

Delegation and Intervention of Education Policy in the UK

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Abstract

This paper investigates delegation and intervention of education policies in the relations between central and local government of the UK. Since Thatcher Administration, delegation to the local authority, local education authority and school are seen in many cases of the education policies, meanwhile central intervention is also remarkable as seen in removal of power from local education authority. Through this paper I pay attention to the education policies of the UK from viewpoints of the delegation, control accompanied with delegation, control without delegation and intervention including removal of power. This paper consists of three parts. First, I define some concept used throughout this paper. Secondly, I delineate delegation and intervention of education policy from Conservative Administration in 1979 to current Cameron Administration via Blair Labour Administration beginning in 1997. Drawn is a sketch of education policies, although based on continuous but sometimes contradictory local government policies provided by the central government. I also scrutinize almost every education policy from the above viewpoints. Finally, I consider relationship between the accountability and delegation or control in the education policies. After extracting difference about delegation and control between Conservative and Labour education policies, I especially discuss accountability about the delegation to the corporation in Blair Administration.

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Delegation, Control and Intervention

In the end of nineteenth century, the delegation was underestimated as renunciation by Parliament which is responsible for legislation (Hewart). At that time, Albert Venn Dicey described three characteristics of the sovereignty by Parliament as follows: first, Parliament can legally do anything, secondly, there is no competing legislative power residing anywhere else, and, thirdly, there is nobody or person capable of pronouncing an Act of Parliament to be void (Dicey). However, because of new trend of power shift to the executive bodies and growth of the government activity, which caused time constraint of legislation by the Parliament, the delegation became recognized to be unavoidable. The complexity of the administrative decision-making requires that the primary legislation is obliged to be supported by the delegated power. Consequently, Parliament confers the delegated power to the other administrative bodies, and conferred bodies have power of discretion under some conditions (Leyland, pp.89). Additionally, Deregulation and Contracting Out Act 1994 (DCOA) gives the power of amending law, originally legislated by Parliament, to Secretary of State, in order to reduce certain statutory burdens.

Each Administration has its own political strategy, which is decided depending on the economic situation, domestic political situation and ideology of the Ministerial party. How to delegate, control or intervene for execution of the education policy is derived from the political strategy. Since Thatcher Administration, the education policy between central government and the local authority became political dispute. This new situation can be due to two reasons: first, the education became recognized as decisive factor, which may cause success or decline of the nation. The education was never nothing but one of the social service. Second, the central government did not afford to regard the local authority as independent of the central government, as in the Education Act 1944. Furthermore, the Labour controlled local authority caused the Conservative Administration to intervene the locality. Under such a situation, delegation to the school from the local education authority is frequently seen, and simultaneously central intervention into the local authority became remarkable.

This paper considers education policy in the intergovernmental relations from viewpoints of delegation and intervention. I especially scrutinize history of the education policy from Thatcher Administration to Cameron Administration, and classify them into four categories; delegation, control accompanied with delegation, control without delegation, and intervention or removal of power. The delegation means transfer of power from the government to the local authority, or that from the local authority to the school. The control accompanied with delegation means that the control measure which is relevant to the delegated measure is enforced to the local authority or school. The intervention or removal of power means abolition of power which has been possessed by the local authority.

History of Delegation and Intervention in the UK

The delegation in the education policy of the United Kingdom started in the Education Act 1944, where every county and borough should include the local education authority in the area. The property and staff are transferred to the local education authority. The Battler Act (1944) legalized the delegation of the compulsory education from the government to the local education authority. These

two Acts established not only delegation to the local authority but also control over the local education authority by the central government. The common factor of these Acts is consensus between the central government and local authority.

The Quota System (1956) established rule about recruitment and distribution of the teachers by the government. This System is control of the government without delegation. In the Remuneration of Teachers Act 1965, the local education authority is required to pay salary to the teachers complied by the salary table assigned by the government. Furthermore, change of the salary table was required approval of the Education Department of the government. This Act is addressed as the control without delegation.

In 1971, DES recognized that the rationalization of the education policy, in other words, effective utilization of the resource is essential in the management of education. The consultative paper on the 16-18 group pointed limited resources and prioritization of the objectives for efficient use of resources (DES, 1971) (Ranson, pp.188). This concept not only leads to control without delegation but also includes removal of power from the local authority in the future.

The Education Act 1973 ended a power possessed by the DES and replaced part of the power. In the Education (Labour Experience) Act 1973 delegated was the power to the local authority, which can plan and execute the labour experience by the pupils under the age of commencement, as a part of the education. This is the delegation to the school. The Employment of Children Act 1973 established new rule about employment of children and supervision by the local authority. This is delegation to the local authority and control over the local education authority at the same time. Starting from the situation in which the government began to feel necessary in efficiency of the local administrative service, the Local Government Act 1974 established control over the local authority. This meant reduction of official staffs in the local authority, which is control without delegation.

The Education Act 1976 states, as principle of the comprehensive schools, that local education authorities shall, in the exercise and performance of their powers and duties relating to secondary education, have regard to the general principle that such education is to be provided only in schools where the arrangements for the admission of pupil are not based (wholly or partly) on selection by reference to ability or aptitude (1(1)).

Furthermore, Callaghan's Ruskin College speech in 1976 is a turning point for the education policy in the UK. Callaghan considered that concern of the British society is not reflected to education, and called for debate to include these concerns into education. During the second half of the 70s, consensus between the central government and local authority which has been traditional since the Education Act 1944, ended. Taylor Report (1977) proposed big change that permitted parents to participate in the school board. This measure is a remarkable delegation in the history of the UK education policies. The education policy newly issued by the Labour administration leads to the education reform by Thatcher administration. Although even some British papers emphasize that intervention to the local education authority began after the Conservative administration, in fact, seed of the intervention was already planted in Callaghan speech and Taylor Report under the Labour

administration. Since essence of Taylor Report is an unprecedented delegation about participation of parents in the school board, it is logical consequence and problem of time that this delegation soon leads the removal of power from the local education authority.

Although the Education Act 1979 is short, it is an Act which symbolizes the education policy in Thatcher Administration. This Act abolished comprehensive principle in which ability and attitude are not taken into account for the school admission, which was stated in the Education Act 1976 (1). Macfarlane Report (1980) proposed rationalization and effectiveness by the cost reduction in the field of education (Ranson, pp.188). This report is addressed as control without delegation. The Local Government, Planning and Land Act 1980 states the relaxation of control over the local authority. On the other hand, restriction to the local expenditure is stated by introduction of the block grant (56), which is the control over the local authority. There coexist relaxation of power and control by block grant in the Local Government, Planning and Land Act 1980.

The Education Act 1980 states the participation of the parents to the school governing board (2(5)), the selection of school by the parents (6), and the right of appeal when school admission is not permitted (7). They are delegation to the parents. The School Curriculum 1981 is the measure of governmental control for the local education authority and schools in England and Wales. As the surplus of the local expenditure still continued, the government established the rate-capping in the Rate Act 1984. In 1983, the government decided to abolish Great London Council (GLC) and metropolitan county councils (MCCs). The Local Government Act 1985 also abolished Inner London Education Authority (ILEA). They are removal of power.

The Education (No. 2) Act 1986 states on the basis that every maintained school must have the school governing board, assignment of the parental board by the school board (5), conjunction of the school board with the business, and management of school group in the area by the single school board (9). This Act set out making and documentation of the school curriculum policy in the area, as duty of the local education authority (17). This Act also states that, though the local education authority decides school staff including teacher, the assignment of the head teacher must be consulted with the school board (35, 37). Furthermore, this Act states delegation of the school budget to the school (36). These provisions are delegation to the school which is called local management of schools (LMS).

The Education Reform Act 1988 is huge law which is said to be summary of the education policy in the Thatcher Administration. This Act states implementation of the curriculum, including religious education and national curriculum, to be duty of the Secretary of State, local education authority and school governing body (1). Relevantly, this Act established National Curriculum Council (NCC) and School Examination Assessment Council (SEAC) (14(1)). This national curriculum is control accompanied with delegation of participation of the parents to the school boards as the council. This Act also established responsibility of the local authority to make pupils admitted to the school maintained by the local authority, under the number of pupils specified by the standard (28(1)). This is delegation to the local authority. This Act also set out duty of the local authority which can permit discretion by the school governing board when delegation about school finance is required (36). This is

delegation to the school. This Act also established City Technology College and City College for the Technology of the Art (105). In accordance with the rule of this Act, the person who is willing to manage this independent school will enter agreement with Secretary of State. This is removal of power from local education authority. This Act also changes provision and finance of the higher education and the further education (Part II), and established body corporate, Polytechnics and Colleges Funding Council (PCFC) (132). The members of the body corporate are assigned by the government. The body corporate has power of payment for the expenditure of the incurred local authority and school (133). The establishment of the Polytechnics and Colleges Funding Council in place of the local authority is the removal of power. Furthermore, based on the abolition of the Inner London Education Authority (ILEA) by the Local Government Act 1985, this Act abolished ILEA and established new local education authority in Inner London (162, 163). This Act also set out the financial formula for the school budget (Part III 38). This is control accompanied with delegation to the school governing body.

The white paper entitled Choice and Diversity (1992), in Major Conservative Administration, focused on the maintained school and set out establishment of Funding Agency for School (FAS), as new body by the statutory. The FAS inherited payment of the cap-grant from the Department of Education. The FAS also shared duty with the local education authority for the primary school and the secondary school in the area. In accordance with the Choice and Diversity, the government obtained new power to replace original governor when the school governing body fails in the school management. This is control by removal of the power from the local education authority.

The Further and Higher Education Act 1992 established new body corporate, the Further Education Funding Councils (1). This Act set out the rule of the transfer about the land, property, right and responsibility from the local education authority to the Further Education Funding Councils (23). This Act, in which the government gives the power to the body corporate, is removal of power from the local education authority. The Education Act 1993 is a legalization to apply new framework (FAS) to the school organization in England and Wales. This framework was designed to give power and responsibility to individual school. This Act states that, in respect of the area of any local education authority, the Secretary of State may make an order where he wishes responsibility for providing sufficient school places to be held by the funding agency as well as the local education authority, or make an order where he wishes that responsibility to be held by the funding authority alone (12(1)). This is power transfer to FAS with power removal from the local education authority.

The School Inspection Act 1996 states that the Chief Inspectorate for England must have the duty about the quality of the education, the educational standard, efficient management of the financial resources and the spiritual, moral, social and cultural development of pupils (2(1)). The Chief Inspector must also report on the schools (2(2)). This is control without delegation.

The Education Act 1996 states that the local education authority may establish primary schools and secondary schools, maintain them, and assist any primary or secondary school which is not maintained by them (16). This Act, based on section 16, states the assisted places at independent schools to enable pupils who might otherwise

not be able to do so to benefit from education at the schools (479). However, the Education (School) Act 1997 abolished the assisted place scheme, which was established under the Conservative Administration in 1980. The Education Act 1997 also basically abolished the assisted place scheme, which remained in the primary school, by abolishing the assisted place from the secondary school (1). This Act also delegated power to set the discipline and behavior to the school governing board (2). This Act also delegated new power of the teacher in which he or she can restrict and restrain pupils, and detain pupils after school without agreement of their parents (2, 4, 5). They are delegation. This Act also requires the planning for treatment of the pupil with behavioral difficulty to the local education authority (9). This is control over the local education authority. This Act also states transfer of staff in National Council for Vocational Qualifications (NCVQ) and School Curriculum and Assessment Authority (SCAA) to Qualifications and Curriculum Authority (QCA) (35). This Act also states that the course of study leading to an external qualification is to be proved with the use of any specified public funding, unless the qualification is for the time being appeared by the Secretary of State or designated body in accordance with the regulation (37(1)). Additionally, due to this Act, the government obtained power of order to inspect the local authority (38). This is control over the local authority. New Labour Administration deeply committed to the education policies rather than former Conservative Administrations. In Blair Administration, due to tight connection between the body corporate and business, severe problems became clear, which were drawing considerable subsidies, increase of non-permanent staffs and industry action by staff. (Kendall, pp. 164-165).

The Education Action Zones (EAZ), one characteristic of Blair's education policies, was presented in the White Paper entitled Excellence in the School (1997) and in the School Standard and Framework Act 1998, The EAZ is assumed to be established in the deprived area and managed by the local education authority and the other organization, which is composed of the parents and business. They have discretion in curriculum and contract of teachers. The role of the local education authority was still positive in spite of the participation of the business. The establishment of the EAZ school is delegation to the local education authority and parents. Twelve EAZ schools started till September, 1998, thirteen EAZ schools were added in 1999, and furthermore, seventy three EAZ schools were established till March, 2000 (Kendall, pp. 162).

The School Standard and Framework Act 1998 was equipped with remarkable characteristic of the school inspection. This Act gave the power of school inspection to the local education authority and the Secretary of State. First, the local education authority is conferred power of intervention to maintained school under the condition of school subject to formal warning or school with serious weakness or school requiring special measures (14(1)). Second, the measures of the intervention are additional appointment of school governors and suspension of the delegated budget (14(2)). As seen in the School Standard and Framework Act 1998, as the characteristic of the Blair Labour Administration, listed up is the school inspection to which even Thatcher Conservative Administration did not dare to touch. This Act is authentic intervention. Moser Report (1999) summarized that something like one adult in five in this country is not functionally literate and far more people have problems with numeracy. This report added that this is a reflection on past decade of schooling and one of the reasons for low productivity in the economy.

The Local Government Act 2000 states that every local authority are to have power to promote economic, social and environmental well-being of their area (2). This is partial delegation to the local authority. The Guardian reported, on education topics at the start of Blair's second term, the comprehensives failed to develop individual abilities (The Guardian, 8 Dec. 2009). In 2001, Prime Minister Blair made a speech that there is nothing more important to making Britain a fairer and stronger country, and prioritized education the highest. Blair also stressed specialist school which should be raised to at least 1,500 in five years (The Guardian, 23 May 2001). In 2000, the government disclosed some problematic local education authorities, in Bradford, Rochdale and Waltham Forest. The Education Secretary, Morris, sent outside consultant in Bradford's local education authority. This measure was followed to the inspection reporting danger of failing.

The authorities in Rochdale and Waltham Forest were ordered to work with outside experts (BBC News, 24 May 2000). These measures are intervention into the local education authority. In 2002, Morris manifested end of "one-size-fits-all" comprehensive, by saying "the school have failed to break the link between poverty and academic under achievement" (The Telegraph, 23 June 2002). The Education Act 2005 states duty to inspect certain schools at prescribed intervals (5(1)). This section is applied to community, foundation and voluntary schools, community and foundation special schools, city technology colleges and city colleges for the technology of the arts (5(2)). Although burden of the school inspection is reduced, this is still control without delegation. The Education and Inspection Act 2006 gave power of discontinuance of schools to the local education authority (15). This Act also gave discretion for discontinuance of the community special; school and foundation special school to the local education authority (17). This is control accompanied with delegation. In 2012, the DES of Cameron Administration presented National Funding Formula for the school finance. This measure was reflection of the statement about financial reduction in the G20 Toronto Summit, 2010.

In 2014, the DES presented policy to reduce bureaucracy in management of the school governing bodies. The National Funding Formula is control accompanied with delegation, while the reduction of the bureaucracy is delegation to the school. This relation is similar to the previous relation in which the national curriculum is control, while participation of the parents to the school governing board is delegation, which was established in the Education Act 1980.

The comparison of education policies between Thatcher Conservative Administration and Blair Labour Administration results in the following that the former, in principle of market, removed power from the local education authority with delegating power to the school, while the latter proceeded realization of the market principle by discontinuance of the problematic school through inspection, and by establishment of the body corporate, with revival of partial delegation to the local authority. Therefore, the education policy under Thatcher Administration is different from that under Blair Administration, in a sense of intervention that the former removed power from local authority or abolished local education authority as the institutional reform, while the latter did so in a style of one by one smash, that is, privatization.

Table 1 Classification of Legislation in Education Policies

Legalization et. al.	Delegation	Control accompanied with delegation	Control without delegation	Intervention With Removal of power
1944 Education Act	yes	yes	no	no
1944 Butler Act	yes	yes	no	no
1956 Quota System	no	no	yes	no
1965 Remuneration of Teachers Act	no	no	yes	no
1971 DES consultative paper 16-18 group	no	no	yes	yes
1973 Education Act	yes	no	no	no
1973 Education (Work Experience) Act	yes	no	no	no
1973 Employment of Children Act	yes	yes	no	no
1974 Local Government Act	no	no	yes	no
1977 Taylor Report	yes	no	no	no
1980 Macfarlane Report	no	no	yes	no
1980 Local Government, Planning and Land Act	yes	yes	no	no
1980 Education Act	yes	no	no	no
1981 School Curriculum	no	yes	no	no
1983 Abolishment of GLC and MCCs	no	no	no	yes
1985 Local Government Act Abolition of ILEA	no	no	no	yes
1986 Education (No.2) Act	yes	no	no	no
1988 Education Reform Act National Curriculum	no	no	yes	no
1988 Education Reform Act Admission	yes	no	no	no
1988 Education Reform Act Discretion of school governing board by permission of local authority	yes	no	no	no
1988 Education Reform Act Body corporate of higher and further education	no	no	no	yes
1988 Education Reform Act Financial formula	no	yes	no	no
1992 Choice and Diversity	no	no	no	yes
1992 Further and Higher Education Act	no	no	no	yes
1993 Education Act	no	no	no	yes
1996 School Inspection Act	no	no	yes	no

1997 Education Act responsibilities in discipline and behavior of governor	yes	no	no	no
1997 Education Act power of teachers	yes	no	no	no
1997 Education Act inspections of local authorities	no	no	yes	no
1998 School Standards and Framework Act	no	no	no	yes
2000 Local Government Act	yes	no	no	no
2000 statement by minister Outside consultant was sent to LEA	no	no	no	yes
2005 Education Act Reduction of school inspection	no	no	yes	no
2006 Education and Inspection Act	No	no	yes	no
2012 DES National Funding Formula	No	no	yes	no
2012 DES Reduction of bureaucracy	Yes	no	no	no

This table was made by the author based on the analysis of this paper.

Accountability and Delegation

The accountability is one of the most important elements in the administration. The Accountability, in general requires ethic and transparency of the administration. This accountability has been legalized as responsibility of the government and local authority in many acts. The Local Government Act 1972 states, as duty of the local authority, proper administration of their financial affair (151). The Local Government Finance Act 1982 states the establishment of the Audit Commission (11-15). The Local Government Act 2000 established a new ethical framework including the statutory code of conducts (Part III), (Leyland, pp.109-110).

It is obvious that the local authority or school delegated power by the government must owe duty and responsibility of the accountability to guarantee their transparency. On the other hand, it is also obvious that the legalized accountability must be complied by the local authority or school which is imposed control by the government. Though the accountability is expected to be complied in the public institution, problem about the accountability may occur when the body corporate outside public institution is delegated from the government. The affair of financial probity due to employers which the body corporate of the further education school subcontracted (Kendall, pp. 164) shows room for strict accountability.

The problem of accountability in the body corporate exists not only in the financial matter but also in the academic matter. It is nothing to say that the body corporate of the City Technology College is required to discharge accountability from viewpoint of management in market principle. However, there still exists doubtful problem that

whether the accountability from academic viewpoint which teaching staffs have been pursuing persistently. Concerned is failure of attainment of the discipline by eager fostering of specialists with contempt of academic accountability.

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The Battler Act (1944)

Quata System (1956)

The Remuneration of Teachers Act 1965

The Education Act 1973

The Education (Labour Experience) Act 1973

The Employment of Children Act 1973

The Local Government Act 1974

The Education Act 1976

Callaghan's Ruskin College speech in 1976

Taylor Report (1977)

The Education Act 1979

Macfarlane Report (1980)

The Local Government, Planning and Land Act 1980

The Education Act 1980

The School Curriculum 1981

The Education (No. 2) Act 1986

The Education Reform Act 1988

Choice and Diversity (1992)

The Further and Higher Education Act 1992

The Deregulation and Contracting Out Act 1994 (DCOA)

The School Inspection Act 1996

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