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Governing decentralised States during the Covid-19 pandemic: challenges of intergovernmental coordination and cooperation in Chile, Italy, and the Netherlands

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Summary

Governing decentralized States during the Covid-19 pandemic: challenges of intergovernmental coordination and cooperation in Chile, Italy, and the Netherlands

1. Introduction

Crises are “stress tests” for democracy’s health and the stability of institutions. In this line, the COVID-19 pandemic represented a challenge for comparative constitutional studies, yet countries did not respond to the pandemic in the same vein. Some governments adopted stricter measures, while others decreed only limited restrictions. More specifically, some States adopted coordinated and nuanced policies, while others privileged subnational autonomy and decentralization. In other words, the territorial distribution of power, particularly the type and level of decentralization in the country, and the intergovernmental relations influenced the way the State mobilized resources, coordinated (or not) efforts between different government levels, and had an impact on the organization of the health system, among other key factors.

This thesis addresses the COVID-19 pandemic as a stress test for democratic institutions, focusing on decentralization and the territorial distribution of power. It identifies that while some countries implemented highly centralized emergency measures, others operated through decentralized systems, revealing the complexity of managing a crisis across different levels of government. The institutional design, particularly the territorial structure or organization of the State, aims at balancing two distinctive but equally crucial values: effectiveness and democratic legitimacy. The centrality of these goals relates to a richer understanding of constitutionalism, not only encompassing checks and balances but also approaching a certain “positive” understanding of the State. If so understood, effectiveness and legitimacy can be mutually reinforcing legitimacy, understood as widespread consent, is essential for the effective function of the state, and can provide a “reservoir of support” for institutions and authorities, particularly valuable during crises.

The main objective of this research is to understand crisis management in multilevel governance systems, by analysing the relations between central and subnational governments during the Covid-19 crisis. It distinguishes between dynamics of conflict or competition, and dynamics of coordination or cooperation, as well as more hierarchical relationships.

In this context, the central research question was the following:

In the context of decentralized States, how has the Covid-19 pandemic impacted intergovernmental relations and its effective and legitimate management?

This guiding question can be divided into several sub-questions.

- a) Does the current state of the theoretical framework regarding the form of the State and decentralization yield insights into how to organize a country?
- b) In terms of public law, what are the main principles to adequately govern a crisis or emergency?
- c) Regarding how to organize the political system in terms of the relationships between the different government levels, how were decentralized political systems able to coordinate/cooperate their diverse government tiers, and to what extent intergovernmental coordination and cooperation undermined local and regional autonomy as a distinctive feature of decentralization, and hence one of the constitutional foundations of decentralized States?
- d) How were tensions between central and subnational governments managed during these circumstances?

2. Theoretical framework

The theoretical framework is articulated from constitutionalism, decentralization, and intergovernmental relations to explore how different countries organized power distribution, distinguishing the advantages and disadvantages of decentralization, and how these theoretical debates were framed during the Covid-19 crisis. The concept of effectiveness was mainly connected to the ability of governments to meet public health needs, manage the economy, and maintain stability. The concept of legitimacy observed the democratic process, public participation, and local decision-making, including the ideas of input legitimacy (public participation), output legitimacy (the government's ability to solve problems), and throughput legitimacy (the policymaking processes).

Allegedly, subnational governments better grasp relevant local facts and help to manage risk, potentially diminishing corruption, enhancing efficiency and improving public service delivery, leading to more effective, better informed, and more legitimate and accountable governance institutions, all of which will be particularly useful amid a crisis. Decentralization may also increase public policy innovation, through the diversity of policy solutions and the learning processes between territories: decentralized structures may have advantages for solving difficult problems since they empower several subunits to search for policy solutions in parallel, and to share and coordinate the information discovered.

On the other hand, theories critical of decentralization point to the potential for duplicities and excessive bureaucracy in the public sector and the advantages of centralization, such as economies of scale, large room for professionalism, and public sector capital, among others. Segmented and localized decision-making processes could render both strategy formulation and coordination of implementation difficult to achieve, resulting in either a patchwork of different, inconsistent policies or in less efficient and more slowly adopted policies.

Comparative studies of federal countries have shown that the lack of a coordinating institution between different levels of government has led to political conflicts that are not

channelled institutionally or to problems of coordination of public policies, and even to an excessive “judicialization” of political grievances at the constitutional or apex courts. On the contrary, where those institutions, arrangements, and practices have existed for some time, they have proven crucial for effective vertical coordination of the pandemic responses. Can this logic be applied to non-federal decentralized countries, and do the logical mechanisms operate similarly?

Theoretically speaking, this research's approach is that in most countries two or three levels of government are involved in the different stages of the policy process, rendering the concept of decentralization a key variable in the “real world” of the forms of State. From this starting point, we point to a link between decentralization and the idea of “intergovernmental relations”, defined by the relationships between the central government and the regional and local institutions, particularly at the executive branch, a multilevel relationship of interdependence and interaction that affects both public services delivery and the overall legitimacy of the political system. The research distinguished between the level of the intergovernmental constitution (distribution of competencies), the level of intergovernmental relations (such as the conference system in Italy), and the operational functioning of the legal framework, understood as intergovernmental management.

More specifically, the research started with the initial assumption of a “centripetal approach”, meaning mostly a unitary and highly coordinated response as the more appropriate way to organize territorial relations in the context of a crisis. According to this theory, institutions pull the diverse interests involved toward the centre, offering incentives to participate and disincentives to defect, and culminating in an authoritative decision-making process. This approach is complemented with the idea of coordinated and cooperative federalism, and cooperative decentralization.

In terms of the methodological approach, the paper compares the institutional frameworks of three countries with different degrees and types of decentralization: Chile, Italy, and the Netherlands. This qualitative approach allows control for certain key variables while addressing variation or similarity in terms of the dynamics between the national and subnational governments. Hence, focusing on a small-N case-oriented comparison allows us to analyse in detail the intergovernmental relations in the three similar cases. In terms of techniques in addition to relying on secondary sources, semi-structured online and in-person interviews were conducted during 2021, with experts and political elites involved in the decision-making processes in the selected jurisdictions, covering 2020 and early 2021.

In terms of the empirics and data, the thesis examines how Chile, Italy, and the Netherlands managed the COVID-19 pandemic, focusing on the relationships between central and subnational governments. Each country faced distinct challenges. In Chile, miscoordination between central and local governments was evident early in the pandemic, especially in implementing emergency measures, which was further exacerbated by the state of constitutional exception. In Italy, the initial confusion between national and regional authorities led to chaotic responses. Because of the significant decentralization in its healthcare system, coordination between national and regional efforts to curb the virus's

spread was laborious, which meant that centralized measures were imposed to streamline crisis management. On the contrary, in The Netherlands, the overall response was more coordinated, organized through 25 Safety Regions which acted as key entities in managing the crisis. Despite some concerns about the constitutionality and democratic legitimacy of these measures, the system showed effective cooperation between levels of government.

3. Overview of the chapters

Having presented in the theoretical framework of decentralization, intergovernmental relations, and intergovernmental coordination as the key concepts, chapter two elaborates on the Chilean governance structure for managing the Covid-19 pandemic. The research shows that, although subnational authorities deployed significant activities to face the effects of the pandemic in their territories, this was not accompanied by institutional modifications that would incorporate the subnational level in the decision-making process, which eventually led to frequent political tensions between central and local level authorities.

Subsequently, chapter three situates the more general debates about the form of the State, decentralization, and intergovernmental relations within the context of the proposal of a new Constitution for Chile debated during 2021 and 2022. The ambitious design of a new structure of the State in the territory, and the proposed reorganization of the national legislature by the introduction of a “Chamber of the Regions” instead of the existing Senate, is analysed in the chapter by comparing the advantages as well as the challenges it might face in light of comparative constitutional studies.

Moving on to the European context, chapter four introduces the Italian intergovernmental relations scheme, with emphasis on the healthcare sector and the implications of the COVID-19 pandemic. In this sense, the system of Conferences has been subjected to tremendous pressures in recent years, particularly during and after the Covid-19 pandemic. The first days of the crisis witnessed long disputes between the central government and regions, which led to confusion and institutional miscoordination. After that, the central government seized power from the regions based on the state of emergency, but as the progression of the infection slowed down, many regions started to push for a differentiated solution, which once again moved the IGR into more tensions, now channelled through the Constitutional Court. Weak intergovernmental relations, unequal regional governments’ capacities, and a more personalistic political culture could explain not only the challenges of coordination and cooperation during the governance of the COVID-19 pandemic but also the difficulties in finding a consensus about the territorial model in Italy.

In turn, the Dutch case is elaborated in depth in chapter five (5). This research focuses on the role of municipalities, their relationships to the structure of Safety Regions which was the governance structure used to manage the Covid-19 pandemic in the Netherlands, and the democratic legitimacy and accountability questions it has raised. This governance system included subnational regulations elaborated in technical-legal terms by the 25 security regions, regulated by the Safety Regions Act (Wet veiligheidsregio’s, SRA in English), yet

following “binding instructions” issued by the Ministry of Public Health and the Ministry of Justice and Security. Despite the perceived effective performance of the governance structure, criticisms have been voiced from the point of view of public law principles and values, due to the extensive application of this exceptional regime, the large scope of the measures enacted, and the concentration of powers on the executives, both nationally and at the subnational level. Intergovernmental relations were particularly challenged, considering the positioning of the so-called Safety Council as a new institution for intergovernmental cooperation and/or coordination, as well as questions regarding the role of the provinces and local council in governing crises.

Taking stock of the accumulated arguments and evidence, chapter six (6) proceeds to compare the Italian and Dutch approaches to governing the Covid-19 pandemic, from an intergovernmental relations perspective. Comparatively speaking, the chapter argues that in Italy the management of the pandemic was characterized by larger differentiation and discoordination during the initial phase, which then led to top-down coordination. Conversely, the Dutch case has seen high levels of coordination throughout the crisis, coupled with criticisms for lacking sufficient accountability and democratic legitimacy. Italy only declared a state of emergency by law, while the Netherlands has resorted to emergency powers regulated in the Public Health and the Safety Regions Acts, and the Exceptional Powers Act. A schematic formulation of this general assessment of the cases is presented in Table 1, also including the case of Chile.

Finally, the concluding chapter summarizes the comparative observation of the pandemic responses in Chile, Italy, and the Netherlands, and connects the theoretical framework presented in the introduction and chapters 1 and 3, with the empirical evidence and country-based arguments presented in chapters 2, 4, 5 and 6, focused on the relationship between institutions for coordination and effective governance of the crisis. Centralized approaches in both Italy and the Netherlands were adopted which somehow altered decentralized competences and traditions: the strong tradition of local democracy in the Netherlands and the significant federalizing trend in Italy in the last decades. In contrast, Chile confirmed its long history and tradition of centralization, despite the discussions ventilated throughout the 2021-2 constitution-making process and the challenges observed in the management of the pandemic. In terms of the intergovernmental dynamics, more “competitive” relations between national and regional authorities were predominant in Italy, especially during the first phase of the pandemic, whereas a more “consensual” or “cooperative” mode was observed in the Netherlands, although mediated by significant centralized coordination. In Chile, the existing hierarchical structures of territorial governance, despite local autonomy and the very recent introduction of direct election of regional Governors, were even further exacerbated by the prolonged imposition of a state of constitutional exception, granting even more powers to the national executive, while delaying the much-needed debate about intergovernmental coordination and cooperation.

4. Conclusions

Drawing from the theoretical framework and the empirical context provided by the cases, the conclusions highlight three main themes. First, the pandemic revealed structural weaknesses in the territorial organization of power, particularly in how countries with decentralized systems managed the crisis. The research analysed how the territorial distribution of power influenced each country's ability to mobilize resources and coordinate efforts. In Chile, a highly centralized response was implemented, with limited local autonomy in decision-making, highlighting the challenges of decentralization in crisis governance. In Italy, the existing tensions between central and regional governments were reflected by early disarray in responses. Hence, the central government eventually imposed uniform measures across the country, curbing regional autonomy temporarily. Finally, in the Netherlands, even though the governance structure provided more flexibility, the centralized recourse to the Safety Regions led to concerns about bypassing democratic institutions.

Second, the research explored the role of intergovernmental relations (IGR) in managing the pandemic, with a focus on the three decentralized states. Executive intergovernmental negotiations became prevalent during the pandemic as decisions were made quickly without much legislative oversight. Multilevel, decentralized countries can be more effective in coordinating crisis responses than centralized policy processes, provided IGR is structured in such a way as to provide pathways through which tensions can be resolved and where subnational governments have the capacity and mandate to negotiate with the centre.

Finally, regarding the challenges to democratic legitimacy, the thesis critically assesses how emergency measures, especially in decentralized states, challenged the principles of democratic legitimacy. The use of executive powers during the pandemic often sidelined parliaments and local governments, raising concerns about accountability and transparency. In Italy and Chile, the pandemic intensified debates about the role of local governments and the extent of their autonomy during emergencies. In the Netherlands, despite the cooperative nature of the Safety Regions, at least in terms of horizontal collaboration among regions, there was a perceived erosion of democratic processes, particularly with limited legislative oversight. The increased reliance on executive IGR might present advantages, in terms of resource mobilization and potential cooperation between the different authorities but has to be analysed in light of the increased complexity of the institutional chart and the difficulties citizens face in establishing the competent authority to act on something, and who to hold accountable then. The operation of intergovernmental relations drifted, at times, from the constitutional design, showing a tendency towards collective action problems and a tragedy of the commons, principally due to difficulties in managing overlapping functions and difficulties in controlling the government. In other words, where executive-driven IGRs are unstructured and constantly changing, the blurring of lines of responsibility represents a serious concern for constitutionalism.

More broadly, the empirical results offer similarities and differences between the three countries. First of all, the Covid-19 pandemic management portrayed significant degrees of centralization in decision-making by national executives, yet the institutional capacities

varied, confirming the so-called “decentralization paradox”. Hence, central government needs to be able to properly tackle three types of asymmetries: information asymmetries, because the central government must safeguard overall planning and cohesion; administrative asymmetries, because the solution to a given problem transcends the strict boundaries of subnational governments; and political asymmetries, because of the possible incoherences or contradictions of the policies that would be implemented by different governments. The Dutch system provided a more sophisticated structure for managing multilevel interdependencies than the other two cases, yet still raised important legitimacy and accountability challenges. Second, temporary institutions and processes observed in the three countries might have a medium or even long-term effect, like the institutionalization of the Safety Council and the weakening of the provinces in the Netherlands, the deepening of the debate about intergovernmental relations, and the conference system in Italy, and the need to establish formal vertical coordination with the newly elected regional governments in Chile. This debate also emerged in the context of the constitution-making processes in 2021-2 and 2023. Third, the three countries confirmed that the enhanced role of executive leadership at the subnational level has not been properly balanced out by representative and deliberative institutions, a problem exacerbated by severe emergency legislation like in Chile. Finally, the diverse legal and public administration traditions influenced the way intergovernmental relations worked in practice, confirming the discrepancy between the actual practices of governance and the constitutional design of political life, and the need to continue with empirical and interdisciplinary research about these topics. From this paper, certain expectations can be applied to analyse intergovernmental relations in non-federal decentralized countries, particularly when dealing with crises.

In the end, the research concludes that decentralized governance systems require well-developed intergovernmental relations to manage crises effectively. The lessons from the COVID-19 pandemic suggest that while decentralization can foster innovation and responsiveness, it also demands robust coordination mechanisms to ensure a unified response during emergencies. The document calls for strengthening IGR frameworks and rethinking the balance between central authority and local autonomy to better prepare for future crises.