

## **Germany: Local Democracy and its Reforms**

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### **Local Government in the German Federal System**

The German federal system is formally made up of two tiers, the Federal and the State level (Länder). Constitutionally speaking, local government is not an additional tier of the system, but belongs to State concerns. Therefore, writing about local government in Germany is writing about sixteen different local government settings, including the three city-states of Bremen, Hamburg and Berlin, which have the status of a state and of local government at the same time. Each state has its own local government legislation. What unites local government throughout the Federal Republic of Germany is the guarantee of the general principle of local autonomy or subsidiarity in Article 28 of the German Basic Law. Besides this general guarantee, each state constitution enshrines the right of the local communities to self-government. Finally, in each state a separate local constitution (Gemeindeordnung) defines the structure of local government, as far as there exists a local tier. Other state-specific laws such as local electoral laws or laws on local taxes add to these local constitutions (Vetter 2010).

The local level itself is divided up into different kinds of units: There are municipalities, which are subordinated to a county, and there are county-free municipalities. After reunification in 1990 the number of municipalities all over Germany was about 16.070. In 2011 only 11.442 of them had remained after massive territorial amalgamations in the eastern part of the country. Nevertheless, municipalities in East Germany are still far smaller (average size in 2011 4.300 inhabitants) than those in West Germany with an average of 8.100 inhabitants.<sup>1</sup> Local authorities implement approximately 70% of all federal and state legislation and account for three quarters of all public investment (Knemeyer 2001: 172). Different from federalism in many other countries, German federalism is characterized by strong cooperation between the federal, the state, and the local level (Politikverflechtung): The federal level has most of the legislative and policy-making competences. At the same time, policy implementation and administration are mainly in the hands of the states, with in turn delegate most of these functions to local authorities. Unlike other federal countries, this functional cooperation implies that the federal and state levels have only a limited number of field offices of their own (Wollmann 2003: 86). As a result, on the one hand local offices are an integral part of state administration (Organleihe), but on the other hand they handle local matters as their own responsibility. The joint responsibilities in different sectors of state activity are also revealed by the number of public servants employed by federal government, state governments, and by local authorities. In 2004 about one third of all public servants in Germany were employed by local authorities. Local authorities are mainly active in the sectors of social welfare, health care, environment, sports, recreation, culture, construction, public utilities and public enterprises (Vetter 2010).

### **Political Structures and Processes related to Representative Democracy**

Since 1990, the internal structure of German local government has changed remarkably. Before reunification, there existed eleven different local government systems in West Germany, which were grouped into four categories (Gunlicks 1986: 73ff.): those having a Magistrat form (Hesse and partly Schleswig-Holstein), those with a strong mayor form (Rhineland-Palatinate, Saarland, and partly Schleswig-Holstein), those with the South

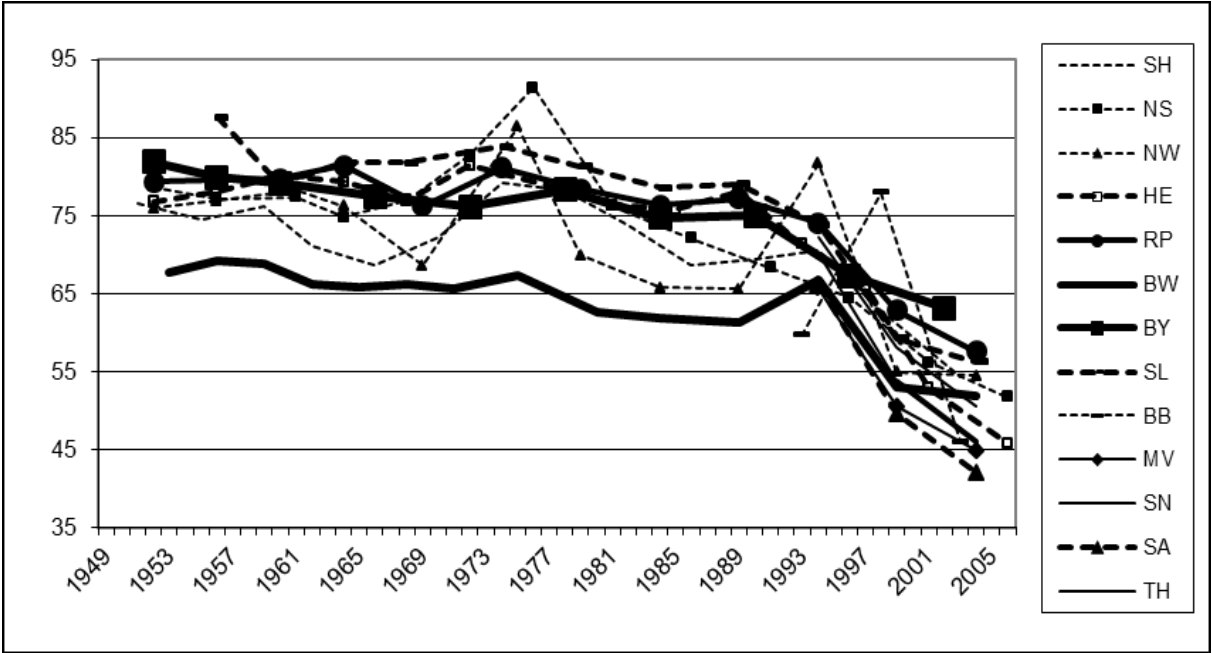
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<sup>1</sup> These average numbers hide large variations between and within the different states.

German council form (Bavaria and Baden-Württemberg), and those with the North German council form (a kind of “city manager form” of local government and administration; Northrhine-Westfalia and Lower Saxony). In all of them the elected council was formally the highest organ of the municipality. The systems differed, however, with regard to the power of the local council vis à vis the local executive. In the South German council form the council was weakest with a directly elected mayor for eight years. He headed both the council and the administration and thereby was the most powerful player in the local political arena. In 1990, reforms started which altered the internal structures of German local government in all states. Today, mayors are directly elected all over the country. They all chair the local council and the local administration at the same time, although there are still differences in degree with regard to the local power structures (Vetter 2006, 2009; Knemeyer 2001).

One of the main links between local, state and national politics are the political parties that act on each of these three levels. Data from a selection of 109 bigger cities from all states show that, at the national elections of 2004, the five nationally established parties (CDU, SPD, FDP, Bündnis90/Die Grünen, PDS) together attained 97 per cent of all votes. In local elections between 2000 and 2004 on average 87 per cent of all local votes were given to one of these five parties. Therefore, national political parties also dominate the local political arenas, at least in the bigger cities. The difference in votes is generally given to local “citizens’ lists” or “free lists”. The number of votes for such citizens’ lists differs from state to state according to differences in local political culture, different local institutional settings, and the size of the municipalities. In general, the representation of the national parties is stronger in West Germany (except for Bavaria and Baden-Württemberg), and below average in East Germany. Citizens’ lists tend to be stronger where we find more personalized local voting systems (kumulieren and panaschieren) and where there is no threshold for local parties to obtain a seat in the local council. Finally, their strength is negatively related to city size, with free lists being far more common and larger in smaller than in bigger municipalities (Reiser 2007; Vetter/Kuhn 2013).

Fig. 1: Local electoral turnout in Germany 1949-2008



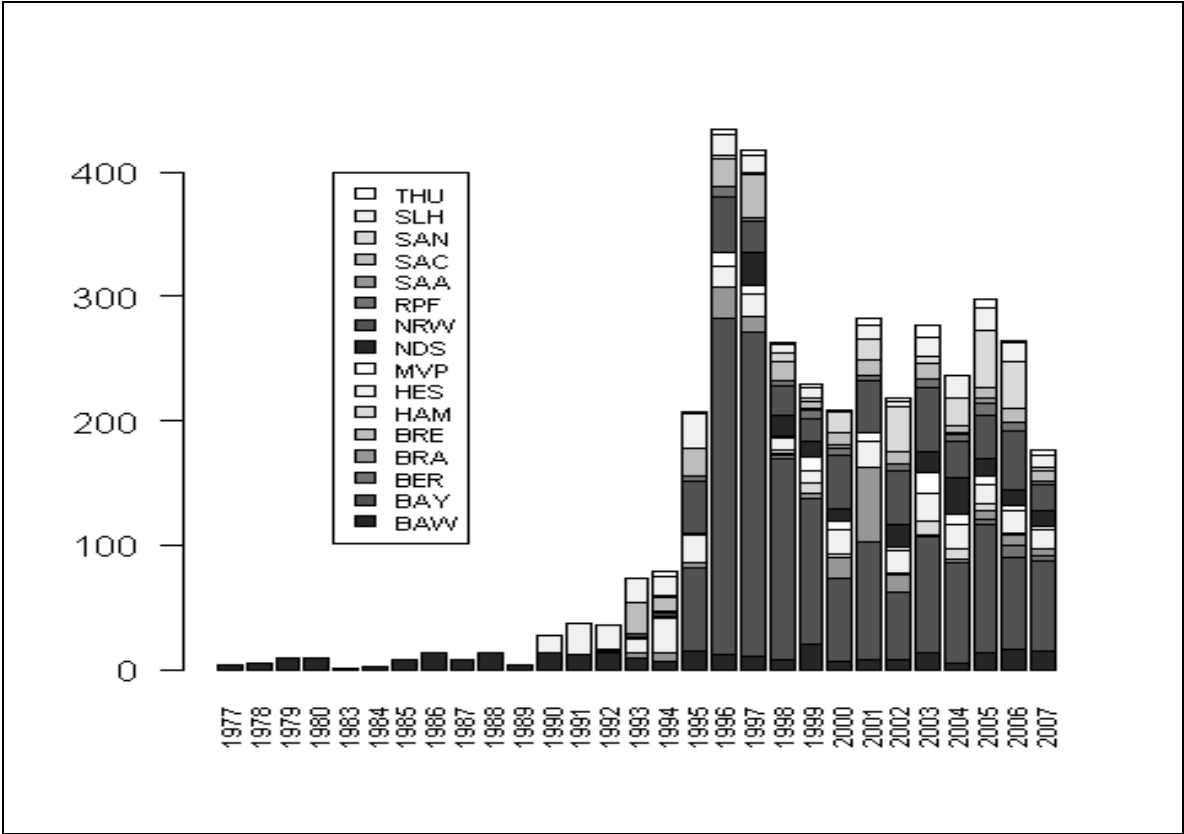
Sources: Own data collection.

Local elections in Germany do not coincide with national elections. Additionally, polling days for local elections differ from state to state. The same holds for the local electoral systems applied. With regard to local electoral participation, the trend data show a strong decline since the beginning of the 1990s (on average a decline of 17 percentage points). While at the end of the 1980s local electoral participation still was about seventy per cent, today on average only half of the voters take part in polls for the local councils (see fig. 1; Vetter 2012). Electoral turnout for mayoral elections on average is even lower than for local council elections.<sup>2</sup>

**Direct Democracy**

Before 1990 local referendums were allowed only in Baden-Württemberg. But in the beginning of the 1990s, a major reform process started all over the country in the wake of reunification with local referendums being incorporated in all local constitutions (Gemeindeordnungen). The reforms in the “new” East German local government constitutions were mainly intended to support the commitment of the citizen groups in the former GDR as well as to strengthen citizen integration and political responsiveness by opening up new channels of participation and by limiting the power of the local councils.

Fig. 2: Local Citizen Initiatives by States 1977 bis 2007



Quelle: Mittendorf 2008, S. 82.

Similar reforms followed in the years coming in West Germany. Today, local referendums are implemented in all states and follow a similar procedure: The first step is a “Bürgerbegehren” – or public petition for a referendum - which has to be submitted to the

<sup>2</sup> This differs, however, depending on whether the mayor is elected together with the council (as for example in Northrhine-Westfalia) or whether council and mayoral elections are held independently.

local assembly with a minimum number of signatures to support the initiative (quorum initiative: varying from three up to 20 per cent of all registered voters) including a financial plan of how to realize the project. The local constitutions generally exclude several issues from being dealt with in a referendum (negative catalogue, mainly concerning budgetary, personnel and organizational matters regarding the administration and local government). It is then checked whether the initiatives fulfil the formal requirements. If in the meantime the council has not decided in line with the initiative, the referendum takes place. The referendum is successful if it gets the majority of votes and if this majority (number of pro votes) exceeds a certain percentage of the electorate (quorum referendum: varying from 10 to 30 per cent). Although the formal steps are similar in each Land, their fine-tuning differs remarkably. This holds not only for the quorums, but also for additional regulations that promote or inhibit the actual use of this instrument (Mittendorf 2008; Kost 2005). As data collected by "Mehr Demokratie e.V." show, local referendums are still rather limited in Germany with about 300 initiatives per year from all over 11.000 communities in Germany (see fig. 2).

### **Cooperative Democracy**

Various forms of "cooperative democracy" have gained in importance, increasing the "governance"-character of local politics by including civic actors (citizens, representatives from non-government organisations, special interest groups or the local economy) into the local decision-making processes. These forms of „co-operative democracy“ comprise round tables, forums, future conferences, citizen juries and the like (Holtkamp et al. 2006; Kersting 2008). These less institutionalised ways of citizen integration have become increasingly popular in the last years. However, there is hardly any representative data available as to how intensively these means of cooperation are used, what effects they have, or how many people have already participated in such non-institutionalized ways of citizen engagement (some data has been collected by Städtetag Baden-Württemberg 2012; DIFU 2012).

### **Conclusion**

For an adequate understanding of what has happened in terms of local "democratic" or "participatory" reforms in Germany since the beginning of the 1990s, one has to bear in mind that already in the 1960s and 1970s the "participatory revolution" has led to remarkable changes that opened up local politics for citizens' interests and involvement. The principle of representative democracy at the local level, however, has never really been touched until the beginning of the 1990s, when three factors paved the way for country-wide political and administrative reform activities: a) reunification, b) rising economic pressure, and c) the institutional variety of the German local government systems – as they allow "best practice" comparisons and show possible directions of reform (Vetter 2006). This wave of reform, however, ended in the beginning of the new millennium. The latest trend in implementing and strengthening the use of co-operative forms of participation (it doesn't seem appropriate to use the term "reform" in this context) started in the context of enormous protests around the construction of a new station in Stuttgart in 2010/2011, which finally led to a change in state government in Baden-Württemberg after 60 years of conservative dominance. The protests in Stuttgart were followed country-wide by the media, leading to massive concerns (mainly of the political and entrepreneurial elites) with regard to major infra-structural investments in the years coming especially in line with the new energy policy in Germany. The protests, intense media reporting and the concerns described supported a growing climate of "pro-cooperation", assuming that cooperation is

an appropriate way of conflict resolution and a way of strengthening political legitimacy, although empirical research on these expectations is still missing.

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