Functional Assignment in Multi-Level Government

Volume I: Conceptual Foundation of Functional Assignment

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Abbreviations

ARDP	Administrative Reform and Decentralisation Project (Cambodia)
CG	Central Government
CLM	Central Line Ministry
CSO	Civil Society Organisation
DP	Development Partner
FA	Functional Assignment
GTZ	Deutsche Gesellschaft Für Technische Zusammenarbeit
HP	Himachal Pradesh, India
LG	Local Government
NGO	Non-Governmental Organisation
OF/MSS	Obligatory Functions/Minimum Service Standards
OECD	Organisation for Economic Co-operation and Development
O&M	Operation and Maintenance
PRI	Panchayati Raj Institutions (= rural local government bodies in India)
SNG	Subnational Government
SfDM	Support for Decentralisation Measures (= former GTZ project in Indonesia)
TA	Technical Assistance
TC	Technical Cooperation

Glossary

Activity Mapping
The equivalent process of functional assignment in the context of India's efforts to accelerate devolution from state level to the Panchayati Raj Institutions.

Function
In the context of intergovernmental relations it is a set of closely related governmental activities of various scales, normally consisting of a substantive field and implied or specified action relevant to that field (i.e., management activities).

Functional Assignment
In the context of intergovernmental relations it is the allocation of governmental roles, functions, and tasks between levels of government in accordance with prevailing modes of decentralisation.

Local Government
Flexible term, used interchangeably with subnational government or meaning the lower tier(s) of subnational government; contextually determined.

Modes of decentralisation
Ideal types of decentralisation denoting key features and relationships in the transfer, execution and accountability of functions.

Unbundling
The disaggregation of a governmental sector or function in terms of its component functions or elements, whether in terms of substantive elements or generic management functions/activities.

Subnational Government
All levels of government beneath the national government.

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Introduction

Functional assignment is a fundamental building block of multi-level governance, affecting other key features of intergovernmental relations. It needs to be considered in deciding the scale of subnational units, in calculating intergovernmental financial transfers, setting organisational structures, devising planning roles and focusing supervision. Because of the significant shift from centralized to decentralized governance seen in many developing countries, functional assignment ought to be the starting point of decentralisation, to ensure that other sub-systems accord with it. The 2007 UN Guidelines on decentralisation[2] stipulate that "legislative provisions and legal texts should clearly articulate the roles and responsibilities of local authorities vis-à-vis higher spheres of government" (C.1.4) – in reality such clarity often does not exist. In practice, because decentralisation tends to be politically driven, it can be a rushed and messy affair, and functional (re)assignment is sometimes neglected or hastily concluded. In cases it is preceded by finances or organisational restructuring, breaking the rules of "money follows functions" or "form follows functions." In OECD countries, functional assignment is an ongoing, if episodic, activity, and while it is more incremental and bidirectional (decentralisation and centralisation) it nonetheless faces its own challenges, such as maintaining promised financial neutrality or corresponding financing adjustments.

All functional assignment (FA) efforts have in common a good deal of complexity and embody both technical and political dimensions. Capacity to undertake these efforts is usually low, in part because the initiatives are episodic, making individual and institutional expertise difficult to retain, but also because of the challenge of combining the technical and political dimensions. FA initiatives in developing countries experience the same pressures and shortcomings noted for public policy development in general, along with greater difficulties in joining expertise and stakeholder views and interests to what is (essentially) a government (bureaucracy) driven process.

With the spreading popularity of decentralisation initiatives throughout the world over the last two decades, it might be expected that functional assignment would find a prominent place not only in the scholarly literature on decentralisation reforms, but also in the documented knowledge and experiences of development partners. It is somewhat puzzling to note that in fact the academic literature is scarce and superficial, and particularly

absent on the process side of FA. Moreover, few donors have made this one of their systematic offerings in governance/decentralisation support, perhaps reflecting not just issues on the demand side, but also the ability of development partners to discern demand (or need) and to recognize the centrality of FA. When compared to intergovernmental finances or development planning support, FA support is given short shrift – when in fact a sensible FA is a prerequisite to more sustainable progress on these related building blocks.

GTZ is the one exception to the above observations on development partner support. It has developed considerable expertise in Asia in particular. The Functional Assignment sub-group of GTZ's sector network *Governance Asia* is therefore seeking to systematize the experiences and learning attained, and to disseminate this, in part through this two-volume technical paper.

Volume I begins by setting functional assignment against the larger process of decentralisation (Chapter 1), as this is the predominant context for functional assignment in developing countries. The opposite process, centralisation, is not fundamentally different in terms of the FA processes at work, and centralisation is in any case often in play during "follow-up rounds" of FA; these may yield additional decentralized functions, but in some cases also (re)centralized functions. Functional assignment is subsequently dissected in Chapter 2 to understand what it is about technically and legally. This is followed by a discussion (Chapter 3) of processes used to achieve changes in functional assignment. A final chapter lists the open issues that require greater documentation, reflection and research.

The separate Volume II outlines past and ongoing efforts of GTZ in support of functional assignment processes. While it is not exactly an "How-to-do-Guide" for functional assignment support (taking cognicance of the singularity of each FA process), it highlights the various approaches and tools used in the different country settings, thereby allowing the reader to understand the process and to helping him/her to design an advisory process (see e.g. Chapter 1.5 of Vol. II). It also places such support in the context of emerging aid modalities influenced by the Paris Declaration and the Accra Action Plan.

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2   *UN Guidelines on Decentralisation and The Strengthening of Local Authorities* as based on the UN Governing Councils' Resolution 21-3 of 20 April 2007 (in the following cited as UN Guidelines). Downloaded from http://www.unhabitat.org/downloads/docs/4501_40753_K0654571%20GC21-2-Add2.pdf.

1. The Context of Decentralisation

1.1 Typologies of decentralisation

Several forms of decentralisation, overlapping in scope and somewhat fuzzy in meaning, are acknowledged in the diverse literature that now envelopes the field. 'Administrative decentralisation' is sometimes used to discuss the transfer of functions, funds, planning and management responsibilities from central government to subnational government. This term is particularly used when decentralisation occurs within the central government system, with dispersal of units undertaking delegated tasks throughout national space (deconcentration).

'Political decentralisation' is sometimes posed in contrast to administrative decentralisation. In this form of decentralisation, representative institutions at subnational level exert some autonomous political role in undertaking functions and managing resources. Political decentralisation is most often associated with devolution, where wide discretion is given to democratically elected subnational governments to make decisions in the use of their assigned functions and resources.[3]

'Fiscal decentralisation' refers to expenditure and revenue assignments and other forms of regulation (e.g., borrowing) that make available financial resources to subnational government. This may fit within a context of low or wide discretion, depending on the political structures of subnational government and the conditions imposed on the assignments.

These categories are partly helpful in understanding functional assignment. They indicate that there is both a technical/administrative dimension as well as a political dimension. They indicate that performing functions raises the issues of discretion, accountability, and resources.

1.2 Common modes of decentralisation

The basic modes of decentralisation within the government system have been set out some time ago by Cheema and Rondinelli,[4] providing practitioners with a common and more detailed typology. This is reproduced below with adaptations to make them specific to an intergovernmental context (with respect to the simple case of central-local relations):

- **Deconcentration** is the delegation of administrative tasks by a central government organisation's head quarters to its representatives or branches dispersed over the national territory in a functional/administrative pattern that serves that organisation. Accountability and oversight takes place vertically within the central government organisation. Financial resources are coming from the budget of the central government organisation.

- **Agency tasks** are assigned to general purpose local government or a special purpose/semi-autonomous agency to be discharged on behalf of the assigning central government/organisation[5]. The entrusted entities are partly accountable to their citizens but mainly accountable upwards to the assigning entity. Financial resources are coming from the budget of the assigning organisation.

- **Devolution** is the transfer of functions, requisite power and resources, to local government (including a council) that has considerable discretion and is democratically accountable to its citizens. Accountability and reporting is primarily to the local council (and citizens) but also to higher levels of government (in the sense of reporting compliance with higher-level policies, norms and standards, performance achievements etc.).

This brief overview is only partly useful, as the ramifications of these modes needs to be understood to appreciate how functions are defined, assigned and applied. A more elaborate typology for the above modes has been prepared by Ferrazzi,[6] expressly for this purpose (Appendix 1).

It is important to differentiate functions in terms of the modes of decentralisation they are designed to serve. Deconcentration tasks are purely a central government matter, though in complex multi-level systems central government can designate subnational level officials to represent the central government – and thus be part of a deconcentration system. The way functions are generated and delegated within a deconcentration mode is very different from devolution (e.g., they can be more dynamic, and achieved with Ministerial regulations or administrative orders).

In systems where subnational institutions do not play a dual role (that has them serve also as representatives of the central government), the modes of decentralisation at play are devolution and agency. There are important distinctions between these two. Much misunderstanding occurs when one mode is espoused, for instance devolution, but the specific formulation of the functions corresponds to a different mode (e.g., they may be rather insignificant

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3   The UN Guidelines describe "political decentralisation" as "an essential component of democratisation, good governance and citizen engagement" (A.1).

4   Cheema, G. and Rondinelli, D. (1983) Decentralisation and development. Newbury Park, CA, Sage.

5   In most cases the assigning organisation would be from the central government, but there could also be cases of agency tasks assigned between different levels of SNGs.

6   Ferrazzi, G. (2008). Exploring Reform Options In Functional Assignment (Final Report). Decentralisation Support Facility and Deutsche Gesellschaft Für Technische Zusammenarbeit, March 28.

or tightly circumscribed – typical of agency tasks). Moreover, the procedures for accountability and reporting may be inappropriately designed, undermining clarity and the utility of this broad typology.

1.3 Unitary and federal contexts

Unitary and federal nations have much in common when it comes to functional assignment. This is all the more true if nations adopt a blend of traditional federal or unitary characteristics (see Box 2 on South Africa's hybrid governmental structure).

It is not unusual to see unitary governments seek to accommodate regional political demands by reconstructing governmental structures to have a more federal character. Indonesia, where federalism has been taboo since the short lived post-world War II Dutch imposed federal government,[8] has tempered its unitary structure with a heavy dose of decentralisation to the district (county/city)

level and the addition of a second house of Parliament that is elected based on the larger provincial jurisdictions and comes into play specifically on regional issues. Additionally, special autonomy or special status has been given by special legislation to four provinces (Aceh, West Papua, Yogyakarta and Jakarta). The overall structure is still decidedly unitary, but it can no longer be considered a pure unitary system.

Some differences in the process and nature of functional assignment are evident between unitary and federal nations. In the typical approach to federal nationhood, formative units generally agree, through a constitutional agreement, to yield a measure of sovereignty over some functions to the federal level. Reviews of this areal division of power (another term for functional assignment) do occur, but this is through a process of negotiation between the formative units and the federal government.

When unitary nations shift their structures to a federal form, the process differs from what is described above. In this transformation, political forces/mass movements, which may have a regional basis, act at national level to construct the new territorial structures and the areal division of power (see Box 3 for the case of Nepal). In some sense this is also a bottom up process, particularly if the new structure has to be ratified by referendum.

In contrast to the federal case, assigning functions in a unitary state is generally a more top-down affair. The areal division of power is only vaguely specified, if at all, in the constitution, and any ensuing functional assignment must then flow from subsidiary legislation (like ministerial regulations or government notifications). As a result, the stability of the assignment might be expected to be lower than for the federal case. Logically, the degree of influence of subnational government over the assignment is also more limited in unitary states.

7   Ministry of State Administration and Territorial Management (2009). Devolution or Delegation: Eight Ministries Discuss how to Transfer Functions to Municipalities, *Local Governance Monthly Bulletin*, Volume II, Edition 3, March, pg. 1.

8   Ferrazzi, G. (2000). Using the "F" Word: Federalism in the Decentralisation Discourse in Indonesia, *Publius - The Journal of Federalism*, Volume 30 (2), (Spring).

9   Taraschewski, Thomas and Mumenthaler, Marielle (2009). Functional Assignment in Nepal, for presentation at GTZ Technical Workshop on Functional Assignment and Performance Assessment Systems for Local Government, Bangkok, February 11.

2. Functional Assignment

2.1 What is a function?

At a very basic level, a function is a set of related activities that work within a larger system to produce a result that is beneficial to that systems' operation. In this paper's context, the result of the **governmental function** is a **public good**.

In assigning a governmental function the state empowers its government and subnational levels of government to discharge certain functions, meaning that a level of government is made responsible for ensuring that the outputs and outcomes associated with the function are attained. This may entail government implementation, but leaves open the possibility of other actors (like lower levels of government, private sector, civil society organisations) to participate in the implementation.

The governmental function can be one that directly relates to a **service** that is received by the public (like primary health care, basic education, water provision, road transport), or it may relate to **internal processes**, sometimes referred to as **governance** or **management processes** (like planning, budgeting, procurement, monitoring and evaluation, personnel management, research, training).

FA begins conceptually with the expectations placed on the state. Considerable consistency is seen across states in terms of what they are expected to do. All national states/governments must concern themselves with the same basic functions of allocation, distribution, and stabilisation, as described by Musgrave.[10] Within these very broad functions, all states (that are not dysfunctional) undertake a similar list of more specific functions, as described by Riker[11] (see Appendix 2).

Similarly, subnational government (SNG) worldwide undertakes common public services, particularly general purpose local government of 'substantial' scale. There is more variation across non-OECD countries by virtue of disparate conditions and capacities. Even so, it is possible to group practically all governmental functions of what might be deemed a 'general purpose' local government into four public service areas:

I. General administration
II. Public works
III. Social affairs
IV. Economic development

The above could be elaborated to different levels of detail, and one attempt offered by a GTZ consultant in 2001

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10 Musgrave, R. A. (1964). The Theory of Public Finance - A Study in Public Economy, New York: McGraw-Hill Book Company Inc.
11 Riker, William H. (1964). Federalism - Origin, Operation, Significance. Boston and Toronto: Little, Brown and Company.

(Rolf Gieger; adapted) is shown in Appendix 3. While this example is skewed towards an industrialized country context, it does impart a sense of what could fit under the above four broad categories. The list could be made more complete, and the formulations could be made more precise, but this rather basic list is commonly seen.

2.2 Would a 'function,' by any other word, mean the same?

It is common to see the term **functions** used to denote sets of governmental activities. This term seems to be applied to the 'subject matter' as well as the generic management functions associated with it; often the latter are assumed within the subject matter description (e.g., the subject matter "air pollution" assumes that plans will be made to tackle it, programs of control will be financed, and impact of reduction measures will be monitored).

Canada often uses terms like **powers** and **responsibilities** in denoting federal, provincial, and municipal functions. Powers tend to relate to what the municipalities can do in terms of internal processes and representation; the law might state that the municipality has the powers of a person, and can represent itself in court. 'Responsibilities' seem to be equivalent to the generic term 'functions,' although there seems to be an implied obligation to discharge the function when the term responsibilities is used.

This connotation of discretion or, conversely, obligation, is seen in other terms employed; **rights**, **duties**, and **roles**, for instance. 'Roles' relate to broad mandates, or grouping of functions. It is useful to use this term in relation to the general relationships between levels of government, i.e., territorial structure. This sense of obligation pertains also to 'duties,' though the scale is now on specific activities or performance requirements. Both 'rights' and 'powers' might be seen to emphasize discretion, but rather in relation to internal processes (e.g., personnel management) or relationships with higher-level government rather than with reference to services provided to the public.

The term **tasks** is similar to 'duties' but is most often used in the context of agency or deconcentration, connoting that the actual function (or key responsibility) lies with the assigning entity, whereas the level of government that is tasked concerns itself with implementation, within a rigid framework of instruction and accountability.

Other terms encountered include **governmental affairs**, **matters**, and **sphere of jurisdiction**. These all appear interchangeable and largely focus on the subject matter at hand, rather than generic management functions (see also section on formulation of functions).

Table 1: Examples of terminology

Canada	Powers	Responsibilities	Matters	Affairs
Indonesia	Matters	Authorities	Tasks	
Cambodia	Functions	Duties	Powers	
India	Subject matter	Functions	Activities	
Nepal	Functions	Duties	Powers	
South Africa	Spheres of jurisdiction	Powers	Functions	

The term ***authority*** is also used in functional assignment, and often as an additional and complementary term, distinct from 'responsibility' (a term it is most often attached to). It appears that the meaning accorded to it is similar to that associated with 'powers,' relating to the scope given to SNG to decide and act within a particular area of responsibility. Sometimes the assertion is seen that "responsibility ought to be accompanied by the requisite authority." If functions are properly formulated, in a coherent architecture and construction, then this linkage should be assured, and the distinction probably does not need to be explicitly made.

On a final note, the term 'function' (as well as some of its synonyms above) has the advantage of flexible use with respect to the scope of the activity or subject matter it encompasses. The term melds with 'sector' at one extreme, and can be as fine grained as needed at the other end. Sectors are normally sub-divided in a kind of hierarchy. For instance, to use the example of the water sector:[12]

- Sector   (*water*)
  - sub-sector (*irrigation*)
    - field   (s*mall-scale irrigation*)

All of the above divisions can be referred to as 'functions' though they are of very different scope/scale. But the term function has the additional advantage that it can refer to the joining of the above sectoral 'subject matter' with the particular authority (discretion) associated with it in terms of generic management functions (e.g., planning, monitoring). To continue with the above example, a well formulated function would be framed as 'Maintenance of small scale irrigation' or 'Management of irrigation.'

While it would be useful to have internationally standardized terminology, this is unlikely to be achieved, and the use of different terms can serve to flag certain perspectives or intentions. Oftentimes however, these intentions can only be discerned by noting the larger frame within which these terms are used, as well as the actual pattern of practice. For the purpose of supporting FA efforts, it is best to make explicit what the intentions are, and to use those terms, categories and constructions that best realize the intentions.

12 Ferrazzi G. (2001). Assignment of Functions for Cambodian Communes: A Preliminary Framework, Prepared for the Ministry of Interior-Royal Government of Cambodia and Gesellschaft für Technische Zusammenarbeit (GTZ), May 31, Phnom Penh.

2.3 Understanding of functional assignment

Functional assignment is generally understood in two ways;

1. the ***process*** of assigning functions to different level of government, and

2. the ***result*** of that process – the actual location of functions.

Both views are useful, and context clues must be used to discern which meaning is intended. In some countries, related terms to FA are employed, as with 'expenditure assignment' or 'activity mapping.' These related terms can have somewhat different meanings or connotations, therefore it is important to understand their scope and context.

Governmental functions can be sub-divided in a number of ways, or typologies. We have noted the division in terms of modes of decentralisation. There is also the division in terms of expenditure vs. revenue; obligatory vs. discretionary; concurrent vs. exclusive; and differences in 'construction' (general competence or '*ultra vires*'). These typologies will be examined in subsequent sections.

There is also an issue of scale in working with functions, and here the link with other features of subnational government begins to emerge. It is possible to think, at a high level of abstraction, in terms of ***roles*** assigned to levels of government. In multi-level government there may be an intermediary level of subnational government that is assigned the roles of guidance, support or supervision toward lower levels of government. Or the subnational levels may have certain linkages (e.g., coordination in planning) but otherwise not have a strictly (or comprehensive) hierarchical relationship.

To continue the functions-structure link, it is appropriate to think about matching functions (functional load) to territorial structures, i.e., their capacity or scale (in terms of population for instance). This aspect also raises the issue of the conceptual need for, and practical feasibility of, asymmetric functional assignment between same-level jurisdictions.

And, as intimated earlier, it is also common to assert that "funds follows functions", and that "form (= organisational structures) follows functions." Viewed from all of the above perspective it is understandable if functional
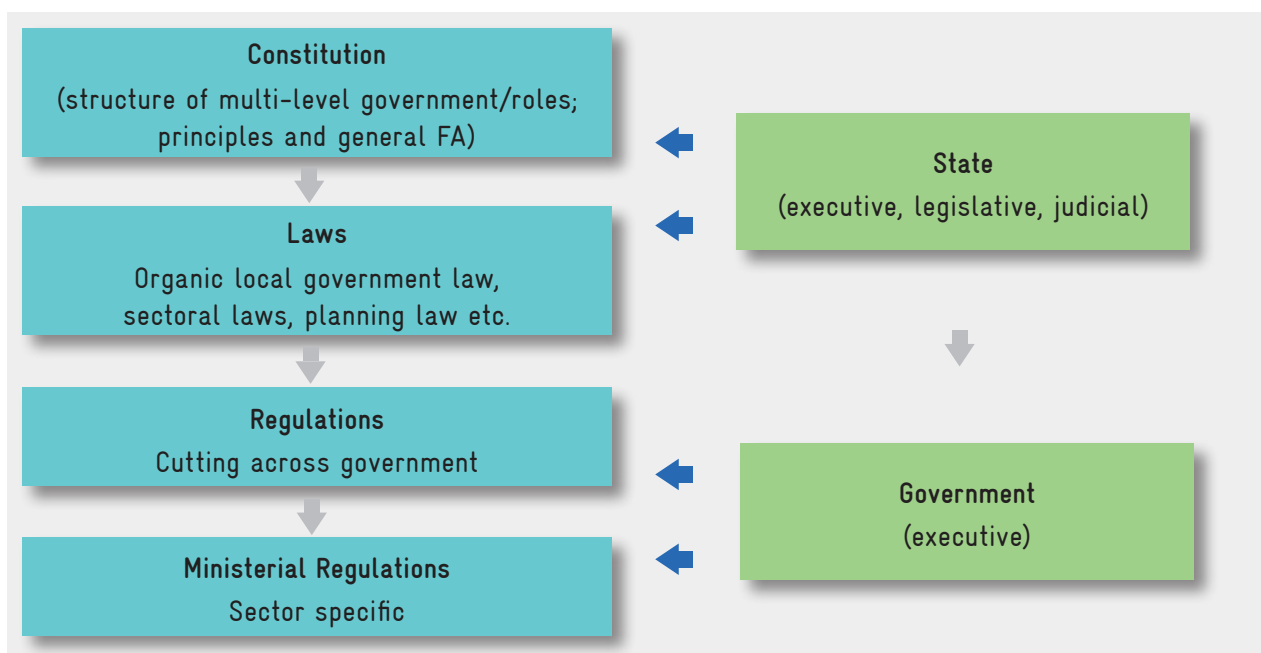
Figure 1: Legal architecture for functional assignment

assignment is seen to be rather complex. But the other side of this view is that FA is a powerful organising principle, and its proper foundational use can simplify and keep coherent the overall structure of multi-level governance.

2.4 Legal architecture/basis for functional assignment

It is not unusual to see the roles and functions of subnational government listed in the foundational (organic) law of subnational government. But often the assignment of functions is also evident, or even more so, in the range of laws pertaining to individual sectors, as well as laws that deal with planning, budgeting, personnel and other elements of decentralized governance (see case of Ghana in Box 4).

A solid base for these laws would be provisions in the highest law of the land, the constitution; setting out the basic structure of multi-level government, basic principles of functional assignment, and generally framed functions. Through these laws, the state empowers its executive organ to carry out certain functions, and it does the same toward subnational government. It can also empower the national executive organ to pass on agency tasks to subnational government, or to further regulate state devolved functions to subnational government (see Figure 1).

Subnational government can also shape the functions to some extent, and they do so through their own legal instruments (variously called laws, regulations, by-laws, rules, decrees), but this discretion is constrained by the above legal framework, even in the case of 'devolved' functions.

Legal framework for SNG in Ghana[13]　**Box 4**

- Constitution
- Local Government Act 1993
- Local Government (Urban, Zonal and Town Councils and Unit Committees) Establishment Instrument 1994
- Financial Memoranda for District Assemblies (2004)
- Local Government District Tender Board Regulations (LI 1606)
- National Development Planning (System) Act 1994
- National Development Planning Commission Act 1994
- District Assemblies Common Fund Act 1993
- Local Government Service Act 2003
- Financial Administration Act 2003
- Public Procurement Act 2003
- Internal Audit Agency Act 2003
- Institute of Local Government Studies Act 2003
- Individual Acts to establish District Assemblies
- Sectoral Acts and subsidiary instruments.

When functions are assigned through devolution, the government level in question (executive and legislative combined) is made responsible. Nevertheless, ultimately the state retains overall responsibility, and for that reason subnational functions, even when received through devolution, are often accompanied by some legal and administrative framework that sets out performance expectations, and a corresponding measure of upward accountability. The state cannot easily shed this responsibility as it relates to fundamental obligations taken on by the state – as evinced in the constitution, laws or international

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13 Ferrazzi G. (2006). Ghana Local Government Act - A Comparative Analysis in the Context of the Review of the Act, Local Governance and Poverty Reduction Support Programme (LGPRSP), Ministry of Local Government, Rural Development and Environment/ Deutsche Gesellschaft Für Technische Zusammenarbeit (GTZ), October.
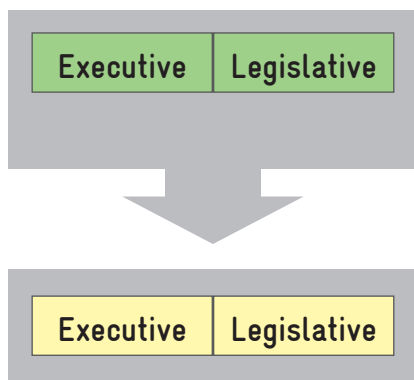
Executive | **Legislative**　　National level

Devolution: function is transferred by the State (includes executive and legislative) to subnational government (meaning combined executive and legislative)

Executive | **Legislative**　　Subnational level

Figure 2: Conceptual/legal view of devolution

conventions to which the state has become a signatory. If devolution is properly pursued, the state will therefore seek to impress upon the receiving subnational government the importance of achieving the nationally set expectations (results), making the functions in some sense 'obligatory.' The setting of expectations for performance is a challenging aspect of FA and one that has several solutions, none easy to apply, particularly in a developing country context where support mechanisms, incentives and sanctions are difficult to fashion and apply with consistency (see also the section on function typology).

Figure 1 not only lays out legal instruments relevant for FA, but also is an aid to understanding the accountability dimension in functional assignment. It is important to understand the derivation of functions (who transfers or delegates), as some measure of reporting and accountability is directed to that entity. It is equally important to be clear about the entity that receives the function, as the assessment of performance will bear on all actors that are part of this entity. The earlier mentioned Appendix 1 seeks to provide clarity on these issues for the three key modes of decentralisation. For instance, in the matrix of this appendix a distinction is made between the executive and the combined executive and representative/legislative side of subnational government. Understanding these distinctions is important as they will influence whether

financing is on-budget/on-treasury, which organ of the state is empowered to supervise implementation of functions given to subnational levels of government, and how performance is reported and made accountable to the source of the function or, horizontally, to the representative/legislative side of a particular subnational level that has received the function.

The conceptual and legal forms of functions are not standardized internationally. But good practice would indicate that the devolution (see Figure 2) has a particular derivation and receiving entity that is quite distinct from agency tasks (Figure 3).

The conceptual views shown in the figures need to be consistently carried forth in shaping other features of decentralized governance. For instance, in the case of devolved functions, the conceptual/legal view put forward in Figure 2 would work against a heavy (or heavy handed) role of the national executive in the supervision of legal products and actions of the SNG, as the latter has its own political legitimacy and has received the devolved functions from the state, not the executive alone.
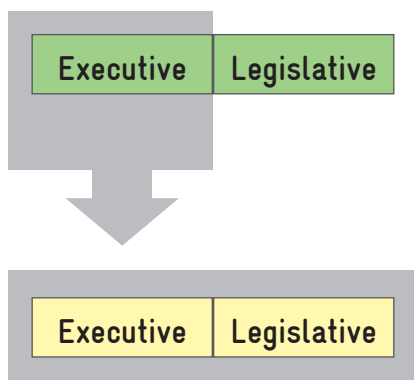
Executive | **Legislative**　　National level

Agency: a task that has been assigned to the national government (executive), is delegated to subnational government (meaning combined executive and legislative)

Executive | **Legislative**　　Subnational level

Figure 3: Conceptual/legal view of agency tasks

2.5 Typologies in functional assignment

Functional assignment versus expenditure/revenue assignment

The term 'functional assignment' is broader than 'expenditure assignment,' the term favoured by some academics and practitioners that are largely public finance- oriented. Expenditure assignment implies authority to spend in certain spheres of governmental activities. As indicated in the prior sections, functional assignment is broader. It certainly encompasses both the expenditure and revenue assignments, but it also relates to activities that are important to governance but not significant in terms of 'spending;' setting regulations for private sector health clinics, for instance, may only incur some light staffing costs within the Ministry of Health, but it is a sphere of governmental activity that is important enough to be mentioned – as a central level function and possibly one that can be delegated or devolved to subnational government. Also, functional assignment has to do with broad roles that are given to levels of government, e.g., supervisory or coordinating for instance, and is linked to the scale and number of government tiers. These issues of roles, structures, authority, and hierarchy are better encompassed or linked to the term functional assignment rather than expenditure/revenue assignment.

General competence versus 'ultra vires' construction

One way of constructing the scope of functions for a given level of SNG is to make a detailed list of what SNG *can or must do* (a 'positive' list). This gives clarity and confines SNGs to these lists, making any other action of SNG '*ultra vires*' (beyond its legal bounds). The positive list can be complemented with a 'negative' list; what the SNG *cannot do*. Even where the *ultra vires* principle is not explicitly invoked, the use of a list of functions makes SNG cautious, as officials are concerned that they may be faulted for taking up uncoded or prohibited activities.

In OECD countries, the functions given to local government have historically been quite permissive, *de facto*. In cases, it has also been permissive *de jure* for some time (e.g., home rule in US counties). However, as urbanisation and government grew and became more centralized, the tendency was to establish an *ultra vires* construction. This trend has been reversed over the last two decades, as seen in functional assignment reviews around the world resulting in more permissive formulations (e.g., provinces in Canada, states in Australia, and local government in the United Kingdom).

There are different views about the suitability of a general competence construction for developing countries, even those that are decentralising. As it turns out, where it has been given, it is usually not well executed, or it is re-balanced by complementary or conflicting legislation (see Box 5).

The choice of construction outlined above needs to be seen in conjunction with the choice of a particular SNG, of sufficient scale, as the main service delivery level. The aim then becomes to empower this level to be a 'general purpose local government,' able to fulfil the multiple needs of its population.[15] This designation is increasingly accompanied with a 'general competence' construction of functions, meaning that the functions are not listed in detail but rather in broad form, to give as much freedom as possible to SNG to act in fulfilment of its broad mandate.

While general competence seems to be in the ascendancy, this construction is sometimes misunderstood. It is a construction generally found in the organic law for SNG/decentralisation. As indicated earlier, this law generally coexists with a number of other laws (e.g., sectoral laws, procurement law, planning law) that prescribe or proscribe in specific form (i.e., an '*ultra vires*' construction) functions/services and set out performance standards. Hence in practice OECD countries that are said to have a general competence construction in actual fact usually have a hybrid between general competence and *ultra vires* constructions.

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14 The Law on The Administration and Management of Commune/ Sangkat, 2001.

15 General purpose local government that provides a number of important services (basic education, primary/preventive health care, water and sanitation, local roads etc.) begins to be feasible with an urban (or fairly dense) population of around 10,000. Reasonable efficiencies are believed to be more attainable when jurisdictions reach populations of 100,000 or more. This is evident in the cross-jurisdictional (i.e., functional) districts formed in North America for health and educational planning and allocation purposes; these often encompass populations larger than two or three hundred thousand.

Obligatory versus discretionary functions

Many countries have policy/legal frameworks that emphasize or make obligatory some functions of SNG. For this class of functions, particularly introduced in the context of basic services, norms/standards are set (often through sectoral instruments; laws and regulations) to specify the performance expected of SNG (see Box 6 for the Indonesian case). The standing and enforceability of these standards vary considerably in legal and practical terms. One concern in instituting minimum service standards is financial adequacy to meet them – avoiding unfunded mandates.[16]

A related concern with the introduction of obligatory functions is that local government not be unduly denied discretion – that it retains a significant degree of autonomy. This can be attained by carefully structuring the performance expectations on the obligatory functions (e.g., as much as possible being outputs/outcomes oriented rather than input-oriented or stipulating spending levels).

Another way that local autonomy can be safeguarded is by allowing for a class of functions that SNG can identify and take up of its own initiative and with 'full autonomy' within the larger bounds of the legal framework of the country (health and safety regulations, human rights, treatment of labour etc.). These discretionary or voluntary functions ought to be of a local nature, and be taken up in accordance with available resources.

Minimum service standards in Indonesia[17]   `Box 6`

Obligatory functions that relate to basic services are accompanied by performance expectations in the form of minimum service standards (MSS). These are defined as minimum form and quality of basic services that regional government must deliver, and citizens can claim. The government hopes to see these woven into the planning and budgeting of regional government, and to adapt intergovernmental finances, and supervision, to support and enforce compliance. So far only a few ministries have formulated adequate MSS, and the regional governments are still tentative in working with these standards. Expenditure norms associated with the MSS have yet to be agreed upon, and therefore national transfer mechanisms do not yet incorporate these.

In principle, there is no need for discretionary functions to be coded *a priori*, but some countries do make a list of these functions, as a kind of menu to inspire local action. The danger is that the list is seen as part and parcel of the *ultra vires* construction – nothing else beyond what

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16 For a discussion of these issues, with a focus on the Indonesian context, see Ferrazzi, G. (2005). Obligatory Functions and Minimum Service Standards for Indonesian Regional Government: Searching for a Model, *Public Administration and Development*, Volume 25 (3): 227-238.

17 Widiastuti, Dwi (2009). Progress and Challenges in Formulation and Application of Minimum Service Standards (MSS) in Indonesia, for presentation at GTZ Technical Workshop on Functional Assignment and Performance Assessment Systems for Local Government, Bangkok, February 11.

"may" be done will be deemed possible. Furthermore, the term "may" could be intended as a polite way of indicating what must be done by SNG, rather than as a choice. To avoid these pitfalls, it is preferable to have a right of initiative provision, or a general competence formulation (though this is usually only proper for only one level of subnational government having a general purpose nature, where most basic services are provided). A committed and open approach to discretionary functions is a necessity for any FA construction that is to be characterized as 'general competence.'

Different degrees of 'discretion' are found in practice. Cambodia allows, in principle, communes to undertake functions not set out in regulations. However, these must be proposed by the communes, and approved by a central level body. This is a rather constrained form of local level discretion and undermines the general competence construction of commune functions.

The Philippines is one country with a 'right of initiative.' Such a right may be particularly helpful to complement a positive list that is obligatory, which might induce an unduly self-restricting stance on the part of the LG. The 'right of initiative' provision encourages the LG to take on activities that are not spelled out in the positive list.

In a multilevel sub-national government context, discretionary functions/right of initiative provisions are ideally accompanied with rules to adjudicate who in fact has the right to move forward in a particular activity if two levels are vying to do so. There may be rules that allow both to do so for particular kinds of activities. It is difficult to find information on such arrangements, but some good practices could be imagined. For instance, if parallel or joint approaches (concurrence) are not practical then the 'first to initiate' may be given preference, or if activities have yet to be launched a particular level may be given blanket precedence (e.g., the level designated to be the general local purpose local government).

A good argument can be made that SNG ought to give first priority to the obligatory functions that are embedded in the legal framework that guides SNG, as these are the core functions of SNG and relate in particular to basic service provision.

Concurrent versus exclusive functions

The notion of concurrent functions is often loosely used, and in some cases the usage seems to simply point out that broad sectors are assigned not in block but as unbundled functions that are placed at different levels; the levels of government involved can be said to be sharing the 'sector.'

More rigorous and meaningful ways of using the concept of concurrency is evident in the following distinct situations:

1. A particular function can be carried out by more than one level of government, simultaneously.
2. A particular function can be taken up by a level of government if it has yet to be taken up by another level of government or does not infringe on another level of government (usually higher level).

The first case is one of 'joint occupation,' and is a fairly common approach that encompasses a sub-set of all governmental functions, usually a small to modest proportion. Too much concurrence is thought to lead to difficulties in determining roles and accountability.

In the second case, concurrency means the 'opportunity' to take on a function rather than joint occupation. Usually a lower level will be allowed to take on a function if the higher level has yet to regulate it in a way that would prevent lower level take up. It is debatable whether this provisional and sequential occupation of a function should be called "concurrent." When this mechanism gives protection to lower level government to hold its ground if first in, then it is essentially a strong version of the 'right of initiative.'

Connected with the concept of concurrent functions is that of 'exclusive' functions. This is also not a straightforward concept, as any function devolved to SNG is still to some extent accountable to the national state, and the latter can set standards and norms for these functions; to say that they are exclusively held by the SNG is therefore somewhat erroneous.

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Asymmetric FA in Nepal   `Box 7`

The Local Self-governance Act (LSGA) of 1999 provides for a two-tier system of local governance with Village Development Committees (VDCs) and Municipalities as the lower tier and District Development Committees as the higher tier. VDC is a rural focused local body while the Municipality is urban focused. Currently, municipalities, VDCs and DDCs have different functions, powers and responsibilities assigned. Municipalities are entitled to collect own source revenues from different taxes, whereas VDCs rely on financial resources transferred from the DDC. Government grants for municipalities are disbursed directly while transfers for VDCs are channeled through DDCs.

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The concept of exclusive functions is deemed to be more relevant for functions that are entirely in the hands of the national state/government. It is frequently opined that the national state/government is solely responsible for some functions.[18] The three functions of government as described by Musgrave are widely cited in this regard: allocation, distribution, and stabilisation.[19] As a gross simplification, this is tenable, but in fact there are many cases where SNG plays some role, formally or otherwise, in these broad functions.

Uniform versus asymmetric functional assignment

In the last decade, the term 'asymmetric decentralisation' (also termed differential or tailored decentralisation) has been used to denote situations where (in the context of a unitary state) the central government decentralizes to a different extent among units of SNG for a particular tier of SNG. This differential treatment acknowledges and formalizes some unique or special characteristics of one or more units of SNG, often in terms of the role/functions it can undertake and the revenues it receives. The different functions assigned to certain SNG allow them to address its particular political, socio-cultural, or economic character or aspirations. The most common ways that functions can be transferred asymmetrically are shown in Figures 4-6.[20]
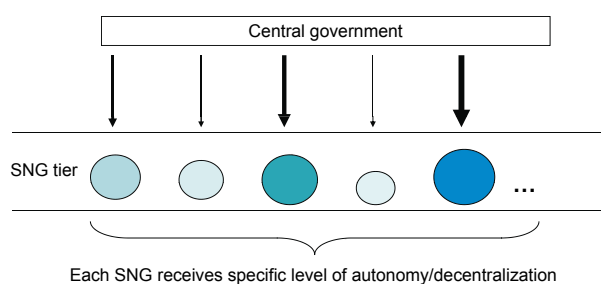
Figure 4: Fully asymmetric decentralization (horizontal)

The variability in administrative capacities is also put forward in some countries as the reason for attempting asymmetric FA. But this desire is generally frustrated by the reality that the national level itself does not usually have the capacity to manage a highly asymmetric set of relationships with SNG.
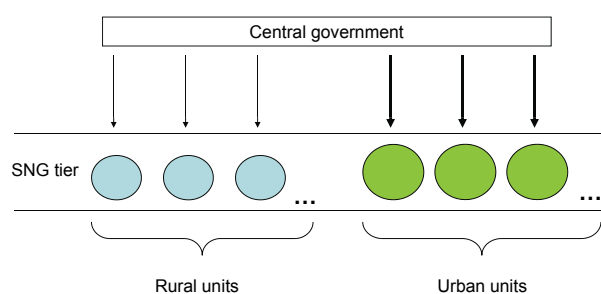
Figure 5: Asymmetric treatment by rural and urban designation

A common limited form of asymmetry is that seen between rural and urban local government (Figure 5). This is seen in several countries in Asia, among them Cambodia, India, and Nepal (see Box 7 for case of Nepal). In

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18 A good example for this approach was the Indonesian Government Regulation 25/2000 listing exclusive functions of the national and the provincial government level.
19 See for instance Musgrave, 1964, Ibid.

20 Ferrazzi, G. and Mas'udi, W. (2008). Special Autonomy - A Common Form of Asymmetric Decentralisation, presented to the Workshop on Implementation of Governance in Aceh According to Law 11/2006: Progress and challenges, Banda Aceh, 19 November.

this case, the size and density of jurisdictions differ, providing some basis for tailored functional assignment.

The case for extensive asymmetry is also weakened by the view that decentralisation is not just something to be meted out to capable SNG, but is rather a means of developing capacity.
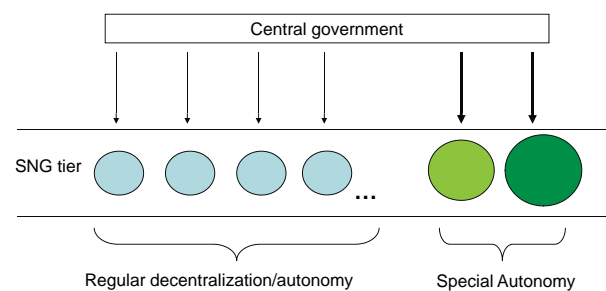
Figure 6: Special autonomy as one form of asymmetry

In practice, it is only when the differences have to do with minority rights or conflict resolution (e.g., Aceh) that asymmetric arrangements are deemed worthy of the extra administrative burden – and this form of asymmetry is limited to one or a handful of units among a particular SNG level.

Provision versus production

In considering how to discharge identified functions, the national state/government is usually presented with several choices. It can:

1. assign the function to the central government and implement the function from ministry headquarters
2. assign the function to the central government and deconcentrate the function or some tasks related to the function to dispersed ministry offices covering the national territory
3. assign the function to SNG (= devolution) – retaining only some oversight/support role
4. assign the function to central government and then assign part of it as an agency task to SNG
5. assign the function to the central government or SNG, and either in turn can allow non-government parties to engage in production.

Options 4 and 5 can be viewed as creating a provision and production split, where implementation is carried out by entities that do not have the ultimate responsibility for provision, except for how implementation is carried out. The provision responsibility is retained by the state (including SNG where it is devolved, prior to an arrangement with a non-government entity for its production), and considerable control is exerted in how the function/task is implemented.

This provision-production split is generally perceived to be at work when government engages non-government actors in the implementation of a governmental function. But as indicated above it can also be seen in the agency mode of decentralisation (between levels of government).

Conceptually, the provision-production split is not in operation in the devolved mode of decentralisation (Option 3) as it is the receiving level of government that is given responsibility for *provision*, with a much lighter hand (than in agency mode) of the entrusting state in subsequent guidance and control.

3. Features of FA Process

3.1 Stakeholders/actors involved

A large number of stakeholders can be identified in FA exercises. To the extent that they are brought into play, the resulting assignment has a greater chance of being understood, accepted, and applied.

The stakeholders and actors typically involved in a cross-sectoral FA exercise could include:

- Central ministry that is most implicated in the functions to be decentralized
- Coordinating ministries and/or inter-ministerial committee(s) that facilitate the process
- SNG associations
- Political actors at all relevant levels
- Professional associations (planners, health workers etc.)
- Unions (e.g., teachers' union)
- NGOs, media, academics
- Traditional institutions
- External advisors (e.g., those provided by development partners).

Teacher's union and FA in Indonesia	Box 8

Teachers in Indonesia have generally been uneasy about decentralisation to the district level, and have lobbied several outcomes that seem centralistic:

a) for the province to handle some functions rather than the district (senior high school)
b) for the central government to make teachers national Civil Servants rather than regional staff
c) for hiring and payment to be undertaken by the central government rather than the regions.

Discussions concerning FA in the educational sector would need to bring the teacher's union to the table to meet concerns, reduce anxieties about decentralisation and to gain support or reduced resistance.

These stakeholders bring the authority and skills to manage and facilitate the FA process. They also bring specific technical expertise that is relevant to the assignment, and they bring to the table views and interests that if well reconciled will lend legitimacy to the results of the FA process.

If stakeholders are avoided in the FA process, they may become resistant or unprepared to support the implementation of FA (see Box 8).

The key to legitimate and workable functional assignment is the genuine involvement of key stakeholders, among them of course the central line ministries/agencies

(shortened to CLM). CLMs generally are concerned about the following:

- *Capacity gaps* – inability of SNG to rise to the challenge given their low capacity.
- *Service disruptions* – due to capacity and transition challenges, service provision may be placed in peril.
- *Misalignment with national objectives* – in view of insufficient time or experience in reworking vertical relationships, or overly permissive SNG framework, SNG efforts will not be sufficiently aligned with national objectives.
- *The motives of the Ministry responsible for SNG* – CLMs sometimes are concerned that the ministry responsible for SNG[21] may promote decentralisation as a way to shift control away from specific service sectors and augment its own power in the 'SNG sector.'

The above concerns are often justified, and must be constructively addressed. A prolonged period of misalignment of CLMs with the central policy of decentralisation can have debilitating consequences for the decentralisation effort and for the entire policy making environment of the country/state. Specifically, the following unwanted results may come to pass:

- Inefficient use of limited sectoral resources due to stagnation in adjustments/innovation in service delivery arrangements within the lagging sector.
- Sub-optimal decentralisation results in other sectors/services (that have moved forward) in view of lack of synergies with related services/sectors (e.g., decision making is still vertical for related services; critical mass of administrative staff/resources is not obtained in LGs).
- Unhealthy tensions between policy actors.
- Persistent contradictions between legal provisions and reality on the ground, or conflicting legal provisions in LG versus "sectoral " legal frameworks leading to a loss of public trust/confidence in the rule of law and government policies.

A sectoral lag can sometimes be turned to good advantage, as a leading sector becomes a 'pilot' and thus a model for the rest, in a sectorally phased approach. But a lag that is unduly prolonged and is not used in preparatory work will only invite the downside listed above.

Gaining the interest of a CLM to take part in dialogue or piloting rests to a large extent on the leadership to be

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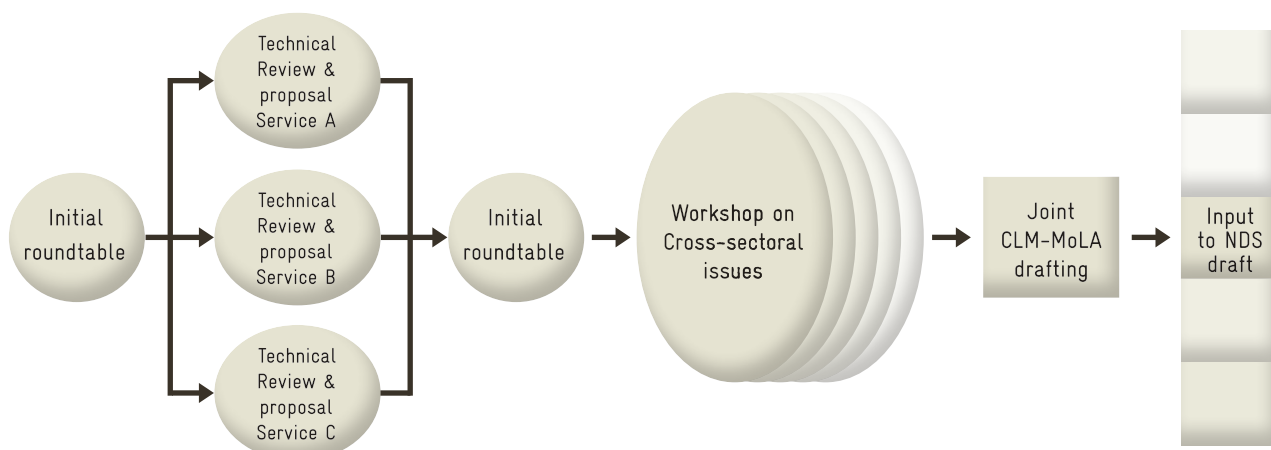21 Usually a Minstry of Local Government; or the Ministry of Home Affairs.

Figure 7: Involvement of CLMs in Yemen's National Decentralization Strategy

found in the CLM itself. If the CLMs understand how they are the central actors in the process, able to undertake the analysis and set the pace of decentralisation, they are more likely to join in the effort in a constructive way. Figure 7 shows how, in Yemen, the CLMs were brought into the exploration for which functions could be included in a decentralisation effort to be designed in a National Decentralisation Strategy (NDS) .

Organising for decentralisation in Indonesia	Box 9

The Ministry of Health in Indonesia established a Decentralisation Unit under the Secretary General of the Ministry (the administrator directly under the Minister, and through whom all line managers must report through). The Decentralisation Unit was composed of several senior and mid-level officials with previous line and staff function experience. This unit undertook research and linked with the line managers. It also linked with the Ministry of Home Affairs in efforts that were cross-sectoral in nature.

The Decentralisation Unit was generally found to be a good platform for communication, but it did face some difficulties at times in gaining line management (Director General) cooperation. Also, some of the costing and budgeting work related to decentralisation continued to be done rather independently in other units also under the Secretary General (e.g. Planning and Budgeting Bureau), and the coordination between the work of these units with the Decentralisation Unit was at times lacking.

CLMs may be allowed to proceed at different speeds, but somebody is needed to ensure cross-CLM coherence, and an eventual strategy that has common time frames. Also, some functions cross CLM boundaries and it is important that the receiving SNG receives functions in a unified fashion (e.g., water and sanitation often go well together, though different CLMs may be involved). This cross-cutting entity can be established early in the functional assignment process, establishing a dialogue/policy development platform cutting across CLMs. The ministry concerned with LG, planning, finance, or administrative

reform may be well placed to facilitate this dialogue and joint policy development (or a combination of ministries); the choice may rest on past relations of trust and on capacity.

Within the CLM itself, it may be helpful to establish some form of organisation to undertake functional assignment on a temporary or permanent basis. Several options can be considered (see Box 9 and 10 for examples of choices), and the chosen option must be suited to the CLM in question with respect to achieving the following:

• Cross-unit analysis and dialogue within the CLM.

• Flow of information from technical to political level in the CLM.

• Engagement with the coordinating ministries and any inter-ministerial coordinating committee.

The CLM may choose any, or a combination, of the following:

• *A focal point*; a person with overall responsibility to facilitate internal activities and to be the technical link to cross-sectoral dialogue/policy platforms and stakeholders. The individual should be senior, in a deputy minister or secretary general role, or an advisory/staff position that requires technical and political expertise.

• *Existing ministry policy unit* that is established as a staff function and draws in part from line units for information and views on decentralisation.

• *New decentralisation policy group* that is established as a staff function and draws in part from line units for information and views.

• *Sectoral stakeholder forum*; a formal or informal organisation that brings together the CLM with relevant stakeholders.

There is no best way to set internal organisational struc-
tures for decentralisation, but having well respected indi-
viduals in these positions/structures is certainly advanta-
geous.

The internal and external dialogue can be enhanced
through a number of measures that together form a ***Com-
munication Strategy*** on decentralisation for the CLM,
for example:

- Pamphlets explaining the CLM task structure for de-
centralisation or specific initiatives.

- Web site or a devoted page in the CLM website to in-
dicate the organisation, work plan, initiatives, progress,
and events.

- A feedback mechanism (e.g., telephone, email) linked
to the organisation/focal person charged with decen-
tralisation.

- Internal orientation sessions should be provided for the
CLM staff to understand the approach and work plan
and other matters relating to the decentralisation efforts
of the CLM. In particular, the sessions should clarify
what is expected from each relevant unit in the CLM
and the opportunities provided to make a contribution
or to gain skills and knowledge.

The dialogue should at some point extend beyond the
CLM officials, encompassing local governments and their
associations, relevant professional associations and trade
unions (e.g., teachers, health workers), experts from re-
search and higher education organisations, non-govern-
ment and private sector organisations involved in service
delivery or in advocacy.

Great care must be taken in explaining how external ac-
tors will participate in the implementation of the secto-
ral decentralisation work plan. Identifying stakeholders
is a useful step, and there will be differences of opinion
regarding who should participate, or at what point they
should participate.

It is exceedingly difficult in a complex undertaking of this
kind to set out a work plan that will hold for the period
in question. Nevertheless, an adaptable work plan can be
useful to keep the focus on key milestones (Box 11).

It may not be possible for the CLMs or the coordinating
ministries themselves to point to a clear timetable for sec-
tor decentralisation. Policies may be made in an ad hoc
way, as political pressures make themselves felt. A real-
istic time frame needs to be set, usually spanning one or
two years, giving enough time to explore current arrange-
ments, develop and explore options, and make decisions.
It may be necessary to undertake some pilot activities, or
to phase the transfer of functions, starting with a few sec-
tors in the first round, or starting with selected functions
in each sector in the first round.

3.2 Approaches and specific processes

Overall process and timing

Functional assignment ideally requires good analysis and
consensus. The process can take considerable amount of
time, if done with care. It can also take considerable time
if not done well, and conflict arises that stalls the process.
Figure 8 shows what a typical process might entail, with
FA linked to the other necessary elements of decentralized
governance. A two-year cycle from design to implemen-
tation is reasonable, and that would need to be doubled
if a further round of refinement is necessary. Rushing
through the process, to avoid some thorny issues and dif-
ficult negotiations, will result in messy consequences as
implementation runs into snags – the hard work is merely
shifted to a later date.
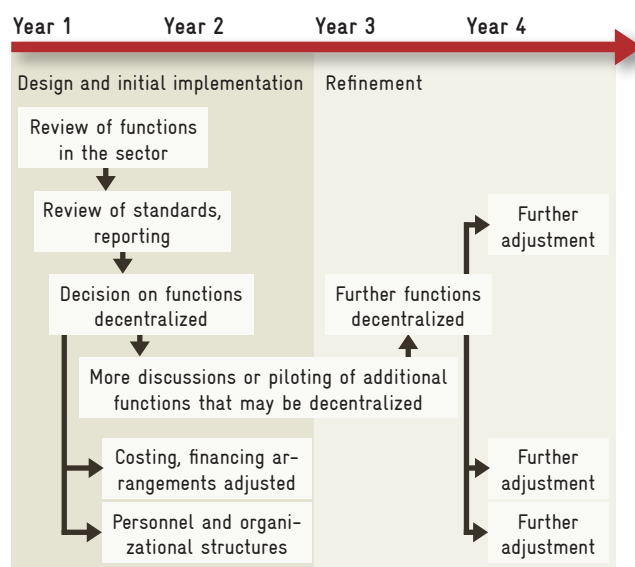
Figure 8: Typical schedule for FA – with refinement round
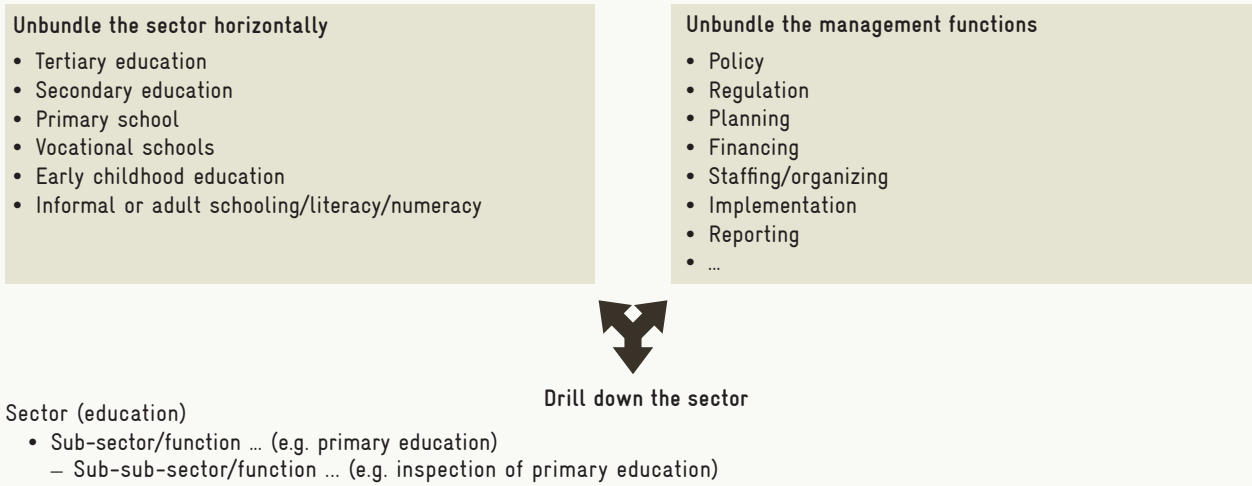
Figure 9: Ways of unbundling a sector – case of education

Unbundle the sector horizontally
- Tertiary education
- Secondary education
- Primary school
- Vocational schools
- Early childhood education
- Informal or adult schooling/literacy/numeracy

Unbundle the management functions
- Policy
- Regulation
- Planning
- Financing
- Staffing/organizing
- Implementation
- Reporting
- …

Drill down the sector

Sector (education)
- Sub-sector/function … (e.g. primary education)
  - Sub-sub-sector/function … (e.g. inspection of primary education)

Unbundling Functions

Over the last decade, the practice of FA in developing countries has been enriched with a more rigorous approach to sectoral decentralisation that recognizes how various actors should take part in discharging the functions subsumed in the sector. Efforts to change or refine the assignment therefore are based on the technique of *unbundling.*

As Figure 9 indicates, unbundling can be done in terms of the subject matter as well as the generic management functions that adhere to each subject matter. It is possible to unbundle at various levels of scope of subject matter ("drilling down" into the sector).

This unbundling can be useful at several different points, laying out:

i. prevailing (actual) situation – prior to decentralisation

ii. legally legitimate situation (as set out in laws/regulations)

iii. innovations noted or nurtured (e.g., pilot)

iv. desired situation – result of decentralisation.

The purpose of unbundling is not to dissect a service to its most granular form. The intent should be to only unbundle to the *degree that is necessary* to apportion the functions between the stakeholders involved in service provision/production – ideally for a particular service (rather than a sector, or a fine-grained function within a service). Figure 10 shows the matrix that can be constructed to display the assignment of functions for a given service.

The matrix in Figure 10 could simply be checked (√) to indicate where there is a role of the actors listed vertically on the left hand side, but it is more informative to insert comments that offer more information (e.g., limitations on the scope for the management function in question, or connections to other actors).

Formulation of functions

A wide range of formulations are seen in lists of functions adopted throughout the world. Some principles that might be gleaned from their construction, and experiences in application, are listed below:

- recognize when functions need to be unbundled - to avoid unwanted concurrency or giving parts of functions that are not suited for the level in question;

Actor	Unbundled functions for a particular service							
	Provision		Production				Policy	
	Planning and Budgeting	Financing	Staff Mgmt.	Construction	Maintenance	Operation	Regulation standards	Monitoring
Central Ministry								
Regional government								
Local goverment								
Users								
Private firms, NGOs								

Figure 10: Connecting actors with unbundled service functions

- nonetheless, keep the function whole if possible (inject some exceptions in the global formulation if that helps to avoid listing all the possible pieces that could be covered under the global formulation);

- avoid framing functions as projects or schemes – functions are the underlying and stable mandates that give rise to projects/programs that change considerably over time;

- avoid limiting jurisdiction by value of projects/activities; procurement should be wrapped with its substantive function;

- management functions should be implicit or mentioned as a global reference;

- avoid the use of the term "scale" or even "level" as explanatory terms as they lead to multiple interpretations or simply do not add any information;

- functions should not rigidly flow from pre-existing organisational mandates (remember: "form follows function", not vice versa!).

Keeping the functions whole makes government more easily accountable and efficient (e.g., capital and operational/maintenance expenditures are matched), and makes the lists a lot more readable. Readability is also enhanced when norms/standards and supervision roles are stated in a blanket fashion for all of the functions to which they pertain – rather than listing them for each and every small substantive function.

Differentiating functions between levels of government on the basis of 'scale' only works well when the scale dimension is already standardized (see Box 12 below). Scale should not be the term or concept used to differentiate functions that relate to different target groups. For instance, if the placement of specialized staff is to be a provincial level function - with the scope being 'provincial scale'- this may result in two possible interpretations; that it pertains to all staff at *all* levels *up to* provincial level, or that it pertains *only* to staff of the provincial establishment. Such ambiguity should obviously be avoided.

Functions and organisation are often conflated or confused. Organisations should follow functions; reflecting practical/efficient ways of discharging functions. It is not a good idea to begin functional assignment from the referent of existing central level structures. This tends to freeze into place organisational structures and current mandates – and too often the subsequent activity is that of finding corresponding functions for the SNG that connect with this 'given' – usually some aspect of implementation, sometimes quite trivial. This approach may result in sensible assignment on occasions, but will surely run the risk of locking in inefficiencies, through bloated central-level structures and a proliferation of overlapping or questionable SNG roles/functions.

3.3 Criteria and principles for assignment

In unitary countries (or where formative units of federal nations have responsibility for local government) it is not uncommon to have reviews of FA and adjustments made. The need for a well laid-out process for such adjustments is more likely in countries that have chosen to use an *ultra vires* construction. The need is more obvious for facilitating *decentralisation*, but there is sometimes the need to *recentralize* functions or to acknowledge functions that had not been anticipated in earlier times.

In contrast to the *ultra vires* construction, the broad mandate of general competence allows for initiative by the SNG, although this may be limited by any subsequent laws/regulations of higher levels (which can also be imposed to stop SNG from carrying out tasks they have been doing for some time, presumably if they are been done badly). But as mentioned earlier, in most cases 'general competence' in the local government stream of law is complemented with laws of a sectoral nature that contain provisions or lists that are more *ultra vires* in structure; creating a hybrid form of FA overall.

In either the *ultra vires* or hybrid constructions, it is good practice to indicate how adjustments are to be made, specifying the legal instrument and key procedures (e.g., consultation mechanism).

For whatever direction of movement of functions, some countries undergoing decentralisation have seen fit to specify the criteria that will govern "who does what" (Box 12-14). The general principle applied in Europe that of subsidiarity, is increasingly finding its way into international guidelines (see Appendix 4)[22] and is being tak-

22 See para B.1.1 of the 2007 UN Guidelines.

en up by the legal framework of countries pursuing decentralisation reforms.[23] This principle dictates that the function/tasks in question should be undertaken by the smallest jurisdiction that can do so effectively and efficiently. The latter terms are quite broad of course and need further specification.

Criteria adopted by Indonesia	Box 14

- Efficiency: through economies of scale or availability of technical staff –> tends to centralisation
- Externalities: significant impact is felt beyond the boundaries of the regions –> tends to centralisation
- Accountability: functions should be placed where they can receive the most scrutiny and control by citizens –> tends to decentralisation

Efficiency is often referred to in FA. It is a broad concept, sometimes made more specific, when 'economies of scale' is indicated. Efficiency can also come from economies of agglomeration (general purpose local government is made efficient by having a critical mass of functions administered from the same body).

Scale efficiencies are often associated with population. For instance, it is often more economical to obtain text books, drugs, or vehicles in bulk and through one buying organisation. Economies of scale tend to exist up to a certain point, after which they plateau, and sometimes even reverse when settlements are so large as to impede the efficient delivery of some services. It is also important to recognize that economies of scale can accrue from inter-jurisdictional cooperation (e.g. several SNG establishing a special-purpose association for providing a particular service jointly) or shifting production to entities that can attain the requisite scale on behalf of the SNG.

A matter of emphasis: the German case	Box 15

While there is a great deal of commonality in criteria applied for FA among countries, there are some differences in stress. A recent ruling of the state supreme court of Mecklenburg-Vorpommern, Germany, emphasizes democratic principles and connectedness to citizens, rejecting a reform that would have seen larger and more efficient municipalities. This value system is likely to also be felt in functional assignment trade-offs between the desire to enhance local participation and accountability versus pure economic efficiency.

Functions held by the SNG should show benefits and costs that fall largely within the SNG jurisdiction. When SNG expenditures (e.g., a hospital) spill over to neighbours, the SNG will tend to under-invest in the service as a result of this leakage. When this is the case (i.e., when externalities are high) then decisions may be more appropriately made at a higher level that better encompasses the costs and benefits involved.

There is a link between increasing size and administrative capabilities, at least in the small to medium scale of

government. Expensive and sophisticated technical skills are generally scarce and therefore point to placement at units covering larger areas/populations.

Efficiencies can also be expressed in terms of affordability or logistical placement of scarce administrative/technical staff. But this is not a rigid measure (more people with the right skills can be distributed or hired in most cases) and should be used carefully for 'screening' purposes (which levels of government is ready to undertake a function) and as the 'objective;' raising the capacity of the level of government that has been deemed to be the focus of decentralized service delivery, by transferring functions with requisite resources, and giving any needed support to ensure successful discharge of the functions.

It is much easier to find actual lists of functions employed by countries, or advised by consultants and academics, than it is to find lists of criteria used for assigning functions. When the latter are found, they are generally rather poorly explained, and information on the way they are applied is even more difficult to obtain. In particular, it is rare to see documentation of who sits at the table and how criteria are weighed, or how trade-offs are made.[24]

From what can be gleaned from the literature and GTZ supported practice, the most frequently cited criteria are externalities (spillovers) and efficiency/economy,[25] but capacity of local government has also been a recurring theme. Appendix 5 provides some examples of sets of criteria promoted/applied. It is important to point out that the use of criteria is far from a mechanical exercise; there is much room for interpretation of how these are best applied. Lists prepared in a particular country by interested or disinterested parties using the same criteria could vary considerably.

3.4 Phasing

Decentralisation rarely happens all at once; even the "Big Bang" in Indonesia has turned out to require subsequent rounds of functional assignment adjustments. A key decision at the outset then is "how big" the first step should be. This decision is generally a function of the "readiness" of the national level actors to embark on orderly decentralisation, and of the SNG to handle new responsibilities. With respect to the latter, the scope for FA changes depends on scale (population and area size), existing administrative offices and capacity, and natural/economic endowments.

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23 See Box 13: In India, it is mentioned as one of the underlying principles for the FA process.

24 This is in particular apparent with the "Activity Maps" prepared by the state governments in India (e.g. from Kerala or Assam), which present in tabular form the allocation of activities, but do not explain on which basis allocative decisions have been made.
25 See Ferrazzi, G. (1998). Criteria for Transferring Functions to Sub-national Governments: Selection and Application in Indonesian Decentralisation Initiatives, unpublished doctoral thesis, University of Guelph.

Within any one wave of decentralisation, the simplest approach, if workable in terms of capacity, is to have a synchronized approach across sectors and across all SNG of a particular level/tier. Where this approach is not possible, other options could be to phase FA as follows:

1. A partial set of sectors
2. A partial set of functions within sectors
3. Partial set of SNG
4. Confirm/decentralize functions ad hoc as sectoral ministries see fit.

The central/regional/local level ability to work with a great deal of asymmetry must be considered, and weighed against the simplicity of uniform assignment that may tend to outstrip SNG capacity. Generally, it is best to tend toward uniform assignment, while compensating for low SNG capacity by accelerating capacity development for the weakest SNG.[26]

Leading sectors in Yemen (2005/6) | Box 16

- Ministry of Education:
  - Primary education
  - Non-formal education
- Ministry of Health:
  - Maternal health
  - Communicable diseases
- Ministry of Water and the Environment:
  - Urban water supply and sanitation
  - Rural water supply and sanitation
  - Water resources management
- Ministry of Agriculture and Irrigation
  - Extension services
  - Veterinary services

The decision on how to phase FA (or decentralisation reforms generally) has much to do with the political situation in the country; whether decentralisation has become a political necessity to curb centrifugal forces for instance. But it also has to do with leadership, particularly at the top and in the ministerial posts. Where there is little pressure for decentralisation, it is best to proceed with sectors that are interested and willing to explore, using these as examples for the more wary ministries. The Yemen (UNCDF) approach was to use several lead ministries, covering the bulk of local expenditures; beginning with a limited set of well delineated services as the starting point for the preparation of a national decentralisation strategy (see Box 16). A somewhat similar approach was used in Himachal Pradesh (Box 17). Here the units involved initially were more numerous, and the functions were not limited *a-priori*. In the course of the process however, several departments' progress slowed considerably, yielding a smaller number of truly lead sectors.

Leading sectors in Himachal Pradesh (2008/9) | Box 17

- Irrigation and Public Health Dept.
- Health Department
- Education Department
- Rural Development Department

3.5 Success factors and obstacles/constraints[27]

The earlier discussion and examples reveal both promising avenues and obstacles to effective functional assignment. Some of the discussion has dealt with ideal situations, and these are probably not achieved across the board in any country. OECD or otherwise. There is a lot of muddling through in functional assignment, but some short cuts can be fatal to the exercise.

A key success factor appears to be the existence of sectoral ministers or senior level officials (in one or two significant sectors at least) who are willing to take some risk to explore new institutional arrangements. It may be asking too much to call them champions, but they need to be sufficiently interested to give room for a discussion and possibly some piloting. They also have to show some willingness to be coordinated (and relate to other ministries) to achieve some coherency in decentralisation across sectors.

The advantage of gaining the participation of several key sectors is that overlapping mandates that can be addressed as part of an inter-ministerial coordination process. For instance, health programs operated in schools often involve or relate to budgets of the education and health ministries. Similarly, drinking water or sanitation may involve the health and public works ministries (and others in some countries). Where a 'rural development' ministry is found, it is common to see many mandates or assumed activities between this ministry overlapping with those of more narrowly defined sectoral ministries (e.g., agriculture, irrigation, roads).

Having the 'local government' ministry mediate the overlapping mandates can be helpful, if the latter is seen as an honest broker. Additionally, the LG ministry can ensure that the overall initiative has coherence, e.g. that all ministries truly engage in devolution rather than delegation (agency or deconcentration). If intimately connected, the LG ministry, with the ministry responsible for finance, can also guide efforts to cost the functions being considered and estimate what magnitude of financial resources may be necessary to address in the reconfigured transfers or revenue assignments that accompany FA.

The performance of inter-ministerial bodies as a platform to coordinate policies in a multi-level/multi-actor setting (as is the case with decentralisation reforms) has been

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26 As outlined in the UN Guidelines, an "increase in the functions allocated to local authorities should be accompanied by measures to build up their capacities to exercise those functions." (Para C.2.1)

27 Drawn from points made in GTZ (2009). Technical Workshop on Functional Assignment and Performance Assessment Systems for Local Governments. Bangkok. 9-11 February, pg. 12.

rather mixed. However, often there are few alternatives, as the organisations affected by the reforms need to establish directive and non-directive patterns of interaction. Ensuring the timely availability of information, establishing an "infrastructure of interaction", facilitation of the cooperation process and segregating the policy process into smaller units can help to increase coordination and cooperation of the organisations involved.[28]

Proponents of FA must recognize that even one round of FA can entail two or more years from preparation to implementation of new arrangements. Giving room for proper design and consultation can have a good return down the road.

The public is interested in some aspects of service delivery, but will rarely enter into the technical dimensions of FA. Local government is more interested and aware, but may emphasize certain services (e.g., those with revenue raising potential) and be wary of lack of funding or performance expectations. Central governments are sometimes not comfortable to invite the SNG associations to the table, choosing instead to cherry pick favoured SNG units in their consultations and analysis. National-level actors need to recognize that engaging communities and local government in appropriate ways (not simply at the tail end in 'socialisation' efforts) can have a bearing on the workability and acceptance of resulting arrangements.

Because of concerns of the CLMs and SNG both, it is important that FA is closely accompanied with deliberation and analysis on the financing and staffing requisites to successfully discharge the decentralized functions. It may only take one round of mismatched decentralisation to make SNG cynical and reluctant to engage in another round of reform initiatives.

Support for FA from development partners is extremely important – many newly decentralising countries have little experience in the process and can benefit from exposure to international practice. But DPs must target the right players with capacity development, mindful of the longer term capacities needed, and the short term pressures politicians are under; understanding how the technical and political dimensions come together is important for making external support effective.

Central government and SNG are rarely keen to reach out to civil society in the process of decentralisation – the process tends to be entirely an intergovernmental affair. It is then up to the DPs to raise awareness of the benefits of early involvement of civil society, to be woven into service management and implementation, and in service scrutiny/improvement.

3.6 Monitoring of FA processes

To be successful, a FA process needs political backing. It is important therefore for senior political figures to have regular reporting on how the FA is unfolding. State legislature/officials and sector ministers should expect reporting of the progress of the exercise. At key points, the interim results of FA will need to obtain political reassurance or decisions that are rightly of the political level to take (e.g., which sectors/functions should be up for discussion; which institutional arrangements should be piloted; how to bring other stakeholders on board in the discussion).

Ideally, SNG involved will also be monitoring the process, noting whether there is coherence across sectors, and whether the overall effort will yield meaningful devolution (weighty functions, requisite resources, appropriate supervision and support). CSOs, in particular universities/research centres, should be following and supporting, adding expertise and taking government to task when necessary. It is these organisations that are most likely to package the experiences and disseminate them effectively (though government could do so as well if it has the will and capacity).

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28 See Rohdewohld, R. (2006), Managing Decentralisation: Interministerial Bodies, Policy Coordination and the Role of Development Aid Agencies. Manila. (ADB Governance Brief No. 15).

4. Open Issues

Functional assignment has not received the attention in the literature and among practitioners that development planning or financing mechanisms have received.   The increasing concern for local government performance however is forcing a retracing of steps to this foundational element. Performance assessment requires clarity on responsibility/degree of control. As part of this re-examination, the linkages between elements (or building blocks) of decentralized governance is also coming to the fore. To have a proper understanding of FA, and its relationships to other key elements of decentralized governance, additional depth needs to be added to the following issues:

- Why does functional assignment so often get shunted aside in favour of planning, financing, and organisational approaches that badly subsume or ignore FA? Political economy and institutional analysis may be productive here, including why donors themselves have had difficulty recognising the need/demand for FA support.

- Which criteria of functional assignment have actually been applied in practice (and how)? Which ones are truly helpful, and which are in principle helpful but in practice too difficult to apply?

- What are the conditions that lead to strong and coherent legal framework (with no conflicts between organic laws and sectoral laws in particular)?

- What is the best way of ensuring a good functions-finance match in the process of decentralisation (e.g., costing approaches)? Under which conditions is it sensible to proceed with funds for local government without specifying functions for which they are 'fully' responsible?

- What are workable ways of setting performance "obligations" and of aligning financing and incentives/sanctions to ensure compliance?

It is unlikely that answers to the above can come through a better scan of the literature. If the documentation exists then it is most likely 'grey literature' and will be difficult to access. The best way of revealing experience and reflections on the above and other important aspects of FA is to make available some starting points, such as this technical note. This can provide a conceptual framework that makes it easier for others to respond in kind, adding depth, variety or contrasting information and views. At some point, a more rigorous examination of support efforts undertaken by development partners would be helpful, and at that point the conceptual and analytical framework will be sufficiently robust to make the cross country/donor review valuable.

Appendices

APPENDIX 1:   Typology of decentralized functions/ tasks

Aspect of the service	Deconcentrated Task	Delegated/Agency Task	Devolved function
Instrument	Ministerial decree and circular.	Law, regulation, government decree, or ministerial decree/circular.	Constitution, law and related regulations.
Source and receiver of authority	From Ministry, "delegated" to its own dispersed branches.	From representative body or ministry/agency to local government or special agency.	From state, or central level representative body to local government.
Funding	From ministry to its branches directly (does not show in local government budget).	From the assigning entity to the local government/special agency. In cases task is funded from broader transfers that are deemed to be sufficient to cover delegated tasks.	Receiving level (through assigned revenues or block or conditional grants).
Staffing	Branch staff are central level civil servants, part of the Ministry establishment. Their duties may include coordinating with local government.	Local government/special agency have own staff, but operate under a national frame. May also use seconded staff of central government.	Local government have own staff, but operate under a national frame; considerable discretion in hiring, firing, size of establishment etc. May also use seconded staff of central government, who is treated essentially as local government staff.
Internal organisation structure discretion	Branches are structured by the Ministry, though often approved at cabinet or higher level.	Local government/ special agency can shape their units within a national frame, and handle tasks in/within units of their choosing.	Local government can shape their units within a national frame, and handle functions in units of their choosing.
Implementation Discretion	Variable but usually limited by Ministry regulations, procedures, standards and instructions. May be considerable ad hoc guidance.	Considerably constrained by policy, procedures and standards set by assigning entity; some discretion on implementation in some cases.	High degree of discretion, but may be limited somewhat by national standards.
Reporting/ Accountability	From branch to Ministry headquarters.	Primarily to the assigning entity, but also to the local council and citizens.	Primarily to citizens of receiving level, through the local council and directly; vertical accountability remains and in principle is more pronounced in early stages of decentralisation

APPENDIX 2: Broad functions of the state[29]

A. *Getting Money*

    1. By current financing, e.g. tax collection, sale of public property, etc.

    2. By deferred financing, e.g. borrowing

B. *Spending Money*

    1. On external affairs, e.g. military and diplomatic affairs

    2. On activities related to internal order

        a. Maintenance of public safety, e.g., enforcement of criminal law

        b. Supervision of property rights, e.g., defining and protecting ownership of realty and personalty

        c. Supervision of civic rights and liberty, e.g. defining and protecting the right to vote

        d. Supervision of public and private morality, e.g. censorship,

        e. Supervision of marriage

        f. Inculcation of patriotism, e.g. provision of national holidays

    3. On activities related to trade:

        a. Provision and supervision of money and credit, e.g. central banking

        b. Provision and supervision of facilities for transportation and communication,
          e.g. management of the post office

        c. Provision and supervision of utilities, e.g. management of wells and atomic energy plants

        d. Provision and regulation of production and distribution of goods and services,
          e.g. supervision of labour-management relations

        e. Encouragement of economic development, e.g. granting subsidies

        f. Supervision of irreplaceable resources, e.g. conservation and management of forests

    4. On activities related to citizens' welfare:

        a. Provision and supervision of education

        b. Provision of aid to the indigent or handicapped

        c. Provision for recreation and culture, e.g. maintenance of parks, musical societies, etc.

        d. Provision of public health services, e.g. supervision of drug manufacturing

        e. Encouragement of the acquisition of new knowledge, e.g.
          granting patents and copyrights, supporting exploration, encouraging scientific societies.

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29 Riker, W. (1964), Ibid, pg. 53.

APPENDIX 3:   Common functions of general purpose SNG[30]

General administration	Registry office	Registers
		Certificates
		Archives
		Census
		Elections
	Public order	Police
		Pound
Public works	Roads	Local Roads
		Sidewalk
		Provincial Roads
		Street cleaning
		Street lighting
		Traffic lights
	Water supply	Local distribution
	Sanitation	Local connecting system
		Sewage water treatment
	Solid waste	Garbage collection
		Garbage disposal
Public transport	Fire protection	Creation of water basins
		Creation of (Volunteer) Fire brigade
		Mobile Unit
	Development planning	Establishment of plans
		Extension, modification of plots
		Issue of permission and certifications
Social affairs	Education	Kindergarten
		Primary schools
		Elementary schools
		Secondary School
		Colleges/Universities
		Youth centers
		Literacy
	Public Health	Infirmary
		Health center
		Hospital
		Drugs provision
		Evacuation
	Social assistance	Social center

30 Reported in Ferrazzi, G. (2004). Note on Typology for Governmental Functions, GTZ – Administration Reform and Decentralisation Project.

		Orphanage
	Lodging	Social lodging
	Sports and leisure	Stadium
		Swimming pool
		Arena
		Area of games
		Organisation of competitions
	Culture	Library
		Museum
		Culture Center
		Historic monuments
		Orchestra, ballet or theater troops
		Fairs
Economic development	Markets	
	Slaughterhouses	
	Bus/Taxi station	
	Tourism	Tourism office
		Guesthouse, Hotel
		Handicraft centers
	Forestry	License for local use
		Reforestation
	Agriculture	Irrigation system
		License for fishery
	Mineral resources	Exploitation of sandpits

A. Governance and democracy at the local level

12. Political decentralisation to the local level is an essential component of democratisation, good governance and civil engagement; it should involve an appropriate combination of representative and participatory democracy.

B. Powers and responsibilities of local authorities

26. The principle of subsidiarity constitutes the rationale underlying the process of decentralisation. According to that principle, public responsibilities should be exercised by those elected authorities which are closest to the citizens.

28. In many areas powers should be shared or exercised concurrently among different spheres of government. These should not lead to a diminution of local autonomy or prevent the development of local authorities as full partners.

31. National, regional and local responsibilities should be differentiated by the constitution or by legislation, in order to clarify the respective powers and to guarantee access to the resources necessary for the decentralized institutions to carry out the functions allocated to them.

32. An increase in the functions allocated to local authorities should be accompanied by measures to build their capacity to exercise those functions.

37. As far as possible, nationally determined standards of local service provision should take into account the principle of subsidiarity when they are being drawn up and should involve consultation with local authorities and their associations.

C. Administrative relations between local authorities and other spheres of government

39. Local authorities should be acknowledged in national legislation and, if possible, in the constitution, as legally autonomous sub-national entities with a positive potential to contribute to national planning and development.

42. Legislative provisions and legal texts should clearly articulate the roles and responsibilities of local authorities vis-à-vis higher spheres of government, providing that only those roles and responsibilities beyond their scope and competence should be assigned to another authority.

53. Local authorities should be supported by other spheres of government in the development of their administrative, technical and managerial capacities and of their structures, which should be responsive, transparent and accountable.

60. Local authorities' financial resources should be commensurate with their tasks and responsibilities and ensure financial sustainability and self-reliance. Any transfer or delegation of tasks or responsibilities by the State shall be accompanied by corresponding and adequate financial resources, preferably guaranteed by the constitution or national legislation and decided upon after consultations between concerned spheres of government on the basis of objective cost assessments.

61. Where central or regional governments delegate powers to them, local authorities should be guaranteed the adequate resources necessary to exercise these powers as well as discretion in adapting the execution of their tasks to local conditions and priorities.

APPENDIX 5:   Criteria for functional assignment

Criteria Reviewed by ACIR (USA)

1. Spillover minimisation
2. Scale economy maximisation
3. Geographical area sufficiency
4. Legal and Administrative ability
5. Functional sufficiency
6. Controllability and accessibility of constituents
7. Maximisation of citizen participation consistent with adequate performance

Source: Advisory Commission on Intergovernmental Relations, Performance of Urban Functions: Local and Areawide, September 1963.

Criteria Suggested by ACIR (Australia)

General Criteria:
1. National unity
2. Co-ordination
3. Overriding importance
4. Multi-functionality

Responsiveness:
5. Responsiveness
6. Community
7. Accessibility

Equity and Equality:
8. Social justice
9. Redistribution
10. Equalisation
11. Uniformity
12. Portability

Efficiency:
13. Mobility
14. Stabilisation
15. Internalisation
16. Economies of scale
17. Regional unity

Source: Advisory Council for Inter-government Relations, Towards Adaptive Federalism – A Search for Criteria for Responsibility Sharing in a Federal System, Australian Government Publishing Service, Canberra, 1981.

Criteria Proposed by Advisory Committee in Ontario (Canada)

1. To the extent that income redistribution is a program or service objective, policy/service management and program financing should be provincial responsibilities.

2. The degree of involvement in policy/service management for each level of government should be determined by the type and level of spillovers.

3. Services should be produced at the level of government that can do so most economically.

4. Services should be delivered by the level that can do so most effectively.

5. The degree of involvement in service management for each level of government should be dictated by the level of interest or the need for standards.

Source: Government of Ontario, Report of the Advisory Committee to the Minister of Municipal Affairs on the Provincial-Municipal Financial Relationship, 1991.

Criteria Formulated Under Auspices of World Bank

1. Economies of scale
2. Economies of scope (bundling of public services that brings other consequences)
3. Benefit/cost spillovers
4. Proximity to beneficiaries
5. Consumer preferences
6. Economic evaluation of sectoral choices

Source: Shah, A. (1994). The Reform of Intergovernmental Fiscal Relations in Developing and Emerging Market Economies, Policy and Research Series # 23, The World Bank, Washington D. C.