Arbeidsnotat

Regional reform – will democracy benefit?

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Abstract

The regional reform is due for Storting decision in 2007-08. It is facing an uphill battle if new regions are not to enjoy popular legitimacy. Can regional reform act as a vehicle to restore confidence in our representative system? First, the paper discusses three types of challenges facing the Norwegian democracy today, and which the reform ought to address. These are 1) the future of the representative system, 2) the inherent complexity of public sector, 3) the nature of “wicked problems”. The second part of the paper concerns theoretical approaches which may widen the ongoing debate on the item of regional reform. We contend that anchoring of the reform in theories emphasizing the procedure as equivalent to result of political processes is a vital success criterion The paper discusses two relevant theories in this respect: reflexive law and constitutional theory, drawing the conclusion that reflexive law opens an opportunity to view the shortcomings of both public as well as market regulation of the welfare services in a historical context. Constitutional theory offers a way to make the reform a consensus reform rather than a permanent battlefield for varying regimes, i.a. by outlining procedures for negotiated contracts between state and different regions.

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Authors note

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Gjermund Haga

1. The upcoming reform – a democratic reform?

The subject of regional reform in Norway has come a long way. There is definitely not any popular demand for it, and in many of the counties and even more with the regional state representatives (Fylkesmannen) the opposition is strong. A look at reports produced on the item in later years tells that it is not seen primarily as a democracy reform (NOU 2000:22, NOU 2004:2, NOU 2004:19).Various governments have analysed the subject. Number one objective of reform is improved efficiency in public sector administration, value for money, how to avoid redundancy in public offices etc. Number two seems to be economic development, or more precisely the creation of new jobs in order to conserve the level of population and dwellings all over the country.

Regional reform logically touches base with every part of the public sector since it very much concerns the distribution of tasks and duties between state, region and municipality. Perhaps the most intreaging question lies in the relationship between political and marked-like administrative bodies; which role is to be exerted by the elected politician in the future? Regional reform must therefore be seen also as a democracy reform. We shall here discuss three challenges for the future democratic system, namely the representative system, the complexity of the modern society, and thirdly the way the politico-administrative system struggles with “wicked problems”. How can reform address these challenges? In chapter 3 we turn to theories which seems useful in analyzing the subject, weight given to the place of law.

2. Challenges to be adressed

2.1 Present state of the representative system

The backbone of democracy is a representative system of elected ombudsmen, politicians, who are capable of planning, deciding and carrying through programmes on a basis of a popular mandate. Makt – og demokratikommisjonen (The power and democracy commission) in its concluding report (NOU 2003:22) highlights the fragmentation of the state and the subsequent power loss of representative government. Astonishingly this has not stirred a lot of political debate, making us ask whether politicians are comfortable with this power drainage. The obvious linkage between the conclusions of Makt- og demokratikommisjonen and the item of regional reform is seemingly not observed; that the reform if successfully carried through could mean a strengthening of the elected politician, generally speaking. Already in the 80ies, trend researchers found a move from representative models towards individual voice and client group pressure. Few politicians seem to bother about the danger posed by the undermining of representative institutions which may result in a
more accidental and biased distribution of wealth and benefits. This situation occurs when politicians are squeezed and the power vacuum is filled with micro level user or client groups which voice their private subjective opinions. Contrary to representative bodies these are not designed to balance conflicting opinions and care for those who are not letting their voice heard.

A regional reform is an overhaul of the public sector and of vital parts of the welfare state. Therefore the role of the elected politician should be at the forefront of the debate, the question of the balance of power between central state and regional as well as local political entities. Regional reform should be seen as a reaction to the findings of “Makt- og demokratikommisjonen”, a means to remedy emerging flaws, notably in accountability structures.

2.2 Complexity – and the declining steering ambition

The post industrial society represents an unprecedented volume of societal entities; public, quasi-public, civil or private. The interactions between them are hard to grasp for most people. What should trouble politicians today is that citizens are often bewildered when they face an increasingly fragmented picture of the public sector. The complexity has grown parallel to the growth of the welfare state system. It poses a real challenge to the quality of democracy, as it spills over to the ability of accountable persons or institutions to monitor decisionmaking processes as well as implementation of decisions.

Sand (1996) shows how the combination of a comprehensive public sector and economic internationalization has brought to the fore the limits to the problemsolving capacity of the state. The situation is exacerbated by the striking societal role of knowledge professions, which by virtue of sheere expert competences exert a growing influence over decisionmaking processes. Sales of knowledge by consulting firms is normal. Sand's crucial conclusion is that the state no longer can be managed from one clearly defined power centre. Welfare state has reached a limit, financially as well as qualitatively. Hierarchical authoritative steering systems do not work well any more. Its future depends on its ability to draw upon opinions, experiences, and preferences among employees, users and clients, in addition to advice offered by relevant interest organizations and expert environments. In the literature on the item the term governance is used as distinct from traditional government.

Under this governance regime the central political system (Storting and Regjering) is facing the reality that its potential of planning and executing democratic decisions is very restricted. The far-reaching delegations to specialized agencies, state hospitals, state companies (i.a. transport and oil/energy production) are telling proofs of this development. Having the discussion under point 1.1. above in mind, the question of burden- and powersharing between central and regional political bodies can be seen as a question of how to reinstall a clearer, more transparent, political steering system. If the regional reform means strengthening decisionmaking powers of regional politicians, this will entail curbing powers of bodies which today act fairly independently, and whose accountability is hard to supervise (i.a. hospitals). Thus, if the Storting is to transfer powers to the regional level this is not necessarily going to

be at the Storting's own expense, rather at the expense of specialized agencies and the magnitude of semi-autonomous bodies in the field. If this holds true, the citizen's picture of public sector would be more transparent, improving the accountability and, ultimately, legitimacy of the public sector.

2.3. Wicked problems and the central level's impotence

It was Rittel and Webber (1973) who first used the terms of ”tamed” and ”wicked” problems, later refined by Harmon and Mayer (1986) and Klausen (2001). The public sector formerly used to handle

> “malleable problems, the ones that could be attacked with common sense and ingenuity ….. (these) have in recent decades given way to a different class of problems …….. the problems with no solutions, only temporary and imperfect resolutions” (Harmon & Mayer, 1986).

According to Harmon and Mayer tame problems can be solved because they can be readily defined and separated from other problems and from their environment. Wicked problems, on the other hand, have no definite formulation and hence no agreed-upon criteria to tell when a solution is found. The public institutions have always had to tackle wicked problems, like the poverty problem, which preoccupied the sector at a very early date. The intriguing thing is that the agenda of wicked problems rather seems to grow than shrink at a time when the welfare state is nearly all-encompassing. Look at the following list: environmental problems, childhood environment (i.a. drop-out rates in schools), drugs, crime, new mental and physical illnesses resulting from modern lifestyles, immigration and the handling of multi-ethnicity. Klaudi Klausen (2001) places tame and wicked problems at the two ends of a continuum, stretching from “simple to complex situations and problems”, from consensus as to ends and means, over to disagreement about the understanding of the problem, about goal-setting, and consequently about its suggested resolutions.

A typical feature of wicked problems is that they cannot be solved without involvement from parties **external to** the public entity which “owes” it. A drop-out from high-school cannot be turned around without cooperation from family or friends. Drug-related crime involves the local community; its willingness to fend off receivers of stolen goods and to witness to police about observed abuses.

The concern for such type of challenges in our modern society is strong in the parliament a government. But these institutions fall short of an adequate handling of these complex problems, and the sooner they admit it the better. The path-finders to solutions must be found at the regional or local levels, which brings us to the item of decentralization. The Storting has now got a chance to empowering the lower levels in the welfare system, entrusting them by forging laws that proceduralize citizens' active engagement in tackling i.a. wicked problems. Often we hear that people now are more private and individual, and that few really want to spend time and energy to the benefit of their fellow community. The counter-question is this: is the system organized in such a way that citizens' contributions are welcome?

It is logical to draw upon the distinction between input and output type of democracy in democratic theory (Scharpf, 1999). For our purpose here we put aside the position of output democracy, since it is principally less interested in the participatory, preference formation aspect of democracy. Goodin, in discussing input democracy elaborates on 'democratic deliberation within', which is the systematic endeavour by regional and local political systems to have people understand actual others. Preference formation is coloured by a set of social practices (Goodin, 2003). Initiating such practices should always be a task of representative bodies, in the closest possible collaboration with civil society structures. Today, representative systems are mostly preoccupied by the outputs of processes. They may underestimate the popular potential for participation in preference formation, a potential which can be brought to use in resolving the heavy collective agenda. Citizens who feel that "the system" does not bother to listen may end up in aversion and dislike of politicians, paving the road for less, not more, valuable popular involvement.

We draw the following conclusion: solution of complicated questions in the modern society is not to be found at central level only, but by a concerted effort giving due regard to local people. Good solutions will entail heavy involvement from persons and groups at local level. The regional reform could bring to an end the Storting belief that such challenges can be tackled by whitepapers or propositions issued and discussed in Oslo. A consensus in this respect could envision a new era for the regional and local level in politics.

3. Theoretical guidelines for reform (I):

The place of law in pursuing an alternative regional structure and power distribution

The question we now ask is this: how can law contribute to enhancing the steering capability in the modern society? Laws regulate conflicts and establish expectations among members of the society concerning acceptability of actions. Hence law acts as a coordinating mechanism. Laws are norm-based. Law establishes meaning to peoples' lives, and as part of that reduce complexity. Growing complexity is a striking feature of the post-modern society. For instance, when it comes to public services vital to a person's life to tell who is responsible for what is hard. Subsystems become more specified, making action coordination between them increasingly difficult (Luhmann, 1982). Lawmakers are running the risk that implementation of laws cannot be adequately controlled, raising accountability questions. Viewed from a democracy angle reduction of complexity become vital on this background.

Historically law is subjected to a major change as state takes on an increasingly heavy burden of responsibilities as the welfare state becomes an historic reality. We shall examine closer the concept of reflexive law (Teubner, 1982, Sand, 1996). For the item we are discussing in this article reflexive law is particularly interesting because it emphasises the procedural aspect of law. From three various theoretical departures Teubner elaborates a meta-theory on the subject. Teubner builds on Niklas Luhmann, Philippe Nonet, Philip Selznick, and Jurgen Habermas. From Luhmann (Luhmann, op.cit.) he extracts the theories about complexity in society. While law used to treat one problem at a time, law today must reckon with the complexity when numbers of separate systems operate simultaneously with different goals and mechanisms. This phenomenon is termed differentiation of society. Luhmann's system theory describes a society where central functions like politics, law, economics no longer are knit together by a universal value-based authoritative system. Functions are seen as differentiated, normatively closed. Hierarchy is replaced by heterarchy. From Nonet and Selznick (1978) Teubner extracts the concept of responsive law. Through evolutionary stages law develops from repressive (the authoritarian, pre-modern state) via autonomous (Rechtsstaat) to responsive law (the ambitious welfare state). Responsive law is supposed to be open and close to realities, implying coordination within democratic frames and delegations from state to lower, often decentralized levels. Lastly Teubner builds on Habermas and his theories on communicative rationality (Habermas, 1987**).**

The main feature of reflexive law can be summed up:

It is based on the assumption that modern society is divided in numerous rapidly developing specialized levels and strata, horizontally as well as vertically. This type of development makes external normatively based regulation difficult. The central state level will lack sufficient detailed insight in the operations at lower levels. Hence political steering and administrative regulation should reflect the knowledge and insight which only those close to reality possess. Various entities i.a. within public sector thus is given relative autonomy via devolution or delegations so as to handle the coordination of interests and conflicts in decision-making processes. Decentralization following from this is partly motivated by the desire to improve efficiency. The traditional hierarchical steering model is not any more that effective.
Secondly reflexive law builds on the idea of communicative rationality within public entities, ensuring popular participation and public deliberations. Reflexive law aims at institutional design which rather regulate procedures than the contents of decisions.

Juridification of welfare benefits takes place at a fast rate today, leaving less space for political judgement at local or regional level. Being an international wave juridification is seen as a way to relieve the political system of decisionmaking responsibility, displaying great trust in the legal system's ability to handle complex social issues. Reflexive law is an alternative to juridification. Habermas, in discussing the phenomenon, establishes the distinction between law as "medium" and as "institution". Law as welfare state steering medium overestimates the potential of law in deciding the material conditions of citizens (Habermas, 1987), and tend to destroy communicative structures in the action field concerned. This is the situation that occurs when persons neglect participation in social interaction, such as community activities. They are addressed by state as individuals possessing legal right to material benefits, contributions or services. Law as "institution" may promote communicative structures, if citizens are addressed not as clients or customers, but as valuable contributors in activities which build social capital. Law in this regard is first and foremost concerned about the input side of democracy, setting up procedures such as hearings, site visits, procedures for conflict regulation, discursive meaning formation processes. This covers Teubner's understanding of reflexive law as regulating self-reflection processes for societal systems such

as the political system. Importantly, this implies that political steering takes place by decentralization without abandoning the steering ambition. Let us quote Teubner:

> "The question is whether we are dealing with command and control regulation through state economic policy or with regulation through decentralized mechanisms of self-regulation. In the latter case the law of the state regulates only the contextual conditions" (Teubner, 1993:67)

Reflexive law as alternative to market regulation

According to Dalberg-Larsen (1988) law as regulation medium has evolved in six phases since 1800.

1. market regulation ('invisible hand'), liberal or autonomous law, (Rechtsstaat)

2. late 1800: state intervention (Bismark)

3. 1900: working class enters stage, laws as rights of ordinary people, full civil rights

4. 1930-ties: second step in state interventionism provoked by market failure

5. 1945 – 70: peak period of welfare state

6. today: full-scale welfare state confronted by criticism as to inefficiency, lack of democracy, lack of customer sensitivity.

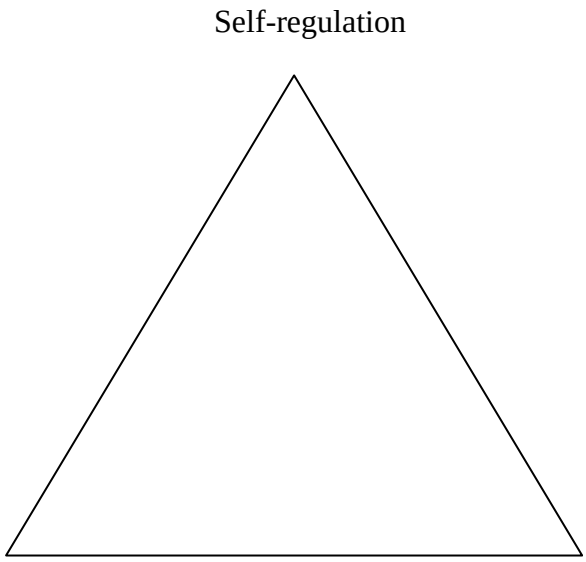
A travel through these phases shows us the limits to what can be achieved by regulation via Rechtsstaat, allowing the market to operate unhindered, or by the interventionist welfare state. Today we are therefore struggling with the elaboration of a regulation modality which is something different, obviously a mix of the two, but the recipe not yet found. The option of reflexive law must be considered in this light.

The roots of reflexive law can be traced before phase one when people where “organized” in autonomous groups with state as a loose and fragmented structure. Law was then often repressive, authoritarian, but at the same time characterized by custom and usage (“sedvane”), a sort of self-regulation society free from either market forces or state regulation.

Theoretically, we may pretend that society can be subject to regulation in three different manners (Dalberg-Larsen, op.cit.):

- via market
- via state intervention
- via self regulation (i.a. custom and practice based)

There is of course in any society a mix of the three:



Today we may consider legal regulation via the two lower angles more or less to have exhausted their potentials. Public regulation as modality reached its peak in the 70-ties. We have now experienced the “blue wave” for the last 25 years, and many see negative results emerging from it as an argument for more, not less, political governance. Neither increased public regulation nor market regulation offer the full answers to the challenges of the modern society. One should therefore look upwards toward the self-regulation angle. It should be brought in, not in the sense of a return to old days type of self regulation, **but rather as a means to reinvigorate democratic processes**, deliberative practices entailing meaning and preference formation where “wicked problems” type of cases are targeted. Here reflexive law comes in, as an alternative to increased market regulation as a seventh phase in the relationship between law and society. Far from an abdication from the overall responsibility central state will by this regulation modality demonstrate its manifest desire to attack evils of the modern society in a new and more up-to-date manner. It will deliberately transfer power to regional (or local) democratic bodies (law as institution), adopting laws which will form the basis for a more systematic popular involvement than hitherto. This entails above all being

serious about drawing upon popular insight and propensity to contribute to solving wicked problems, enlarging social capital, and fostering a well functioning living environment. A prerequisite thus is that central state recognizes the consequences of the above triangle.

As stated above, reflexive law is a principle alternative to material law, the latter envisaging detailed distribution schemes, based on classic economic and utilitarian philosophies. Reflexive law brings us to rethink the material distribution of our society and the obvious inadequacies of material law in regard to solving many of today's most pertinent social challenges. If reflexive law is to be introduced the decisionmaking process matters a lot, the sequence of decisions. This takes us to constitutional theory.

Theoretical guidelines for reform (II) :

Constitution or contract as the juridical instrument for the regulation of state – region relationship

In reflexive law constitutive and procedural rules dominate over action rules. Therefore, as a theoretical approach, reflexive law concerns procedure more than end results of political processes. This takes us logically to constitution theory. A constitution can be defined like this:

> ”A constitution is, broadly, a set of rules, written and unwritten, that seek to establish the duties, powers and functions of the various institutions of government, regulate the relationship between them, and define the relationship between the state and the individual. The term is also used more narrowly to refer to a single, authoritative document, the aim of which is to codify major constitutional provisions”.
> (Heywood, 2002:292).

Constitutions explain why formal entities when regarded as political institutions are durable and stable. In outlining reforms in a modern society it is of great importance to distinguish between constitution and contract as two principally different institutions. The theory distinguishes between institutional environment and institutional arrangement. Institutional environment refers to rules in a social system, framing the space of action; that is the constitution. Institutional arrangements, on the other hand, refers to organizational methods which agents may use to coordinate their actions within frames defined by the constitution; that is the contract. The constitution is more of a social order, a convention, which makes the contract institution feasible. The constitution does not solve specific issues, but establishes conventions meant to facilitate the cooperation between societal actors as needed. To establish a constitution, in itself, is an act of coordination meant to bring order. Constitutions, unlike contracts, are not maintained by external (coercive) sanctions by courts. Constitutions mirror norms and opinions which enjoy widespread legitimacy in the society concerned (Knudsen, 1997).

A crucial aspect (Rawls, 1971) is that those persons who decide a constitution (legislators) will not ex ante be in a position to evaluate whether a rule as part of a constitution will be of future benefit to him/her. This follows from the fact that the constitution is not detailed

(contrary to the contract) and it is impossible to foresee its long-term implications. Therefore political agents may agree to a social rule because she/he deems its consequences for the society as positive, without necessarily obeying to the same rule when confronted with it as an individual or group. Constitutions therefore are agreed upon by parties with diverging political ideologies and views. This is a strong argument why modern societies faced with challenges related to the formation of democratic structures ought to turn to constitution theory.

The time dimension is critical in any constitution. The constitution is seen to solve time incontinence problems. These occur when agents along the time axis commit actions which are inconsistent, suboptimal, or even irrational in relation to the mission of an institution. The constitution limits the future action alternatives of the actors. This done, parties may relax and invest resources in the institution, protecting its existence. Constitutions prevent shortsightedness, myopic behaviour, since parties mutually guarantee that certain types of behaviour or conduct will not take place. Constitutional theory terms this phenomenon precommitment strategy (Knudsen, op.cit.).

EU learnings pertinent to the Norwegian discussion

In the ongoing discussion on the item in our country EU-learnings are brought in as premises for alternative proposals for a new type of governing system (Veggeland, 2005). Any such discussion in Norway must have the constitutional Norwegian unitary state as its principle starting point. The Constitution does not recognize autonomous sub-national authorities, thus federalism is not an issue. When regional reform is taking up the issue of transfer of power to regional counties we always speak of delegated powers to political authorities. As stated earlier in the paper it is an empirical fact that central state is relieving itself of responsibilities by delegations to autonomous public or semi-public administrative entities, often market-like structures, of which we have a multiplicity. The question we therefore raise is this: why not delegate to sub-national representative authorities just as well as to administrative bodies? When it is today commonplace to delegate to market-like structures one may argue that national politicians just as well could delegate to lower political representative bodies, since in both cases we are speaking about a weakening of central level's powers. Undoubtedly we see here an overall strategic power struggle between market forces and its political supporters on one side, and those who fight for politically steered structures on the other. The squeeze of the elected politician is of course not an accident, rather an internationally led trend

(OECD,IMF,World Bank). A vital democracy does not always coincide with desires of private sector interests, and notably those of the larger, transnational corporations (Perkins, 2004, Bakan, 2002).

Veggeland's normative position is the need of strong regions in Norway, more along lines of the EU regional system. We shall not in this paper go into the EU context. But the principal thinking conveyed by Veggeland is very interesting. His definition of a strong region is worded like this:

- a population with common identity

- an innovative and competitive business sector

- certain freedom to establish public funding, beyond what is allocated for running legal-based services to the population (elbow room for taxation)

- politically founded in a vital local democracy, ensuring the region's legitimacy, and with the ability to mobilize social processes and giving direction to the region's development.

Referring to the French case Veggeland emphasizes two important principles for a multilevel steering system:

- principle of subsidiarity

- principle of reciprocity

These have their origin in federal systems, but in today's complex environment they are pertinent even in unitary states going for task- and burden-sharing between three levels, as in France and Norway. In the case of France the central level recognizes the lower levels as counterparts with which to negotiate reciprocal contracts. Veggeland makes a strong case for a reform starting by establishing

1. the area of unique regional authority

2. the area of joint state – region authority

The latter would be defined as a multilevel coordinated, in real terms negotiated, authority. Negotiated contracts between state and regional counties could be a decisive part of the reform. Veggeland sees this as separate agreements for each of the new regional counties (based on population, remoteness or other features). These agreements as negotiated contracts will hence differ in the range of responsibilities and tasks. The Storting will assume greater responsibilities for the remoter regions with low population density. In that way the Storting avoids running the risk that the reform ends up with unacceptable differences and inequalities between various geographical parts of the country, potentially damaging to the political legitimacy. The contracts would include specifics pertaining to financing modalities (i.a. taxation) and responsibility-sharing.

Constitution theory's relevance for the Norwegian case

Once the Norwegian political system is embarking on a major overhaul of the political-administrative structure the long-term viability of reform ought to be highlighted. The reform is not an answer to popular demands and is far from enjoying full support in the Storting. If now the reform fails to attract support from regional and local political-administrative levels, it may be lacking legitimacy. Veggeland speaks about contract. Referring to the above discussion of principle properties of the constitution institution versus the contract institution, we believe that advocates of reform appropriately could draw upon constitution theory to flesh it out. Following items could be covered and forming its institutional environment, adopted by the Storting:

1. Principles of subsidiarity: decisions to be taken close to and by involvement from those affected.

These principles would give guidelines for the distribution of tasks and responsibilities between the three levels, clarifying broadly the areas of unique regional authority. Examples: regions responsible for college education, communications (apart from typical national undertakings), subsidies to regional/local industries and businesses.

2. Principles of reciprocity: outlining the procedures for negotiations of contracts as separate agreements between state and the regional counties.

Here the Storting will decide on principles concerning the extent of state involvement, financing and duration of contracts as institutional arrangements within these constitutional frames. Hierarchical authoritarian rule can be replaced by dialogue, with the potential of strengthening the mutual trust between the three levels.

Precommitment strategy

As stated above an important integral part of constitution theory is precommitment strategy. Norwegian politics is often characterized by arguments over who is responsible for policies at regional and local level. In spite of the powers decentralized to the lower levels Storting members often – and especially during election campaigns – enter the stage of local politics. They would often blame local politicians for shortfalls which are due to state budget limitations. On the other hand they take praise for affaires carried through by regional or local boards. This behaviour undoubtedly is a source of inadequate transparency in the sector causing confusion among voters. As of today the Storting has got the power to instruct regions without legal barriers. Every year we have i.a. a discussion in regard to the amount of earmarked/not earmarked transfers to regional and municipal levels. Introduction of constitutional thinking may bring about a change. Hardin puts it this way:

> ….”the point of establishing a constitution (……..) is to put obstacles in our way to force us to move along certain paths and not others. It enables us the more readily to organize ourselves for progress, rather than to dissipate our energies in random directions” (Hardin, 1989:116).

Under the suggested constitutional rules the members of the Storting will have to respect some restrictions on their actions related to the two lower levels. The costs connected with accepting these restrictions would apply to Storting members of contrasting opinions about the role of the lower levels. They cannot any longer act at their own discretion in intervening in politics in the regions. Presumably we would as a result see regions standing out with a clearer and more accountable role versus the electorate. This is a considerable gain in times of growing corruption and unethical conduct even in public sector. Representative politics in general would come out as a winner.

4. Conclusion

In Norway today we can observe how elected politicians struggle to retain their traditional position as a power centre amidst growing complexity and a heavy collective agenda of "wicked problems". Traditional decision-making structures are overburdened. The state apparatus is relieving itself of responsibilities by establishing directorates, autonomous state companies, and numerous control entities. Regional reform should be seen as part of the same type of governance thinking taking up the vital issue of the distribution of tasks and responsibilities between the three vertical levels of the political representative system; state, region, municipality. Lawmakers can in this situation consider following two options:

- Stick to, in principle, similar distribution of responsibilities and tasks between state – regional county – commune as today, making sure they do not rid themselves of power in the form of direct steering instruments. Correspondingly they will experience, as hitherto, a gradual erosion of their power base, as concluded by the Makt og demokratikommisjonen, the vacuum left being filled **not by** political bodies but by administrative and market-like structures.

- Go for transfer of powers to regions as discussed in this paper.

The reform may benefit from drawing upon reflexive law and constitution theory as theoretical tools. The links between the two are obvious. We are according to Dalberg-Larsen (1988) at an historic crossroad. Central authoritarian hierarchical welfare state is not going to resurface. Either we continue along the marketization direction, on which we have embarked to a considerable degree already, or, alternatively, the Storting can take the reflexive law route, turning towards more self-regulation in the regions. This can be done by establishing an institutional environment – written in law – which regulate the overall long-term relationship between the state and regional counties and communes. Carried through along these lines the reform could be a winning project both for national as well as for regional politicians. The Storting facing power losses anyhow will emerge on top of democratic challenges of our time. Regional politicians will emerge as more powerful and accountable.

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