often becoming more homogeneous, so do the number of majority/minority situations, leading to new groups of marginalized citizens. Additionally, there may be political motives for both local and central politicians to favor co-ethnics (Hassan and Sheely 2017; Grossman and Lewis 2014), with clientelism thereby undermining the anticipated checks on power.

Fifth, as all of the above implies, greater public goods, better service delivery and other assumed positive outcomes do not automatically improve under devolution. They can, but also may worsen, particularly if lower level units are sufficiently unviable, corrupt, and do not fear legal accountability from government or citizens.

General Findings

Scholars examining devolution in practice have produced an impressive critical literature (Treisman 2007; Faguet 2014; Bardhan 2002; Weingast 2014). However, they have not explicitly spelled out and interrogated the assumptions and critiques of the devolution paradigm or

juxtaposed them against a case study, as is the intention here. Yet, many of their findings suggest that the positive assumptions behind the devolution paradigm discussed above do not automatically hold. In short, changing the architecture of government does not necessarily change its substance; the bottom is not inherently preferable to the top; small is not necessarily beautiful, and devolution does not guarantee better information more participation, increased accountability, a reduction in ethnic favoritism, or improvements in the distribution of public goods.

There is some consensus around the following:

First countries that introduce various types and levels of devolution do it for different reasons ranging from mitigating violence and ethnic tensions in Columbia, South Africa, and Ethiopia to improving democracy in Great Britain, to gaining greater control, among other motives (Faguet 2014, 2).

Second, the outcomes of similar types of devolution may take on the characteristics of the systems themselves rather than transforming them. Introducing devolution in economically advanced democracies is likely to work better than in autocracies or in transition political economies. The motives and outcomes of introducing federalism in Canada are likely to differ from those in the former Soviet Union, China, Argentina, and India for different reasons.

Established democracies, even with all their challenges, shortcomings, and deficiencies, have greater incentives to make devolution effective and accept the procedures that are likely to enhance it in contrast to systems where the formal legal changes are not enforced. These procedures include the rule of law, checks and balances of power, independent courts, and competitive elections to hold officials accountable. Advanced democracies also have programmatic political parties and civil society interest groups. Along with a free press, they have the freedom to organize and put

pressure on government to act in accordance with the law and more fairly distribute public goods with little fear of retribution. Given the above, Faguet's conclusion that "decentralization both improves and worsens...outcomes in different countries at different times, leaving us unable to draw broader outcomes" is hardly surprising (Faguet 2014: 10).

Bardhan goes a step further. He argues that decentralization fares poorly in developing countries because "structures of local accountability are not in place ... and local governments are often at the mercy of local power elites who may frustrate the goal of achieving public delivery to the general populace of social services, infrastructural facilities and the conditions conducive to local business development" (Bardhan 2002, 202). Like Faguet, he concludes that unless "governments are more responsive to the felt needs of the majority" (Bardhan 2002, 187), which they are mostly not in autocracies or in many transition political systems, devolution will be undermined in practice.

Weingast agrees, maintaining that in developing countries, where institutions are weak, predatory leaders who face "relatively few constraints" can alter them "to suit their purposes". This tends to undermine decentralization as those in power can "reverse or compromise any or all of its benefits".

In contrast, democracy, with all its flaws, setbacks, and tensions, has certain features that are more likely to preserve it, as noted above. Preservation becomes "self-enforcing when political officials at all levels of the hierarchy have incentives to honor the rules, including one and other's power and authority" (Weingast 2014, 15). In contrast, non-democracies often are unable to make credible commitments to durable institutions, policies or citizen benefits as their leaders can "engineer major changes in institutions almost at will" and often do so (Weingast 2014, 18).

Treisman goes further arguing that there is nothing inherently preferable about decentralization. He insists that many of the positive assumptions underpinning the devolution paradigm discussed earlier are not necessarily true in practice nor intrinsically absent from more centralized systems

(Treisman 2007). Yet, he too finds that in developing as opposed to developed systems, the greater the number of tiers of government the greater the corruption, with each additional tier of government increasing informal payments by 2.6%. Increasing the number of local government personnel also correlates with corruption in developing countries. Fan, Lin, and Treisman also observe that elections in non-democracies mostly have no mitigating effect on devolved corruption as elites can buy off or intimidate citizens (Fan et. al. 2009). Hence, devolution may actually worsen the defects it was supposed to improve by increasing corruption and state capture and reducing accountability (Bardhan 2002). These disincentives dovetail with the reality that local governments often are weak administratively and technically and either are unable to monitor devolved authorities or too frightened to do so.

Additionally, increasing the number of units of local government may increase their ethnic homogeneity. This tends to favor co-ethnics over non-co-ethnics whether in the distribution of public goods or even citizenship rights as Manby notes concerning the introduction of federalism in Nigeria and Ethiopia (Manby 2009, 109-14).

Given the above, the poor and minorities in developing systems sometimes find they are worse off in devolved authorities and ironically “look to central government for relief” (Bardhan,2002, 188) with Bardhan suggesting that “decentralization may need some protection from its own enthusiasts” (Bardhan 2002, 187).

Devolution in Kenya.

Kenya’s experience with devolution illustrates the disjuncture between the theories underpinning the devolution paradigm and the reality on the ground. It documents in detail the mechanisms used

to undermine the assumptions discussed earlier thereby going beyond the generalizations noted above.

Background

After decades of unmet political pressures for greater democracy and accountability, Kenya's new 2010 constitution introduced new devolved authorities. The constitution's passage responded to longstanding historical demands by marginalized groups and areas for increased local power and resources, including control over land (Ghai, 2008; Kanyinga 2016; Wolf 2010). It also aimed to diffuse regional tensions and to reduce Kenya's recurrent electoral violence stemming from high stakes ethnic contests for the presidency (Mueller 2008; Mueller forthcoming). It did so by creating alternative sources of local political power to check centralization, executive power, and the perception of elections as zero-sum winner take all events (Bosire 2014).

After independence in 1963 and the passage of the Local Government Act in 1965, local authorities in Kenya lost power, resources, and administrative functions to the national government as it became increasingly centralized, repressive, and its provincial administration took charge of most local development and security functions. Modest attempts to empower local authorities including the 1961 Special Rural Development Program and the 1983 District Focus on Rural Development withered over time, with the District Commissioner, appointed by the central government, continuing to head District Development Committees (Oloo 2014; Tordoff 1999, 561-62).

The passage of the 2010 constitution, preceded by a referendum, largely upended this entrenched system, notwithstanding tensions between the old and the new. Some wondered if old incentives would undermine new formal legal changes and if government would support the new architecture.

Modeled on state governments in the U.S., the constitution created 47 counties, with new administrative, fiscal and political powers, in place of districts, raising Northian questions about its transferability to another context. The constitution created new elected positions for Governors (47), Deputy Governors (47), Senators (67), and County Councilors (2,222), including women's representatives and other marginalized groups (Government of Kenya 2016, 106-22). It guaranteed funding (at least 15% of the national revenue and closer to 30% in practice) to devolved authorities based on a formula to ensure equity while also creating a new and enlarged local administrative apparatus to carry out new sectoral functions, sometimes shared with the central government, at the country level (World Bank 2014). It also created an equalization fund of 0.5% of the national budget to top up funds in historically marginalized areas. The result was a transfer to counties of \$3 billion a year and a larger wage bill (World Bank 2016).

Kenya has had two elections to fill the new positions, one in 2013 and another in 2017, with implementation beginning only after the 2013 election.

General Findings

In terms of the optimistic predictions behind the devolution paradigm discussed above, Kenya has had a mixed experience (Government of Kenya 2016). The main effect of implementing the new formal legal changes has been more resources, jobs and public goods at the country level. Citizens have welcomed these changes. Yet, they come at a cost. Many patterns of national political behavior from the past persist locally. Anticipated changes in participation and accountability have not occurred, leaving citizens feeling frustrated and powerless. While there have been increases in the distribution of public sector goods at the local level, particularly in the social sectors, we know little about who is getting what, when and how (Lasswell 1950). Massive corruption within country governments has cut into the availability of public sector goods and increases non-

productive expenditures, possibly threatening the future viability and integrity of local government itself (Government of Kenya 2013-18). The inability, and in some cases unwillingness, of counties to generate anticipated revenue, makes them more vulnerable to central government control. Intergovernmental relations remain adversarial and frosty. Counties say the national government is “not fully supporting devolution” while “the national government views counties as wasteful and ungrateful” (Government of Kenya 2016, 35). There also are power struggles within and between different layers of government (Oruko, 2018). Devolution has not decreased the salience of presidential power or the importance of high stakes ethnic politics to win it (Mueller forthcoming). Nor has it necessarily affected the potential for electoral violence. Little data exists to ascertain if devolution has reduced perceptions of marginalization in certain areas with reports still suggesting some discrimination against ethnic minorities.

Faguet’s notes evaluations of devolution elsewhere tend to focus on output data by sector rather than assessing its effect on changes in the quality of governance (Faguet 2014). Bardhan discusses the difficulties of generalizing about devolution’s effect when most studies incorrectly deduce causality from correlations, do not control for other factors, and do not examine the causal processes at work (Faguet 2014; Bardhan 2002). These same methodological issues, incomplete data, and other factors limit our understanding of devolution in Kenya and its overall effects, in part because it is only five years old (Mohamed 2018; D’Arcy 2018; Kwach no date); Mariru 2018).

Despite these difficulties, a 2018 Ipsos survey indicates widespread and growing enthusiasm for devolution since 2014, irrespective of party and region (Ipsos 2018a.). Support has climbed from 69 percent in late 2014 to 84 percent in March of 2018, with those against it falling from 28 percent to 13 percent for the same period, with 84 percent of Jubilee’s and 86 percent of the National

Super Alliance's (NASA's), Kenya's two main political parties' followers behind it. Disaggregated by region, the approval ratings are also consistently in the mid -80s for all areas, with the exception of the Coast (90 percent) and the North East (75 percent). These positive views of devolution persist notwithstanding reports from Kenya's Auditor General documenting massive corruption within Kenya's devolved authorities since 2013 (Government of Kenya 2013-2018).

A 2017 USAID study (USAID 2017) found that country governments had implemented the required framework to carry out their devolved functions, but sometimes lacked adequate resources to do so. Counties performed well when obtaining funding required them to adhere to certain laws and procedures and significantly less well in other areas. Hence, counties had a compliance rate of 92 percent for the county budget process, 91 percent for financial expenditure and procurement, and 90 percent for the functionality of the County Assembly. It is unclear how these positive numbers dovetail with the findings on corruption. However, in other areas, compliance rates were poorer. There was only a 60 percent compliance on human resources and administrative structures, 63 percent on public participation, and 60 percent on resource mobilization with just half of the counties meeting their targets due to elected officials discouraging taxation for political reasons. Other findings include 58 percent on planning, 57 percent on access to information which has reduced the potential for effective participation, 55 percent on implementing sectoral plans, 53 percent on service delivery, 51 percent on monitoring and evaluation and reporting, 50 percent on inter-country relations, and only 41 percent on policies, laws, administrative procedures and implementation. While counties scored 65 percent on adhering to counter-marginalization rules, the report's findings raise concerns about larger ethnic groups dominating the composition of country civil services.

The study also observed there were few incentives to devolve power to lower level units and a propensity to centralize at the county level to the disadvantage of the sub-counties and wards. It indicated that while mechanisms for public participation existed they did not have the funding to work, whether by design or neglect, and noted tensions between Governors and County Assemblies that impeded progress.

State Capture

One question arising from the discussion of the assumptions behind the devolution paradigm is the extent to which legally devolved powers are independent of the national government or instead are vulnerable to state capture and recentralization by the central government. Findings here indicate that national cleavages reproduced locally, central government policies, and inadequate revenue all can impinge on county autonomy and independence. This in turn suggests that the success or failure of devolution depends on more than formal legal institutional changes.

In a referendum on the constitution in 2010, over two thirds of voters supported devolution with later opinion polls climbing to over 80 percent (Cheeseman et. al. 2016). Yet, fears persisted, and continue to persist about key figures in central government, who long have opposed devolution, attempting to recentralize authority (Kegoro, 2019a). Government's decision to retain Provincial and District Commissioners, historically the administrative arm of executive authority, under new names further fueled these fears and still does so.

The examples below also suggest the state may either embrace devolution or undermine it opportunistically depending on what is at stake. Blaming local authorities is useful when there are problems government does not want to assume, while subverting them may be equally beneficial when something as important as land titling or winning elections is at stake.

According to some scholars, devolved authorities in Kenya are less susceptible to state capture than one might imagine. County Governors, they argue, have proved “willing and capable” of protecting their positions as local pressures make it “politically dangerous for them to be coopted by the center” and thus “has narrowed their options when negotiating with the national government” (Cheeseman et. al. 2016, 2, 5). They note that while many expected President Kenyatta’s pro-government Jubilee party governors would be more vulnerable to central government pressures, even they supported increasing revenue to the counties.

However, evidence also exists of attempts by Jubilee at the national level successfully putting pressure on local Councilors and MPs to mobilize votes for Kenyatta during the 2017 presidential election rerun (Waddilove 2019). These elected officials felt working for Jubilee was in their interest and something they could not refuse because of their own dependence on the center for patronage and support (Waddilove 2019). This fell far short of state capture and a recentralization of power. However, the dynamics of the 2017 presidential election rerun demonstrated local Jubilee leaders’ dependence on the center, including the way national pressures could shape county level politicians’ behavior and reduce their autonomy locally.

Other findings are also less sanguine about the potential for counties to resist state capture and recentralization. D’Arcy and Cornell note that a recentralization of authority has happened elsewhere, including in Uganda and Burundi, and cannot automatically be discounted (Darcy and Cornell 2016, 271-2). One tool for central government is to increase the regulation of devolved authorities. Currently, Senators who resent the greater power of Governors have used their control of Country Development Committees to frustrate Governors with some County Councilors having tried to impeach both Governors and Senators (Steeves 2015). This could make both groups, but

Senators in particular, more susceptible to central government's pressures to gain further influence and power for themselves.

The greatest potential for recentralization of power stems from the reluctance and/or inability of devolved authorities to raise sufficient revenue (Steeves 2015; Wanjiri 2014; Government of Kenya 2016, 32). This makes local authorities more dependent on the center and more vulnerable to it. A World Bank study cites attempts to introduce controversial new charges in parking fees, business permits, health inspections, and billboard charges, in one case by 350% in Mombasa (World Bank, 2014), which then resulted in protests, both at the Coast and elsewhere (Government of Kenya, 2016: 32). Wanjiri (Wanjiri 2014) also documents the same syndrome in her study of revenue mobilization in Laikipia and Taita Taveta. This included opposition to taxation, non-compliance, protests, ill equipped staff, difficulties imposing taxes in areas such as land rates due to out of date and incorrect valuations and in imposing fees for services when counties charged but failed to deliver them. Additionally, she found some counties did not have the potential or ability to meet their targets, something also noted in a 2016 government study (Government of Kenya 2016, 31-32).

In his discussion of Mombasa, Chome (Chome 2015, 301) finds county officials subject to conflicting pressures: pressures from the center to meet technocratic expectations, including raising revenue for development, and pressures from below for patronage and favoritism, which, if they failed to honor, could lead to their losing power in the next election. He defines the problem as "elite vulnerability" to clientelism rather than elite capture from the center, but also indicates that the counties' "strong dependence on revenue from national government" has the potential to undercut their independence.

A 2016 Government of Kenya audit of devolution found “counties facing serious challenges on...revenue collection, with some counties collecting less than what the defunct local authorities, municipal and/or country councils used to collect when combined”. As of 2014, business permits (37 percent), user-fees (32 percent) and property rates (31 percent) were the main sources of county revenue, with some counties forced to borrow from local banks to pay salaries because of shortfalls and an inability to meet their revenue collection targets (Government of Kenya 2016, 31, 29).

In the case of reforms in land administration following the 2010 constitution, Boone demonstrates how the Ministry of Lands in conjunction with various national and local “veto players” was able to stymie the working of the newly created National Land Commission and its County Land Management Boards (CLMB) both by changing laws and through informal interventions. The results led to what Boone calls an effective “claw-back” of executive power (Boone 2019), something also noted by others (Kegoro 2019b; D’Arcy and Nistotskaya 2019). These findings lend empirical support to points made earlier in this paper about why devolution and other institutional reforms often are undermined in practice by old incentives.

Apart from state capture by national elites, the potential also exists for local elites and business interests to capture county level governments. This appears to have happened in the case of Nakuru County. There, local government officials ignored rules and safety regulations that led to the collapse of the Solai Dam in 2018 to benefit the dam’s owners and their businesses (KHRC 2018). In a government survey on perceptions of corruption, 32 percent of the responders also identified the award of tenders as an area where corruption of local authorities also was rife, suggesting a further potential for state capture.

In the area of health, country level hospitals have lost power, autonomy, decision-making, and access to funds under devolution. Here, capture comes not from the national, but country level

government. Hence, doctors and staff at country level hospitals and personal feel short changed by devolution and think they were better off under the old centralized system (Barasa et. al. 2017). This conforms to some findings elsewhere noted earlier where devolved power seems worse than that at the center and highlights the point made by the USAID study discussed above about the recentralization of power at the country level.

Decentralized Despotism, Participation and Accountability

One question arising from the assumptions behind the devolution paradigm and the critiques of them is whether behavioral changes would accompany the formal legal changes of devolution. Would elected representatives and administrators behave differently and better than national officials or the same? Would county governments be more accountable to citizens and would citizens' local knowledge and information assist them in checking the power of their elected officials and bureaucrats? If so, would counties then be more honest and less corrupt than central government and if not why not?

D'Arcy and Cornell (D'Arcy and Cornell 2016) find that while the form of government has changed with devolution, the substance has not. According to them, the winner take all ethos is still intact. The only difference is a change from the "It's Our Turn to Eat" mentality to "It's Everyone's Turn to Eat". They argue the main attraction of devolution and the enormous enthusiasm for it stems from the increase in positions and resources at the local level. In short, it is still the same game with new local actors. Hence, the forces prevailing at the county level and the behavior arising from them do not differ from those at the center: the agglomeration of elite power, corruption, neo-patrimonialism, and favoritism of co-ethnic majorities.

The signals some locally elected officials initially sent suggested they were keen to display the trappings of power. Governors attached Kenyan flags to their cars, insisted on being called His Excellency, engaged in “rent seeking and ethnic patronage politics” (D’Arcy and Cornell 2016, 249), and spent more on sitting allowances than allowed and more on foreign travel than their national counterparts (D’Arcy and Cornell 2016, 264, 266). Devolved officials did not act as if they were closer to or more interested in grassroots concerns. Instead, complaints surfaced especially about the Members of County Assemblies (MCAs): about their profligate personal spending, the reality that their monthly salaries were higher than most government departments and that “they outnumbered the total number of doctors in the country, and ...the total number of teachers in Turkana County” (Ayaga 2016). Accused of “looting and incompetence” (Ngugi 2017), others have called for their impeachment or the elimination of MCAs altogether (Mwangi 2018).

Beyond what D’Arcy and Cornell have documented, our knowledge is incomplete. Corruption is rampant, according to the Auditor General’s reports and local newspaper articles. Local officials are engaged in profligate personal spending which saps what is available for legitimate projects. Some county administrations have given more jobs to members of the dominant ethnic groups than to marginalized minorities, but we do not know the full extent of this (Amadala 2019).

There are some checks and balances. Many county officials lost their seats in the 2016 elections, but we do not know if their replacements differ from those who lost. Beyond this, citizens at the county and sub-county level lack sufficient information, funds, and avenues for increased participation and accountability (USAID 2017; World Bank 2014).

Concerning participation, a 2016 Afro-Barometer Survey on devolved governance found that 81 percent of respondents report that “it is very difficult to participate in county government” while 77 percent say they “never had any contact with county assembly members” (Mitullah 2016).

The results of a survey of all counties by the Kenya National Bureau of Statistics dovetail with these results. Over 40 percent of respondents said they had no influence over either the county or national government, with more than 24 percent replying only a little. This translates into almost 70 percent admitting they had either no or hardly any influence over government at either level. Another set of findings on the extent to which the national and county governments reflected their needs found similar results; over 34 percent replied “never” or “hardly ever”, with another 36 percent saying only in “small areas”, translating to more than a 70 percent level of dissatisfaction. Furthermore, 92 percent of citizens surveyed had not participated in any country meeting on the budget, on laws, or on policies (Government of Kenya 2016, 20-21, 118).

A 2015 press release of another survey by Afro-Barometer found that individuals do not report corruption because of “fears of consequences and government inaction” (Afro-Barometer 2015). A 2017 report of a survey by Kenya’s Ethics and Anti-Corruption Commission (EACC) confirms the Afro-Barometer findings. The EACC found 27 percent of respondents did not report instances of corruption because they knew no one would take action, while another 26 percent said they feared intimidation. Asked why most corruption went unreported, 77.6 percent of respondents cited a fear of reprisals (EACC 2018, 26, 28). This suggests that a lack of information may not be the main explanation for low participation.

Hence, the notion of devolved systems automatically inducing better government, including greater citizen involvement and accountability, as the positive assumptions behind the devolution paradigm assume, seems not to be occurring. These findings dovetail with the results of general research elsewhere and the critiques of the assumptions of the devolution paradigm, discussed earlier.

Increased Corruption and the Distribution of Public Goods

Another question arising from the general literature is whether more levels of government would increase corruption and how this would affect the positive assumptions about devolution, including the anticipated changes in behavior of county level politicians and administrators leading to improved outcomes including less corruption and more public sector goods.

Fan, Lin and Treisman's (Fan et.al. 2009) finding of corruption increasing along with more tiers of government holds for Kenya. County-by-County audits from the Auditor General's office in Kenya (Government of Kenya, 2013-18) document extensive corruption since 2013. Kenya's Ethics and Anti-Corruption Commission (EACC) also lists Kenya's most corrupt counties (*Ethics and Anti-Government Commission* 2018).

The Auditor General's reports, which are independent, reveal numerous illegal expenditures particularly by elected members of County Assemblies. They include the following: flagrant discrepancies between budgets and expenditures, expenditures unsupported by any documentation, unnecessary and unauthorized foreign travel and per diem expenditures, fake claims for sitting allowances, inflated car and mortgage loans, insurance and car maintenance costs. The reports also find questionable tenders to businesses, the violation of existing procurement regulations, failures to bank revenue collected, and the existence of multiple bank accounts, among others (Government of Kenya 2013-18). One result is not just a general increase in government wages and expenditures under devolution, but also a large rise in unsupported expenditures from 2 percent, or Ksh. 34 billion, in 2012/13 to 5 percent, or 67 billion in 2013/14 (Government of Kenya 2016, xx, 93).

Furthermore, there is no definitive evidence that “more money is going to the grassroots under devolution than before” (Government of Kenya 2016, 94-5).

The Ethics and Anti-Corruption Commission (EACC 2015, 2018) also documents increasing corruption in devolved counties. A 2017 study found the highest levels of bribery in country level finance and planning, health, and transport departments (EACC 2018, 54). The World Bank voiced a related early concern: that only 21 percent of country budgets went to development, while salaries and administration took up 46 percent and 30 percent respectively (Steeves 2015, 465). One reason for this misallocation could be large-scale documented corruption at the country level.

The overall effect of both corruption and the skewed allocation of country resources by elected county officials and administrators is the same: a reduction in what is available for public goods as opposed to personal consumption, kickbacks, and clientelism.

The high level of documented corruption in Kenya’s counties and the misuse use of public funds by locally elected officials raises the question of why there still is such widespread support for devolution. Citizens are not ignorant. In the Kenya National Bureau of Statistics survey, 80 percent of respondents thought corruption “was rife in their county government” and even identified the worst areas as tender awards (32 percent), employment (40 percent), scholarships and bursary awards (10 percent), health sector (4 percent), and other (5 percent)(Government of Kenya 2016, 29). More recently, the results of a 2018 Ipsos survey revealed that 81 percent of respondents were aware of corruption in Kenya, with 70 percent saying no one would be convicted and 40 percent attributing this to “political protection” (Ipsos, 2018b). Furthermore, the media has not been silent on these matters. Hence, citizens are not ill informed even if they do not have all the details, are afraid to act on what they know, or do not act because they themselves benefit from corruption in some way or hope to do so.

It seems two factors are at work. First, the delivery of public sector goods has increased under devolution, particularly in health, education, and water. Second, citizens' enthusiasm for devolution reflects that reality, simultaneously acknowledging corruption while discounting it.

The transfer of funds to the counties has increased from Ksh 197.7 billion in 2013/14 to Ksh 272 billion in 2016, with an increase in public expenditures and wages and in funds for development spending. A government audit notes that devolution is delivering results consistent with "people's expectations of increased access to services" particularly in health, education, agriculture and water (Government of Kenya 2016, 201, xvi, xix). Yet, because budget reporting across sectors is not the same for all counties, it is not possible to get comparable "data to assess the impact of devolution" or even to know where exactly county budgets have gone by sector. Is it mostly salaries and wages, buildings, or is it going to improved or previously non-existent services and to whom (Government of Kenya 2016, 43, 46)?

Asked why they supported devolution in spite of widespread local corruption, citizens replied as follows : "at least we have a road now", "some hospitals got maternal care leading to fewer deaths of mothers and babies", and "I was able to connect water and electricity in the rural areas easily and quickly unlike the past" (Interviews 2018).

If these comments are indicative, citizens may find that what they are experiencing under devolution compares favorably to public service delivery in the past and is no more corrupt than what occurs nationally (Maina 2019). Transparency International's latest Corruption Perception Index ranked Kenya 143 out of 180 countries and one of the 50 most corrupt countries in the World (Transparency International 2018). Its perception of corruption index of 28 out of 100 for Kenya also placed it below Africa's low average of 34. Yet, under devolution, many citizens are receiving, or perceive they are receiving, tangible benefits compared to the past including more local

resources, jobs, power, and a greater ease of doing business locally. Another possible interpretation is that the initial “big bang” effect of devolution may have sheltered citizens from the full impact of local corruption.

Elsewhere, research from Indonesia and Europe suggests that citizens seem to derive satisfaction from exerting greater direct control over the *process* of local government and affairs even when this has no or little substantive effect on their welfare. The effect seems greatest when the shift in control is away from poorly performing or corrupt governments: from local governments in Indonesia to popular referenda and from national governments in Europe to local authorities (Olken 2010; Rodriguez-Pose and Tselios 2019).

Beyond this, in Kenya we still know little about what differentiates more successful counties such as Makueni County from those that have not delivered or if corrupt local officials losing elections eventually will act as a general corrective. Makueni has built a fruit processing factory (Mutavi 2018; Aglionby 2018), thereby increasing employment and revenue, and has introduced an innovative new system guaranteeing free health care for all (Gathera 2018). Elsewhere, Kakamega and Kwale have success stories of their own in dairy farming and mining (Waikenda 2018). Nevertheless, the most recent Auditor Generals’ reports suggest corruption is still significant even in these counties.

For now, Treisman’s finding holds along with D’Arcy and Cornell’s observation that devolution has produced a great deal more of the same from the past, in line with what the critiques of the positive assumptions underlying the development paradigm argue. Yet without more studies by county and sector, it is impossible to generalize fully about what is occurring or its extent.

Marginalization of Ethnic Minorities

Another question arising from the assumptions underpinning the devolution paradigm is whether marginalized areas would feel less marginalized under devolution and if ethnic and other minorities within these and other areas would be treated better or would fare worse than they had in the past.

Marginalized populations often support devolution (Grossman and Lewis, 2014) whereas ethnic majorities in devolved authorities frequently discriminate against ethnic minorities. There is a vast literature on co-ethnic favoritism in Kenya by politicians including in the distribution of public and private goods that follow from having a co-ethnic as president and in other political positions of power (Mueller forthcoming).

There is evidence of ethnic marginalization occurring within devolved counties in Kenya since devolution. Yet, to date the information available is limited (Government of Kenya 2016, 167-69; Amadala and Mbula 2019). Hence, it is impossible to document its extent, its effect on how government operates, or whether and how it has infused various devolved sectors. What we do know to date is quite general.

D’Arcy and Cornell argue that the main reason devolution is so popular is “that a new cadre of the elite and every ethnic group saw it as their turn to ‘eat’ state resources that traditionally were available only to those holding power at the center” (D’Arcy and Cornell 2016, 248).

However, this winner take all mentality also has the potential to benefit majority ethnic groups and to exclude “trapped minorities” in devolved counties. In the first group of elected Governors, all but four came from the majority ethnic community. In 29 of the County Executive Committees

(CECs), which are appointed by governors, the majority ethnic group held most of the seats, while 16 were mono-ethnic, with both violating the legal requirements of “ethnic balance” (D’Arcy and Cornell 2016, 263-66). Otherwise, in some places “trapped minorities” (D’Arcy and Cornell 2016) feel vulnerable and threatened. In others, devolution has strengthened the power of new sub-groups (Nyabira and Ayele 2016), leading to new dynamics of inclusion and exclusion. This majority minority dynamic also may have increased the power of County Councilors from majority ethnic groups at the local level given their greater access to public funds and their ability to engage in corruption. Yet, to date one has not heard of anything comparable to the severe forms of ethnic discrimination experienced by minorities in federal entities in Ethiopia and Nigeria where they have difficulty establishing citizenship where they live if they were not born there which also translates into job and other types of discrimination (Manby 2009,109-14). Burbidge agrees. He also notes that the greatest abuse of ethnic power is not in areas that are mostly mono-ethnic, but rather, and to some extent counter-intuitively in areas where there are many smaller ethnic groups and the winning one uses its power to reward co-ethnics and discriminate against the rest (Burbidge 2018).

Otherwise, in conflict areas such as Marsabit, where issues related to land, violence and ethnicity are intertwined Scott-Villiers found ethnic groups feared losing to non-co-ethnics in devolved authorities not because they expected to materially gain if their co-ethnic won but “to lose less if their ethnic group gained power” (Scott-Villiers 2017). Hence, at the country level, fears of ethnic loss over the presidency translated into a fear of not having a co-ethnic Governor. In short, ethnic behavior at the bottom seemed to be a microcosm of national level politics at the top.

Bosire (Bosire 2014) concurs, maintaining the winner take all mentality discussed by Scott-Villiers is still alive. He insists further that the existence of counties has not dissipated the power and

importance of capturing the presidency, as some suggested would happen. With the national government still maintaining the bulk of political power, Bosire argues the larger ethnic groups still focus on “clinching the presidency with smaller groups drawn into the conflict” (Bosire 2014, 20). Thus, the positive assumption in the literature about devolved authorities reducing the importance of ethnic competition for the presidency is questionable, a perception reinforced by Kenya’s 2017 election. This included President Kenyatta giving out 2 percent more land titles to his Kikuyu co-ethnics when they were the largest minority in a county than to non-co-ethnics in the same situation (D’Arcy and Nistotskaya 2019, 8, 10, 12).

Conclusion

The discussion above has analyzed the assumptions behind the devolution paradigm and the main critiques of them. It reviewed devolution’s performance on the ground in different parts of the world and Kenya’s experience to date. Both the analytic and empirical evidence raise questions about the optimistic assumptions underpinning the hopes embodied in the devolution paradigm, particularly in autocracies and nominal democracies. Instead, the findings generally and from Kenya tend to support the critiques of these same assumptions, revealing a sizable disjuncture between the enthusiasm for devolution and the evidence for it. They also raise broad questions about institutional change and the conditions that propel or derail it, including the belief that changing the architecture of government improves its performance.

The premise of decentralization is that the factors that undermine national government decision-making are less pernicious in local settings. Broad cross-country comparisons and the experience of Kenya in particular suggest that this is not the case. Decentralization is not a panacea for the dysfunctions of centralized states and centralization is not necessarily the problem. New structures tend to take on the characteristics of old systems rather than transforming them, as they have in

Kenya and in other parts of the world. Yet, just as democracy has not emerged full bloom neither has devolution (Ziblatt 2004; Fukuyama 2014), suggesting that both involve long struggles between the old and the new with uncertain outcomes and that institutional change may be a dependent rather than an independent variable. Hence, the political economy of the state is more likely to determine the outcome of devolution rather than devolution transforming governance. This raises broader questions about the use of formal technical and administrative fixes by practitioners to remedy what are inherently political problems.

The Kenya government's 2016 own audit of devolution partly concurs with this view and North's argument concerning the limits of formal legal changes and the importance of other factors. It notes that "the uncertainty, conflicts and tensions characterizing the implementation [of the constitution and devolution] point to the fact that the transition is not only about institutions but also [the] transformation of society by adapting to a new culture and breaking away from the past." During its consultations, citizens themselves insisted, "Kenyans need to change their behavior and adopt the national values enshrined in the constitution ...to realize its benefits", with tensions between the "status quo" and "genuine transition" derailing reform" (Government of Kenya 2016, 5-6).

Bibliography

Afro-Barometer. 2015. "UoN Releases Findings on Devolution and Corruption in Kenya", (<http://afrobarometer.org/blogs/devolution-and-corruption-kenya>, last accessed December 12, 2018).

Aglionby, John. 2018. "Inside Kenya's Ambitious Devolution Project." *Financial Times*, June 27 (last accessed December 18, 2018).

Agrawal, Arun and Jesse Ribot. 1999. "Accountability in Decentralization: A Framework with South Asian and West African Cases." *The Journal of Developing Areas* 33 (4): 473-502.

Amadala, Benson and Ruth Mbula. 2019. "County jobs mainly given to people from dominant communities, audit says." *Daily Nation*, April 8.

Ardanaz, Martin, Marcelo Leiras, and Mariano Tommasi. 2014. "The Politics of Federalism in Argentina and its Implications for Governance and Accountability." *World Development* 53: 26-45.

Ayaga, Winifred. 2016. "MCAs' Changing Fortunes": How Once Tiny Post Has Become Golden Thanks to Devolution." *The Standard*, August 15.

Barasa, Edwin, Anthony Manyara, Sassy Molyneux, and Benjamin Sofa. 2017. "Recentralization within Decentralization: Country Hospital Autonomy under Devolution in Kenya." *Plos One* 12(8):1-15.

Bardhan, Pranab. 2002. "Decentralization of Governance and Development." *Journal of Economic Perspectives* 16 (4): 185-205.

Bardhan, Pranab and Dilip Mookherjee, eds. 2006. *Decentralization and Local Governance in Developing Countries: A Comparative Perspective*. Cambridge, Ma: The MIT Press.

Boone, Catherine. 2003. "Decentralization in West Africa." *Comparative Political Studies* 36 (4): 355-80.

Boone, Catherine, Alex Dyzenhaus, Ambreena Manji, Catherine Gateri, Seth Ouma, James Kabugu Owino, Achiba Gargule, and Jacqueline Klopp. 2019. "Land Law Reform in Kenya: Devolution, Veto Players and the Limits of an Institutional Fix." *African Affairs* 118 (471): 215-47.

Bosire, Conrad M. 2014. "Kenya's Ethno-Politics and the Implementation of Devolution Under the Constitution of Kenya 2010" in *Conference Proceedings* No. 2, Swedish International Centre for Local Development, Nairobi Safari Club, 2-6 June, 13-22.

Burbidge, Dominic. 2018. "Democracy versus Diversity: Ethnic Representation in a Devolved Kenya." Unpublished paper.

Cheeseman, Nic, Gabrielle Lynch, and Justin Willis. 2016. "Decentralization in Kenya: The Governance of Governors." *Journal of Modern African Studies* 54 (1): 1-35.

Chome, Ngala. (2015). "Devolution is only for Development? Decentralization and Elite Vulnerability on the Kenya Coast." *Critical African Studies* 7 (3): 299-316.

"The Local Government System in Kenya: Country Profile 2017-18". 2018. *Commonwealth Local Government Forum East Africa* (http://www.clgf.org.uk/default/assets/File/Country_profiles/Kenya.pdf, last accessed December 21, 2018).

Corbacho, Ana, Daniel W. Gingerich, Virginia Oliveros, and Mauricio Ruiz-Vega. "Corruption as a Self-Fulfilling Prophecy: Evidence from a Survey Experiment in Costa Rica." 2016. *American Journal of Political Science* 60, 4 :1077-92.

- D'Arcy, Michelle. 2018. "Kenya Illustrates both the Promise as well as the Pitfalls of Devolution." *The Conversation*, May 23 (<https://theconversation.com/kenya-illustrates-both-the-promise-as-well-as-the-pitfalls-of-devolution-96729>, last accessed December 18, 2018).
- D'Arcy, Michelle and Agnes Cornell. 2016. "Devolution and Corruption in Kenya: Everyone's Turn to Eat?" *African Affairs* 115 (459): 246-73.
- D'Arcy, Michelle and Marina Nistotskaya. 2011. "Intensified Local Grievances, Enduring National Control: The Politics of Land in the 2017 Kenyan Elections." *Journal of Eastern African Studies* 13 (2): 294-312.
- Ethics and Anti-Corruption Commission (EACC). (2015). *Corruption and Ethnicity in Devolved Services: Counties Public Officers' Experiences*. Nairobi: EACC.
- Ethics and Anti-Corruption Commission (EACC). (2018). *National Ethnicity and Corruption Survey, 2017. EASS Research Report No. 6*. Nairobi, Kenya: EACC.
- Faguet, Jean- Paul. 2014. "Decentralization and Governance." *World Development* 53: 2-12.
- Fan, C. Simon, Chen Lin and Daniel Treisman. 2009. "Political Decentralization and Corruption: Evidence from around the World." *Journal of Public Economics* 9 (1-2): 13-34.
- Friedrich, Carl. 1968. *Constitutional Government and Democracy: Theory and Practice in Europe and America*. 4th ed. Waltham, Mass: Blaisdell.
- Fukuyama, Francis. 2014. "America in Decay: The Sources of Political Dysfunction." *Foreign Affairs*, 93, 5-12.
- Gathara, Patrick. 2018. "(D)evolved Health Care: Makueni's Trailblazing Experiment in Providing Universal Health Coverage." *The Elephant*, January

11. (<https://www.theelephant.info/features/2018/01/11/devolved-healthcare-makuenis-trailblazing-experiment-in-providing-universal-health-coverage/>, last accessed December 18, 2018).

Ghai, Yash. 2008. "Devolution: Restructuring the Kenyan State." *Journal of Eastern African Studies* 2,2: 211-26.

Government of Kenya, Office of the Auditor General. 2013-18. *Country Government Reports*, Nairobi, Kenya. (https://www.oagkenya.go.ke/index.php/reports/cat_view/2-reports/11-county-governments, last accessed December 12, 2018).

Government of Kenya. Office of the Auditor General. 2016. *Report of the Working Group on the Socio-Economic Audit of the Constitution of Kenya, 2010*. Nairobi, Kenya, September 2016 (https://www.oagkenya.go.ke/index.php/reports/cat_view/2-reports/72-special-audit-reports, last accessed January 24, 2019).

Green, Elliott. 2015. "Decentralization and development in Contemporary Uganda." *Regional and Federal Studies* 25, 5:491-508.

Grindle, Merilee. 2007. *Going Local: Decentralization, Democratization, and the Promise of Good Governance*.

Grossman, Guy and Janet I Lewis. 2014. "Administrative Unit Proliferation." *American Political Science Review* 108 (1): 196-217.

Hassan, Mai and Ryan Sheely. 2017. "Executive–Legislative Relations, Party Defections, and Lower Level Administrative Unit Proliferation: Evidence from Kenya." *Comparative Political Studies* 50 (12): 1595 – 1631.

Interviews. 2018. Nairobi, Kenya.

Ipsos Public Affairs. 2018a. *Spec Barometer, First Media Release, 1st QTR 2018*, 6 April 2018 (<https://www.ipsos.com/en-ke/q1-national-spec-survey-2018>).

Ipsos Public Affairs. 2018 b. *Spec Barometer, First Media Release, 2nd QTR 2018*”, 22 August 2018 (https://www.ipsos.com/sites/default/files/ct/news/documents/2018-08/ipsoske_spec_poll_press_release_presentation_august_2018.pdf or this: https://hapakenya.com/wp-content/uploads/2018/08/IpsosKE_SPEC-Poll_-Press-Release_Presentation_August-2018.pdf).

Kegoro, George. 2019. “Unless we right past wrongs, NLC will remain toothless dog.” *Standard*, February 24.

Kanyinga, Karuti. 2016. “Devolution and the New Politics of Development in Kenya.” *African Studies Review* 59 (3): 155-67.

Kenya Human Rights Commission (KHRC). 2018. *Damned Dams: Exposing Corporate and State Impunity in the Solai Tragedy*. Nairobi: KHRC. (<https://www.khrc.or.ke/publications/187-damned-dam-exposing-corporate-and-state-impunity-in-the-solai-tragedy/file.html>, last accessed December 12, 2018).

“Kenya’s Most Corrupt Counties Revealed”. 2018. *Standard*, May 20.

Kuhn, Thomas. 1962. *The Structure of Scientific Revolutions*. Chicago: University of Chicago Press.

Kwach, Julie. (no date). "Challenges Facing Devolution in Kenya".

(<https://www.tuko.co.ke/264362-challenges-facing-devolution-kenya.html#264362>, last accessed December 18, 2018).

Lasswell, Harold. 1950. *Politics Who Gets What When How?* New York: Peter Smith.

Levy, Jacob. 2007. "Federalism, Liberalism, and the Separation of Loyalties" *American Political Science Review* 101:3:459-77.

Maina, Wachira. 2019. *State Capture: Inside Kenya's Inability to Fight Corruption*. Nairobi, Kenya: AFRICOG (African Centre for Open Governance) (<https://africog.org/wp-content/uploads/2019/05/STATE-CAPTURE.pdf>)

Mairu, Patrick. 2018. "Measuring Devolution in Kenya; What We Need to Know, First !"

International Institute for Legislative Affairs, March 16, 2018, 1-10.

(<https://ilakenya.org/measuring-devolution-in-kenya-what-we-need-to-know-first>, last accessed December 20, 2018)

Mamdani, Mahmood. 1996. *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton: Princeton University Press.

Manby, Bronwyn. 2009. *The Struggle for Citizenship in Africa*. New York and London: Zed Books.

Mitullah, Winnie. 2015. "Citizen Response Points to Appreciation and Challenges of Kenya's Devolved Governance" *Afro-barometer Dispatch* 105,

<http://afrobarometer.org/publications/ad105-citizen-response-points-appreciation-challenges-kenyas-devolved-governance> (last accessed December 12, 2018).

- Muhindi, Susan. 2018. "Kenya Still Among the Most Corrupt Transparency Index Reports." *The Star*, February 23.
- Mueller, Susanne. 1984. "Government and Opposition in Kenya". *Journal of Modern African Studies* 22 (3):399-427.
- Mueller, Susanne. 2008. "The Political Economy of Kenya's Crisis." *Journal of Eastern African Studies* 2(2):185-210.
- Mueller, Susanne. 2014. "The Resilience of the Past: Government and Opposition in Kenya." *Canadian Journal of African Studies* 48 (2):333-52.
- Mueller, Susanne D. 2018, *Interviews*, Nairobi, Kenya.
- Mueller, Susanne. (forthcoming). "High Stakes Ethnic Politics". In Nic Cheeseman, Karuti Kanyinga, and Gabrielle Lynch. eds. *The Oxford Handbook on Kenya*. Oxford: Oxford University Press.
- Mutavi, Lillian. 2018. "Financial Times Cites Makueni as a Success Story in Devolution." *The Star*. July 2. (<https://www.the-star.co.ke/news/2018-07-02-financial-times-cites-makueni-as-success-story-in-devolution/>)
- Mwangi, Melanie. 2018. "MCSs' Greed, Stunts Fuel Idea to Scrap County Assemblies." *The Star*, December 26.
- Ngugi, Tee. 2017. "Will Greedy MCAs, who were meant to save us destroy us instead?" *The East African*, May 25, 2017.

North, Douglass (1984). “Economic Change Through Time.” *American Economic Review* 84 (3): 359–368.

Nyabira, Ben Christopher and Zemelak Ayitenew Ayele. 2016. “The State of Political Inclusion of Ethnic Communities under Kenya’s Devolved System.” *Law Democracy and Development* 20: 131-53.

Oates, Wallace. 1999. “An Essay on Fiscal Federalism.” *Journal of Economic Literature* 37:1220-1149.

Oates, Wallace. 1972. *Fiscal Federalism*. New York: Harcourt Brace Jovanovich.

Olken, Benjamin A. 2010. “Direct Democracy and Local Public Goods: Evidence from a Field Experiment in Indonesia.” *American Political Science Review* 104 (2): 243-67.

Oloo, Otieno Michael. 2014. “*Devolving Corruption? Kenya’s Transition to Devolution: Experiences and Lessons from the Decade of the Constituency Development Fund in Kenya*” in Conference Proceedings No. 2, Swedish International Centre for Local Development, Nairobi Safari Club, 2-6 June, 63-74.

Oruko, Ibrahim. 2018. “Senate hits back at National Assembly as turf wars surge”. *Daily Nation*. July 26.

Qian, Yingyi and Barry Weingast. 1997. "Federalism as a Commitment to Preserving Market Incentives." *Journal of Economic Perspectives* 11 (4): 83-92.

Ribot, Jesse C. Arun Agrawal and Anne M. Larson. 2005. "Recentralizing While Decentralizing: How National Government Reappropriate Forest Resources" *World Development* 34 (11): 1864-86.

Rodden, Jonathan and Susan Rose-Ackerman. 1997. "Does Federalism Preserve Markets?" *Virginia Law Review* 83(7): 1521-72.

Rodriguez-Pose, Andres and Vassilis Tselios. 2019. "Well-Being, Political Decentralization and Governance Quality in Europe." *Journal of Human Development and Capabilities* 20 (1): 69-93.

Sait, Edward M. 1938. *Political Institutions: A Preface*. New York and London: D. Appleton-Century Company.

Scott-Villiers, Patta. 2017. "Small wars in Marsabit County: devolution and political violence in northern Kenya." *Conflict, Security & Development* 17 (3): 247-264.

Sheely, Ryan. 2018. Unpublished field notes.

Steeves, Jeffrey. 2015. "Devolution in Kenya: Derailed or on Track." *Commonwealth and Comparative Studies* 54 (4): 457-74.

Tiebout, Charles. 1956. "A Pure Theory of Local Expenditures." *Journal of Political Economy* 64 (5):416-24

Tordoff, William. 1999. "Decentralization: Comparative Experience in Commonwealth Africa." *Journal of Modern African Studies* 32 (4): 555-80.

Transparency International. 2018. *Corruption Perception Index*.
(<https://www.transparency.org/country/KEN> last accessed January 9, 2019)

Treisman, Daniel. 2007. *The Architecture of Government: Rethinking Decentralization*.
Cambridge: Cambridge University Press, 2007.

United States Agency for International Development (USAID). 2017. "*Devolution and County Capacity in Kenya: An Assessment of 22 Counties*", unpublished report.

Waddilove, Hannah. 2019. "Support or Subvert? Assessing Devolution's Effect on Central Power during Kenya's 2017 Presidential Rerun." *Journal of Eastern African Studies* 13 (2): 334-52.

Waikenda, Machel. 2018. "Devolution has Transformed Kenya." *The Star*, April 24.

Wanjiri, Rose. 2014. "Local Revenue Mobilization at the Country Level: Experiences and Challenges" in Conference Proceedings No. 2, Swedish International Centre for Local Development, Nairobi Safari Club, 2-6 June, 42-50.

Weingast, Barry. 1995. "The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development." *Journal of Law, Economics and Organization* 11:1-31.

Weingast, Barry. 2014. "Second Generation Fiscal Federalism: Political Aspects of Decentralization and Economic Development." *World Development* 53: 14-25.

Wolf, Thomas. 2010. "Kenya's New Constitution: Triumph in Hand: Testing Times Ahead". *Judiciary Watch Report* 9: 23-94.

World Bank. 2016. "Citizen Engagement in Kenya's Young Decentralization." Citizen Engagement Workshop Session on Kenya's Decentralization Program, Global partnership for Social Accountability Forum, Kenya, May 19 (<https://slideplayer.com/slide/11484008/>, last accessed December 19, 2018).

World Bank. 2014. *The Evolution of Kenya's Devolution: What's Working Well, What Could Work Better*. Washington, D.C.: World Bank.

Ziblatt, Daniel. 2004. "Rethinking the Origins of Federalism" *World Politics* 57:1, 70-98.

