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From Multilevel to





FOREWORD

In 2006 the Institute of Intergovernmental Relations at Queen's University published *Municipal-Federal-Provincial Relations in Canada*, a volume that explored aspects of multilevel governance in Canada with particular focus on intergovernmental relations involving the municipal sector. *Spheres of Governance* tackles similar issues from an international comparative perspective, presenting a systematic comparison of cities in multilevel governance systems in eight countries. As the demography of the world continues to tilt towards urban areas, as new global forces seem to push cities to the forefront, and as advocates of city power in Canada press for more resources and autonomy, there is much to be learned from the way federations other than Canada deal with urban issues and relate to municipal governments. The purpose of this volume is to ascertain whether, to what extent, and in what ways different countries have been restructuring their intergovernmental relationships to bring cities into the fold, and to assess the overall impact of such developments on urban governance.

The chapters in this volume underwent several iterations, and we are grateful to the authors for their diligence and dedication in working so cooperatively with us. The country chapters were first presented at a conference and subsequent authors' workshop on "Cities in Multilevel Government Systems: Lessons from Abroad." The Institute of Intergovernmental Relations (IIGR), under the leadership of then-director Sean Conway, helped organize these two linked events in Toronto on 14–15 October 2005. They enjoyed financial support from the Forum of Federations, the Canada Research Chair in Multilevel Governance at the University of Western Ontario (UWO), and the Vice-President Research at UWO. At the conference, senior scholars Caroline Andrew, Andrew Sancton, François Vaillancourt, and the distinguished former mayor of the City of Toronto, David Crombie, helped to place the international authors' observations in Canadian perspective. Toronto Mayor David Miller kindly took time to open the conference.

This research project has been supported financially by the Social Sciences and Humanities Research Council of Canada, through the Major Collaborative Research Initiative (MCRI) on *Multilevel Governance and Public Policy in Canadian Municipalities*. This MCRI is led by Bob Young, who provided intellectual and moral support throughout the project. The staff of the Institute of Intergovernmental Relations at Queen's University, Mary Kennedy and Patti Candido, along with the MCRI project manager at the University of Western Ontario, Kelly McCarthy, organized the logistical and financial aspects of this entire project. Carlotta Lemieux copyedited the chapters with her usual efficient



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flair. Carey Hill kindly prepared the abstracts. Several of the IIGR's student research assistants helped in the editing process; they include April Chang, Kim Johnson, Reama Khayat, Eric Leclerc, Ivy Opperman, Hillary Ryde, and Jeanette Sheehy. Stephen Ristich at the University of Western Ontario also helped. Valerie Jarus looked after publishing and layout with great care. Louise Gadbois imaginatively designed the cover.

Harvey Lazar and Christian Leuprecht
February 2007



PREFACE

It is a pleasure to introduce another Institute contribution to our understanding of comparative federalism. *Spheres of Governance* focuses on the way that cities and municipalities more generally are placed within systems of intergovernmental relations. At a time when urban issues are pressing and multilevel governance systems are evolving rapidly, the contributions collected here come at an opportune moment. We hope that they will help the Canadian debate about the role of cities in the federation.

The co-editors have worked very hard to bring this project to fruition. Harvey Lazar has produced many volumes for the Institute of Intergovernmental Relations, particularly during the very productive time when he served as director. He deserves much credit for recruiting the distinguished authors and for holding them to a strict template: this is a systematically comparative volume. Christian Leuprecht is a research associate at the Institute. His dynamism helped drive this project to completion. I appreciate the efforts of the co-editors and thank them on behalf of the Institute and the readers.

Thomas J. Courchene
Director
Institute of Intergovernmental Relations
February 2007





BIOSKETCHES

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RÉSUMÉS

INTRODUCTION

DE LA GOUVERNANCE À MULTI-PALIER À LA GOUVERNANCE
À MULTI-ORDRES ?

– *Christian Leuprecht et Harvey Lazar*

Cette enquête a comme point de départ les changements en politiques publiques de la ville. Dans les grandes métropoles en particulier, on prend pour acquis – bien qu’il s’agisse d’une hypothèse qui exige une vérification empirique – qu’une bonne partie des problématiques auxquelles les villes font face sont en train d’être gérées par des nouvelles formes de gouvernance à multi-paliers ainsi que d’autres acteurs. Ces partenariats varient selon l’échelle de l’enjeu. On estime que ces relations sont moins hié

L'ESPAGNE

« LES ADMINISTRATIONS LOCALES ET LES ENTENTES
À MULTI-PALIER EN ESPAGNE »

– *Robert Agranoff*

Sur le plan des relations intergouvernementales, en Espagne, la renégociation des statuts d'autonomie retient toute l'attention et les réformes au niveau municipal tel que le *Pacto Local* sont laissées de côté. En plus des quatre niveaux de



ont été créées (c.-à-d. la *Tripartite Agglomerationskonferenz*), des incitatifs financiers ont été accordés afin de s'assurer la coopération des municipalités, et l'interdépendance des différents niveaux a été reconnue. Le modèle suisse suggère que pour que la gouvernance à niveaux multiples soit efficace, il faut qu'il y ait des institutions qui regroupent les différents niveaux, que ceux-ci coopèrent et que chaque niveau possède des caractéristiques favorables. L'Article 3 de la Constitution suisse suggère que les municipalités sont « sous la juridiction exclusive des cantons », mais selon les réformes de 1999, le fédéral se doit de coopérer avec les municipalités. Les municipalités, au nombre de 2 940, sont responsables de la mise en œuvre des politiques adoptées aux niveaux du fédéral et des cantons. Le système fiscal est « à tous points de vue non centralisé ». Les municipalités ont le droit de hausser leur propre impôt sur le revenu. Il existe un système de transfert. Le fédéral transfère des fonds aux cantons et les cantons transfèrent des fonds aux municipalités. Bien que les relations fédérales-municipales soient décrites comme étant « limitées », les structures du système fédéral suisse sont souples et elles tiennent compte des municipalités. Il y a des référendums à tous les niveaux, les municipalités participent aux comités spécialisés, et il existe une procédure de consultation pré-parlementaire. Une étude de cas qui porte sur les mesures d'urgence démontre que l'interaction se fait de manière hiérarchique. Le niveau fédéral agit en tant que coordonnateur par le biais d'un comité spécial au sein duquel les cantons jouent également un rôle, et les municipalités et les organisations régionales en matière de protection civile mettent à exécution ce que les autres niveaux ont décidé. Dans le sens contraire, selon une autre étude de cas portant sur la gouvernance métropolitaine en matière de transport et d'utilisation du territoire, tous les niveaux jouent un rôle dans le processus de financement fédéral et de soutien des projets en matière de politique urbaine.

L'AUSTRALIE

« LES RELATIONS FÉDÉRALES-MUNICIPALES EN AUSTRALIE »

– *Douglas M. Brown*

Le système fédéral australien peut être décrit comme une « pyramide inversée ». Le *Commonwealth* est au sommet, les administrations des six États sont au milieu, et les municipalités (près de 730) sont au bas. Il existe trois sortes de relations intergouvernementales en Australie (État-municipalité, fédéral-État et fédéral-municipalité), mais elles se chevauchent de plus en plus. Selon la Constitution, les administrations locales sont des créations des administrations des États. Les mandats sans fonds et le transfert des charges font partie d'une relation financière très complexe entre les administrations des États et les administrations locales. Sur le plan fiscal, les administrations locales sont plus autonomes que les administrations des États. Leurs principales sources de revenus sont l'impôt foncier

et les frais d'utilisation. Les administrations locales reçoivent aussi une partie de l'impôt fédéral par le biais des administrations des États. L'Association de l'administration locale de l'Australie représente les municipalités de chaque État et du Territoire du Nord et siège au Conseil des gouvernements australiens (CGA)

d'instances politiques a permis aux représentants locaux d'acquérir plus d'influence. Une étude de cas portant sur les politiques de l'établissement des immigrants suggère que les politiques d'allocation des logements sont contrôlées par des municipalités et les représentants de l'état central sont incapables de réaliser les objectifs de leurs politiques. Dans le sens contraire, une deuxième étude de cas démontre que même si la technocratie du gouvernement central a maintenu en place le personnel et l'expertise pour étudier et superviser le développement du système des routes en France, ce secteur de politique devient aussi de plus en plus décentralisé.

L'ALLEMAGNE

«LES RELATIONS FÉDÉRALES-MUNICIPALES
EN ALLEMAGNE »

– *Rudolf Hrbek et Jan Christoph Bodenbender*

En Allemagne, les municipalités, au nombre d'environ 13 500, sont sous « l'unique juridiction » des seize *Länder*. En réalité, les autorités locales sont en grande partie responsables de la mise en œuvre de politiques et de la prestation de services. Les Cités-États de Berlin, de Bremen et d'Hamburg en Allemagne remplissent des fonctions comme municipalités, comme comtés et aussi comme *Länder*. Les recettes des municipalités proviennent entre autres d'une partie de l'impôt foncier, de subventions conditionnelles et inconditionnelles des niveaux supérieurs, de frais de service et de prêts. Au niveau fédéral, les municipalités sont représentées surtout de façon indirecte par l'entremise du *Länder*. Les municipalités sont représentées directement par trois associations centrales qui coordonnent leurs efforts au sein de l'Union fédérale des associations centrales des gouvernements municipaux. La plupart des tâches municipales sont déterminées par le *Länder* ou par la Fédération. En conséquent, le gouvernement fédéral peut confier des tâches aux municipalités, mais il n'a pas l'obligation de leur fournir les ressources nécessaires. Les auteurs



LE MEXIQUE

« L'INTERACTION ENTRE LE GOUVERNEMENT FÉDÉRAL ET
LES ADMINISTRATIONS LOCALES AU MEXIQUE :
TENDANCES, QUESTIONS, ET PROBLÈMES »

– *Allison Rowland*

La Fédération mexicaine inclut 31 États et plus de 2 400 administrations locales. Les dernières tendances indiquent un plus grand pluralisme. Les conflits intergouvernementaux ont augmenté, on demande la recentralisation du gouvernement et il existe beaucoup de disparités d'une région à l'autre. La lutte des États pour obtenir plus de contrôle a mené à l'usurpation des fonctions municipales, et ce même dans des domaines où la responsabilité est partagée. Selon la Constitution, les gouvernements municipaux sont des organisations qui appartiennent aux États. Même si selon les réformes de 1999, les municipalités possèdent un statut à part entière, les États continuent de croire qu'ils ont un rôle « légitime » à jouer dans toutes les affaires locales. Les recettes des municipalités proviennent entre autres de l'impôt foncier, de subventions conditionnelles des niveaux supérieurs et de partage des recettes. Les programmes et le financement destinés aux municipalités passent par l'entremise des États. Les intérêts des municipalités sont représentés par la Conférence nationale des municipalités du Mexique et par d'autres associations d'intérêt. Le fédéral a un contact direct avec les municipalités dans les régions près des frontières, dans les régions où il y a des conflits armés et dans les régions où le fédéral possède beaucoup de biens. Il arrive encore souvent que des programmes du fédéral soient mis sur pied sans avoir consulté ou ayant très peu consulté les autorités locales. Selon une étude de cas portant sur les biens fédéraux, la nature des interactions varie selon le type de biens, le degré d'activité et la capacité de réponse. La deuxième étude de cas met l'accent sur la constitution d'une image de marque grâce au tourisme. FONATUR est l'agence fédérale qui identifie et investit dans « des sites prometteurs ». Les images offertes par FONATUR ne correspondent pas toujours à l'identité et aux priorités des municipalités.

L'AFRIQUE DU SUD

« LES RELATIONS NATIONALES, PROVINCIALES, ET LOCALES :
UN MÉNAGE À TROIS INCONFORTABLE »

– *Nico Steytler*

La Constitution de l'Afrique du Sud de 1996 inclut la sphère des administrations municipales en plus des niveaux fédéral et provincial. Il existe une relation



nationale-municipale explicite ainsi qu'une relation provinciale-municipale. La hiérarchie entre les trois sphères est évidente. Le gouvernement national domine. Le niveau national et le niveau provincial se partagent la tâche de surveiller et de soutenir les municipalités. Le champ de l'interaction nationale-municipale est large et divers. Des forums intergouvernementaux officiels ont lieu, il y a « l'obligation de consulter », et il existe des programmes sectoriels nationaux. L'Association des administrations locales de l'Afrique du Sud est reconnue par le Ministère des administrations locales et des gouvernements provinciaux. La date des élections est la même pour toutes les municipalités et elle est déterminée par le ministre national. En raison des « relations à deux voies » (provinciales-municipales et nationales-municipales), il y a peu de médiation au niveau provincial. Les sources de revenus des municipalités proviennent des frais d'utilisation, de l'impôt foncier, des subventions intergouvernementales, des tarifs, des amendes, et des subsides. Une étude de cas portant sur les mesures d

que la crise sur le plan de l'infrastructure persiste. Dans le domaine des mesures d'urgence, les administrations locales sont les premiers répondants et les États planifient et demandent l'aide du gouvernement fédéral. Dans le passé, le *Federal Emergency Management Agency (FEMA)* était un organisme indépendant et avait



FROM MULTILEVEL TO “MULTI-ORDER” GOVERNANCE?

Christian Leuprecht and Harvey Lazar

The majority of the world’s population now live in urban areas. Cities are where the best jobs are to be found and where migrant populations overwhelmingly settle. They are centres of science, technology, and innovation, of education, culture, health care, and many other services. They are increasingly and disproportionately vital to the well-being of the regions and countries in which they are located. Yet cities are also characterized by high rents and homelessness, drug-related problems, criminal gangs, pollution, difficulties in migrant settlement, and by aging and often inadequate public infrastructure.

Some urban challenges reflect the unique geographic and demographic characteristics of individual cities. Others, however, are similar from one city to another, and these often have a national and even at times an international dimension. The latter urban challenges are of special interest here. Local governments generally lack the money and jurisdiction – and at times the expertise – to manage effectively the most acute and expensive urban issues on their own. Traditionally, these have therefore been handled through various forms of partnership between local governments and governments at the regional and national level, partnerships that have for the most part reflected top-down constitutional and fiscal realities among levels of government.

This investigation is premised on the possibility that the ways of managing urban policy matters have been changing. Especially in larger cities, there is an assumption, not yet tested fully empirically, that many of the pressures that cities face are increasingly being managed through new forms of governance that entail multiple levels of government and other political actors – partnerships that vary according to the scale of the issue. These relationships are thought to be less hierarchical, less formal, and perhaps more egalitarian than traditional vertical forms of governance. These new kinds of governance arrangements are commonly characterized as “multilevel governance” or “networked governance” when non-governmental actors are heavily engaged.

1 PURPOSE AND SUMMARY OF FINDINGS

This volume has three purposes. The first is to ascertain the *nature* and *extent* of the multilevel/networked governance systems that different polities have developed for handling the major challenges faced by their cities. The challenges weSpheresIntro

have in mind include such issues as the modernization of physical infrastructure, effective programs to facilitate migrant settlement, emergency preparedness and disaster relief, land management planning, and the promotion of tourism. In the face of changing technologies and a globalizing economy, it is often alleged that the decision-making powers of the state have shifted upward to the supranational and international level, downward to regional and local authorities, and outward from government to nongovernmental bodies, as the optimal scale for policymaking has changed (Brenner 2004). Have local governments' relationships with other orders of government and indeed nongovernmental actors grown or are they growing in relative importance? If so, what is the nature of these relationships? Second, to the extent that such systems of multilevel governance have evolved, we wish to assess just how effective this form of governance is in dealing with the urban challenges. Finally, we consider whether the trends that are emerging are consistent with democratic values and processes.

What did we learn? Our findings are based on the eight country studies that make up the rest of this volume. They include five federations, two quasi-federal systems (countries that do not describe themselves as federations but have many



two policy issues from a list of possibilities that we presented to them – studies intended to illustrate the dynamics of the intergovernmental relationships and their effectiveness. Finally, the authors were asked to discuss recent relevant trends and to judge whether the system of multilevel governance (our template used the term “multilevel”), to the extent that it existed, was up to the task of meeting the policy challenges facing municipalities, especially larger cities.

In the remainder of this section, we elaborate on some of the hypotheses and questions that arise from this template. One question relates to the forces that may precipitate multisphere governance. As alluded to above, its development is generally assumed to be largely a function of the growing complexity of policy challenges coinciding with ever-greater interdependence both within and across national borders, and possibly also between governmental and non-governmental actors. On the one hand, to the extent that this assumption holds true, we may expect to find similar if not identical trends across our country studies. On the other hand, if the trend reflects a normative preference – as opposed to a functional necessity – we may anticipate differences in its extent and its manifestation.

There are, of course, reasons that may make multisphere governance normatively attractive to political leaders and scholars. First, it can imply a dispersion of power that is attractive to those who worry about the state becoming a Leviathan or simply too large to be administratively efficient in what it does. Second, some economists consider that multisphere governance is more economically efficient than alternative forms of governance because it allows for competition among governments, provided that each government spends only or largely the money that it raises through its own taxes and levies (Weingast 1995; McKinnon 1994). (We hasten to add that there is a contrary school that considers it more efficient for the federal/national sphere to collect more revenues than it needs, while local governments spend more than they collect. This is because the federal/national sphere is presumed to be more efficient in raising taxes and the local sphere more efficient in managing expenditure programs. Intergovernmental transfers are the result.) Third, the principle of subsidiarity normatively posits delegation of decision-making responsibility to the sphere of government that is closest to the citizen and is best positioned to carry out a particular task; thus, to local government, other things being equal.

Another question we wondered about it is whether systems of *administrative federalism* might be more likely to evolve into multisphere governance than systems of *classical* or *dual* federalism. The latter is premised on a clear division of legislative power between the national government and the governments of the constituent units. The United States and Australia – in fact, Anglo federations more generally – embody this approach. Each sphere of government is, in principle, responsible for making and implementing policy in its area of constitutional competence.

Germany, by contrast, exemplifies the administrative approach to federalism. Under this arrangement, most legislative powers are concentrated at the national level, with the role of regional constituent units being mainly to administer the law. The constituent units participate in the national legislative process through their involvement in the second chamber. France also falls under this rubric: as a

unitary country, it is, technically, a “pure” vertical system. Some other countries in our sample, such as Switzerland and Spain, combine elements of both systems.

The difference between the dual and administrative models is also reflected in the status of municipalities. In administrative federations, citizens seek services from the federal government at the city level, regardless of which sphere of government is actually charged with making policy decisions for that service. This tends not to be the case in dual systems.

We thus wondered whether this distinction between dual and administrative federalism would generate different degrees and forms of multisphere governance. It is plausible to hypothesize, for instance, that administrative federations might evolve into hierarchical forms of multilevel systems of governance more readily than dual federations, because the constitutions of the administrative federations already provide explicitly for hierarchical interdependent relationships. While functional necessity may also require governments in dual systems to become increasingly interdependent, the resulting relationships among the different spheres may entail less hierarchy than in administrative systems, since the dual systems constitutionally emphasize autonomy. Also, to the extent that such distinctions exist, we wondered whether urban policy tends to fare better under one or the other of these arrangements.

Similarly, differences between the European and Anglo *political cultures* may affect trends of governance. European culture tends to be more collectivist, while the Anglo culture tends to be more liberal-atomist and thus more focused on individuals than on communities. Political thinking in the Anglo culture tends to focus on checks and balances, as well as on markets; it is more skeptical than the European culture about delegating powers upward. This suggests that we may be more likely to find the more horizontal intergovernmental relationships commonly identified with networked governance in countries that share the Anglo political tradition.

In effect, our research template gives rise to questions about the political economy of the power relationships among different spheres of government. Ron Watts has written: “In virtually all federal and intergovernmental systems, financial relations have invariably constituted an important, indeed crucial, aspect of their *political* operation ... This political significance places financial relations between central and constituent-unit governments at the heart of the process of intergovernmental relations” (2003: 1–6). As intergovernmental fiscal relations was a key item in our research template, this enables us to test the Watts perspective from the broader multisphere point of view that includes local government.

4 FINDINGS

4.1 NATURE AND EXTENT OF MULTISPHERE GOVERNANCE AS RESPONSE TO MUNICIPAL/URBAN CHALLENGES

Our first purpose is to assess whether our sample polities have actually developed systems of multilevel or networked governance for policymaking and

body that brings together the Commonwealth prime minister and the heads of state and territorial governments. Local governments in South Africa are entitled to send ten members to the second parliamentary chamber, the National Council of Provinces, where they may participate *ex officio* in deliberations. In Switzerland, a tripartite agglomeration conference was established in 2001, consisting of the federal government, the Conference of Cantons, and the peak organizations for local government (the Swiss Union of Cities and the Swiss Union of Municipalities). In France, the Senate is made up of locally elected officials chosen by elected municipal council members. It is now normal for the central government to negotiate with regions and municipalities in drawing up contracts that span five to seven years. Spain also has an extensive system of intergovernmental interaction, including the national Commission on Local Governments, which is intended to serve as a catalyst for identifying municipal problems. In Germany, collaboration between the central associations of local government and the federal government is mandated in the standing orders of the federal ministries, as well as in the procedural rules of Parliament. These provisions state that the associations' representatives must be consulted at an early stage of the legislative process by the federal government and committees of the Parliament when there are legislative plans that affect local government interests. In Mexico, the federal government includes municipalities in three programs that are defined in its Constitution: the National System of Planning, the National System of Public Security, and the National System of Social Development.

In the United States, in contrast, there are no similar formal institutions designed explicitly to give voice to local governments and their representatives in national political decision making. Even on a less formal basis, at the political level, the relationship between the federal government and the cities is weak. There is, for example, no overarching multisphere intergovernmental body focused on national urban strategic planning. This leads Vogel to write that the "the federal partnership with cities has completely evaporated." He continues: "Increasingly, national policymaking is made without reference to the problems of cities and with little direct input from city officials." At the administrative level, however, there are ongoing multisphere governance arrangements all across the United States. For example, there are metropolitan planning organizations that include all spheres of government, local private interests, and citizen interests. These intergovernmental administrative arrangements are in significant measure "bottom up" and flat, and they focus on problem solving at the regional and local levels. This difference between the United States and the other polities is consistent with the distinctions drawn above between Anglo-American and European political cultures. It is also partly consistent with our hypothesis that systems of dual federalism may be less inclined to evolve towards relatively hierarchical multilevel governance than administrative federalisms and instead trend towards less hierarchical multi-order governance.

Third, in all the European cases and also in South Africa and Mexico, political parties have an integrative function that ensures that municipal interests are understood at the national level. This function is most apparent when national and

Fourth, the accumulation of mandates, whereby politicians hold elected office at the local sphere while simultaneously serving at one or more higher spheres of government, helps to connect local governance to the national and regional spheres. As well, in the European countries in our sample it is common for national politicians to start at the municipal sphere, often as mayors of large urban agglomerations, and work their way up. The result is that many key national politicians are sensitized to municipal issues and are socialized into the workings of municipal politics. Brunet-Jailly stresses the importance of this factor in his chapter on France.

Finally, again harking back to the distinction between administrative and legislative federalism, in the polities covered here, local governments are increasingly delivering national (and often regional) programs, except in Australia and to a lesser degree the United States (where we must remember that there are still many programs mandated by the federal government, with and without funding).

While these reasons help explain our general observation about the development of multisphere governance and the rising importance of local government in it, they also explain the qualified nature of our affirmative observation. While being the administrative arm of other orders of government certainly affords local governments a substantial role in a multisphere governance system, municipalities generally do not have significant sway over national priorities or a major role in designing the broad contours of the national programs which they deliver. What influence they have is often restricted to issues of "deliverability." Local authorities, therefore, end up being relegated to "junior" partners in the emerging multisphere governance systems, with France and Switzerland as partial exceptions. This finding reflects constitutional and political realities, political party structures, and intergovernmental fiscal arrangements. Each of these explanations is discussed further below.

With respect to constitutional and political realities, Rowland characterizes the role of Mexican municipalities in the three national systems noted above as more or less "nominal."

Similarly, there is asymmetry among the countries in our sample. Multisphere governance is more advanced and prevalent in the European countries – whether or not they are members of the European Union – than in the rest of our sample. In part this may reflect the larger role of the state in Europe: the bigger the role of government, the greater is the functional need to plan its activities (see, for example, Dyson 1980). There is also a relatively more corporatist political culture in Europe compared with, say, the United States, Australia, and Mexico (see, for example, Berger, Hirschman, and Maier 1983).

All of these reasons help qualify the nature of our assessment about the trend towards multisphere governance. The development of multilevel/networked government systems is not a linear march of reason through history in the Hegelian sense. Functional necessity indubitably plays some role due to the growing complexity of the policy issues that the state must handle. In turn, this complexity may require more actors at the decision table. But the qualifications in our observations also suggest that the trend is by no means exclusively the result of an inexorable functional necessity, for the policy problems facing the United States or Australia are not all that different from those facing the other developed countries in our sample. Yet these two dual federations appear to have distinctive tracks. In Australia, the state governments continue to design and implement urban strategies, leaving local governments to get on with their relatively small set of responsibilities. In the United States, there are conflicting forces – for example, top-down mandates and fiscal incentives from Washington, on the one hand, and bottom-up administrative multipartner metropolitan planning, on the other. In the end, the trend towards multisphere governance may be as much a function of political culture and political will as of functional necessity.

4.2 EFFECTIVENESS OF MULTILEVEL GOVERNANCE IN



to make broad generalizations about the effectiveness of the different multisphere governance systems in meeting the municipal and urban challenges. With this caveat, the policy studies suggest that the different governance systems are generally mediocre in achieving desired results, although some inevitably work better than others. Differences within each of the polities are also considerable as policies in rural municipalities often turn out to be less effective than those in their urban counterparts. The performance of multisphere governance across and within each of the eight states that make up our sample thus varies.

We noted earlier that most of the governance systems we studied are largely top-down, with municipal governments as the junior partner. Interestingly, and perhaps significantly, the two political systems in our sample where the authors are most positive about the effectiveness of multisphere governance, Switzerland and France, are also the ones where local influence on relevant national policymaking and implementation is most substantial. Specifically, local governments in these two countries appear to have a greater voice in making national policies that affect them than the other six do. Since it is often assumed that unitary states are more reform-capable than federal ones, by virtue of their centralized structure, the fact that we group France together with an unabashedly federal country such as Switzerland is salient, in that it suggests that a system's capacity for reform is not merely a function of its institutional antecedents.

While starting from vastly different points on the centralization-decentralization continuum (Switzerland being among the world's most decentralized federations and France having once been the archetypal centralized state), both now have complex intergovernmental systems that seem at times to approximate our theoretical discussion of multilevel/networked governance – at least, more so than our other country studies. As the relevant chapters make clear, the French and Swiss systems of multisphere governance are not always effective (as shown by the alienation and unrest in the poorer immigrant-populated suburbs of French cities and the fact that local officials in Switzerland feel excluded from the planning for national emergencies). Yet the chapters convey the sense that the evolving multisphere governance systems in their polities work relatively well and are possibly becoming more so over time. In the case of Switzerland, Bächtiger and Hitz write of an “integrative, relatively loosely coupled system of multilevel governance which tends to protect and forward municipal interests, while simultaneously avoiding policy deadlocks and subsequent suboptimal policy results among the three levels.” They relate this favourable assessment to the limitations on central government power in Switzerland, the relative clarity in roles and responsibilities among the spheres of government, and the absence of a German-like joint-decision trap.² In the case of France, Brunet-Jailly declares that “France has fashioned its own form of multilevel governance” and in “all social and economic policy fields all levels of government are tightly entangled and complementary,” with governance of matters of local significance functioning well. This success is associated with the fact that national leaders understand local concerns (because of linked role accumulation and the integrative function of political parties) and that local government now has standing – and “equal” standing in a practical sense – in intergovernmental negotiations.

At the other end of the spectrum are Mexico and South Africa. Both are emerging from political legacies of states where the party system could hitherto have been classified as hegemonic (Sartori 1976). Thus, in the case of Mexico, Rowland writes of a "stark and persistent reality of government failures – at all levels – in key issues such as poverty reduction, crime control, and environmental protection." Despite efforts to build the local sphere, it is the weakest part of Mexico's governance system, especially outside the largest urban areas. Regarding South Africa, Steytler describes it as an "important example of a recently engineered system of multilevel governance where local government plays a significant role in the governance of the country." But he also remarks that national municipal policy overregulates local government, so that the statutory framework created for municipalities is extremely complex and burdensome.

As for the United States, where the electoral geography of presidential and congressional elections once privileged large cities, especially in the Northeast and Midwest, in recent decades the balance of power has shifted to smaller urban areas, suburbs, and rural areas, especially in the South and West. Thus, Vogel argues that "fend-for-yourself" federalism and "coercive" federalism are now much more prevalent than the "cooperative" federalism of an earlier period. The implication of this situation, he declares, is that "no level of government is seriously addressing these problems in the cities, and for this reason, the current multilevel governance system must be judged poorly."

The multisphere systems of governance in Australia, Germany, and Spain seem to fall somewhere in the middle, not as effective as France or Switzerland but outperforming Mexico, South Africa, and the United States. In the case of Australia, in part because the national governing party is based on a broadly similar coalition of interests like the current Republican presidency in the United States, the Commonwealth government has chosen not to involve itself deeply in the big-city agenda. However, there is not the same policy vacuum in relation to the cities' agenda that Vogel finds in the United States, because, as noted above, state governments in Australia coordinate urban programs, directly running many public services that municipal governments provide elsewhere.

While Brown does not answer directly the question about how effectively Australia's top-heavy system of multisphere governance handles the challenges of urban and municipal affairs, he leaves the impression that the system works tolerably well. In part, this may be because of a relatively disentangled arrangement, where it is fairly clear which sphere of government has which responsibility and what financial resources are needed to accompany those tasks.

In the case of Germany, Hrbek and Bodenbender note that municipal governments, owing to their dual role as local self-government entities and as delivery tiers for other spheres of government, have traditionally accomplished a wide range of public tasks. But in recent times of financial stress, with ever-increasing

As for Spain, its multitiered system has been able to catch up with its creation of a late arriving welfare state along European social democratic lines and to provide a measure of regional stability through its autonomous communities. Local governments, under the supervision of national and regional governments, have by and large delivered the necessary public services but have not been at the core of Spain's political energy in making reform happen.

The second effectiveness-related question we posed was whether municipal governments were delivering national and regional programs competently where the governance system assigns them that task. In general, most of the chapters suggest that local government performs this role satisfactorily, though less so in Mexico and South Africa.

In all four European countries, local authorities are intended, among other things, to be a delivery agent for national and regional governments. This appears to be the intention in South Africa as well. This is much less the case in Australia, while in the United States the situation is somewhere between the European and Australian models. For Mexico, it may be premature to judge, but the converse appears to prevail, with state governments to varying degrees usurping spheres of administrative activity that the Constitution assigns to municipalities.

In three of the four European cases – France, Germany, and Switzerland – there is no hint of significant shortfalls in the delivery capacity of local authorities. As for Spain, the analysis suggests that the concern about delivery capacity is confined mainly to smaller cities. On the whole, in the European cases, it is fair to say that local governments are up to, or becoming up to, the task of delivering EU, national, and regional programs as part of the reality of multisphere governance on that continent. What is more controversial is whether appropriate financial resources are attached to these responsibilities. This dispute regarding the adequacy of local finances is subject to ongoing debate in all three countries, with the German case perhaps the most contentious.

Regarding the United States, there, too, the issue of delivery capacity at the local level does not emerge as a significant concern. However, as Vogel's case study of Hurricane Katrina demonstrates, this conclusion does not necessarily hold in emergency situations, where confusion about roles and responsibilities aggravated an already difficult situation. Of equal concern is the frequency with which Congress mandates action by the local and state authorities without adequate funds. It is not by accident that, historically, the concept of "unfunded mandates" has been taken more seriously in the American academic literature

by municipal governments in countries that rely relatively more on intergovernmental transfers, though in isolated instances, such as Berlin, this may be the case.

The third question that we consider in our analysis of the effectiveness of multisphere governance in meeting urban and municipal challenges is whether municipal governments are doing an effective job of designing and delivering policies and programs within their sphere of competence, whether constitutionally based, rooted in statute, or otherwise. Although this question was not put explicitly to the country authors in our research template, this emerged as an issue of growing concern from their analyses. In brief, the concern is that democratically elected local governments are becoming so constrained by the mandates being imposed from above that they lack the fiscal and administrative resources – and the political energy – to respond effectively to local challenges that are within their exclusive competence.

Constitutional protections notwithstanding, we already noted the concern that local governments in both Germany and South Africa risk becoming mere appendages of higher levels of government. A similar worry, though much weaker, emerges in the Swiss chapter. (The autonomy of Swiss cantons and their communes remains high compared with local governments in the other countries we covered.) In Mexico, local government remains in its infancy, so the risk there is not so much of losing innovative and administrative competence as in arresting any ability to develop it in the first place. Rowland observes that given some of the recent failures in Mexican governance, “it is becoming more common to hear calls for a return to centralized rule and a ‘firm hand’ on the part of national authorities.” A 2005 Spanish White Paper on Reform of Local Government argued for four general principles that should govern municipal power: autonomy, subsidiarity, flexibility, and proportionality (that is, the ability to receive funds or raise revenues proportionate to spending responsibilities). This suggests that these principles have been lacking locally, in contrast to the situation in the recently organized regional governments. In all these cases, to the extent that there may be a concern, it rests in worries about inadequately funded mandates and the lack of fiscal autonomy. Whether these trends continue – and, indeed, reduce the ability of local government to act effectively within its own sphere – is an issue worth monitoring carefully.

The American case has both similarities and differences relative to the countries discussed above. Vogel surmises:

There has been “*de facto* devolution” occurring in the United States over the last four decades (Kincaid 1999). Devolution was not a deliberate policy to bolster local autonomy. Rather, the federal government abandoned cities and their problems (Caraley 1992), changing the nature of urban politics (Eisinger 1998). Cities must now be more fiscally and administratively self-reliant. Local public management takes on increasing importance, leading urban managers to focus less on issues of social justice and racial equality and more on economic development and central city revitalization. Mayors in such cities as New York, Los Angeles, and Chicago have embraced the new public management policies to reduce costs, keep taxes low,



and create a good business climate, and are now being hailed as saviours of the cities (Savitch and Vogel 2005).

Washington's indifference to the big-city agenda does not mean that America's cities have been forgotten entirely. The federal government indeed continues to use them as delivery agents for the programs it mandates. In this sense, there is a similarity to the cases discussed above, especially since the mandates are often insufficiently funded and thus may stress cities financially. But since the U.S. federal government does not pretend to have an overall strategy for cities, preferring instead to connect to urban dwellers through programs for individuals such as social security and Medicare, overall urban leadership has been left to mayors. In this sense, tough love from Washington may in fact have strengthened the ability of city governments to succeed in at least some of their challenges. In effect, the decision of the federal government to withdraw from joint programs that had been part of the federal-local landscape in the 1960s has actually enhanced the autonomy of local governments and has led them to fill at least part of the void that might otherwise have been created by this disentanglement.

In contrast to the cases above, Brown points to the innovative quality of municipal government in Australia. Although its scope is considerably narrower than that enjoyed by local government in our other cases (and for this reason may be unique), municipal revenue sources seem stable and secure. This may help explain local government's good performance within its areas of competence. In the case of France, municipal governments, according to Brunet-Jailly, are "able to take up economic-development initiatives and set up tourism bureaus; they are responsible for local airports, seaports, and the building and maintenance of local roads ... they can manage public social housing ... all local schools ... as well as monuments of historical significance." These activities are not undertaken unilaterally but in cooperation with other spheres of government. French municipalities are as "reliant on other levels of government as those other government levels are on them," Brunet-Jailly writes and this networked system is working relatively effectively. In this regard, it is noteworthy that the French situation is the opposite of the Australian. The latter is based on the autonomy of the municipal sector whereas the former is based on interdependence among spheres of government. The important loose end in the case of France is the adequacy of municipal funding, a debate that has not yet been resolved to the satisfaction of municipal governments.

4.3 EFFECTS OF MULTILEVEL GOVERNANCE ON DEMOCRACY

The third broad question this chapter considers is whether and how the processes associated with multisphere governance influence democratic values and processes. Although the research template did not cover this issue explicitly, the country studies nonetheless provide some insights into it. Our main observation in this regard is twofold. On the one hand, the strengthening of local government in countries that previously had a strong authoritarian tradition (Mexico, Spain, and South Africa) or a centralized system (France) is identified with the spread of



parts of the academic literature (e.g., Rhodes 1996, 1999) we should have expected to see more reference to their role in the country studies. We do not doubt that non-governmental actors are players in urban governance. But we would like to better understand the nature and weight of their role. Perhaps it is confined to helping resolve specific regional and local issues within established policy frameworks rather than in creating the frameworks, themselves. In any case, the silence of our authors on the role of non-governmental actors suggests that this is an area that merits further empirical study, with an emphasis on clarifying where non-governmental actors are influential and where they are not.

While local government may play only a small role in the policymaking process, it is nonetheless a crucial element of the multisphere system, because it is frequently counted on to be the delivery agent for national and regional programs. In this regard, the evidence here suggests that local authorities do a reasonable job administratively, with the largest urban areas generally possessing the widest

governments balance their budgets. Local governments, as argued above, remain “junior.” Their room to manoeuvre financially is determined by other spheres of government that have the constitutional authority to establish the regulatory framework for local finance.

This brings us to the second issue. If municipalities cannot run deficits because of the financial rules imposed from above, it is hard to evaluate concerns about local fiscal needs. If there is indeed too little revenue available to the local sphere, this cannot be manifested in budgetary deficits, so it must show up in other ways, such as unsatisfactory physical infrastructure and inadequate local services. We are, unfortunately, not in a position to evaluate the adequacy of municipal infrastructure and services relative to the many other claims on taxpayers. We are thus

Jones, C., W.S. Hesterly, and S.P. Borgatti. 1997. "A General Theory of Network Governance: Exchange Conditions and Social Mechanisms." *Academy of Management Review* 22 (4): 911–45





LOCAL GOVERNMENTS IN SPAIN'S MULTILEVEL ARRANGEMENTS

Robert Agranoff

1 INTRODUCTION

Spain's cities provide the major platforms in the architecture of its social, economic, and political framework. No longer isolated and dictatorial, the country is part of the European experiment and an actor on the world stage; it is governed by an inductive form of federal democracy. Most of its people now live and work in its larger cities, many of which are well known to the world: Barcelona, Bilbao, Cordoba, Madrid, Santiago, Seville, and Valencia. These and other cities offer the building blocks of the political system and enforce second- and first-level government norms, with neighbourhood offices and city halls delivering the basic services and amenities required by citizens. But the cities are more than this, for each tries to express itself in cultural, artistic, and architectural ways that were impossible just three decades ago under General Franco.

The post-Franco transition has not, however, made it possible to solve all the problems of major cities. Spain's municipal corporations are fiscally and normatively dependent on a mind-numbing set of connections with higher-level governments and with other public and nonpublic arrangements. Because of the deficit in resources and powers, cities are constantly operating with "socios," or partners, both horizontally in the community and vertically up the governmental chain. Although the Spanish state has tried to overcome a high social welfare deficit from the Franco years, the cities face myriad problems, because that is where most people with social problems live. The number of urban elderly who are somehow in need of care is just one example. Another acute social problem is the social integration of immigrants, most of whom descend on Spain's cities. Crime and substance abuse are, of course, also Spanish city problems. These social challenges are coupled with the challenge of providing affordable housing and of moving people from their homes to their work. This requires the modern infrastructure of transport, roads, bridges, tunnels, and the like. And in order to promote employment, the city must use its powers and resources to attract economic activity, putting a further demand on its infrastructure. Finally, Spain's urban construction boom of the past fifteen years has placed great pressure on the ability of city governments to provide the basics – roads, lighting, water, sewer, sanitation – and in the process has opened up the gates of land-use abuse and corruption.

These concerns all call into question the ability of Spain's cities to meet their twenty-first-century challenges. As this paper will demonstrate, despite the fact

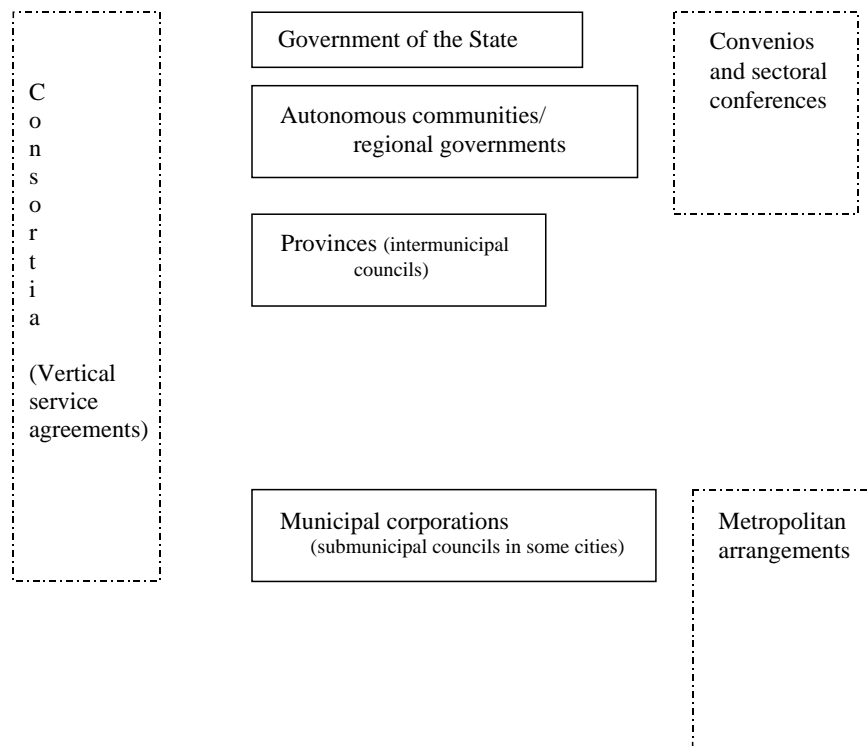
that most Spaniards occupy the country's larger cities, their local governments lack critical capacity in the post-Franco democratic system. Most of the reform energy has gone into decentralization, transferring powers from the central government to the second-tier autonomous communities. This important federal construction of the "state made up of autonomies," or regional governments, has more or less come at the expense of empowering cities, a practice that has continued for more than a quarter of a century. Local governments are subordinate to the central and regional levels, particularly with regard to powers such as urban planning. Indeed, municipalities have few if any exclusive powers within their sphere of operation. They have experienced less than 15 percent of shared public revenue during the entire post-Franco period. Governmentally, they not only possess limited powers but also are saddled with a form of government that involves the indirect election of mayors and independent department heads from the ruling coalition. Within city government, bottom-up democracy – for example, through neighbourhood councils – is very uneven throughout the country. Moreover, the electoral system of proportional representation virtually eliminates district representation and favours local special interests. All of this means that, from a governmental standpoint, municipalities are in a relatively weak position to offer first-rate amenities, to promote their economies, to meet environmental challenges, and to cope with indigenous social problems.

2 THE CONSTITUTIONAL DIMENSION

The Constitution of Spain became official three years after the 1975 death of Franco, on 29 December 1978. It represented the culmination of extended debate and regime reform that built on the traditions of autonomy represented in the Cadiz Constitution of 1812, the short-lived federal First Republic in the nineteenth century, and the regional autonomy movement (installed for Catalonia, adopted for the Basque provinces and Galicia, but interrupted by the Civil War) of the Second Republic of the 1930s (Crow 1985). The Constitution ushered in democracy and launched the possibility of building modern federal arrangements

Communities which may be constituted. All of these entities enjoy autonomy for the management of their respective interests.” Although provinces and municipalities historically preceded ACs, the primary intergovernmental emphasis has been on the connection between the state and the regional governments (Agranoff and Ramos 1997; Subirats and Gallego 2002). Governmental arrangements are in fact more complex, as figure 1 indicates. Actually thousands of governments exist if one includes the various special units of government and formal intergovernmental arrangements.

Figure 1
Spain's Governmental Units



Despite rapid growth in size and functional responsibilities, local governments have not attained a role as a leading player in Spanish intergovernmental relations. Carillo (1997, 40) concludes that “the decentralization strategy employed has left local government in an area of uncertainty in terms of the definition of its role in the *Estado de las Autonomías* (the state of autonomies).” The problem, as will be demonstrated, is highly political because local government interests have never been able to muster the political power of that of the regions within the national scheme, and consequently local governments are “dually subordinated” to ACs and to the general government (Baena 2000, 13). As López-Aranguren (2001, 5) concludes, “They occupy a strong position in legal and constitutional terms but in the reality of day to day government they experience a serious lack of power in areas important to them as well as inadequate economic resources to face the responsibilities assigned to them or those they would like to assume.”

The Constitution establishes a multilayered and interdependent framework of governments. Article 2 identifies unity and autonomy as the first principles, and frames a three-tiered system, including ACs and local governments. The ACs are the relatively new bodies that were “chartered” by the national parliament through statutes of autonomy, which are roughly the equivalent of a state or provincial constitution for each territory (in Spanish convention and here, “AC” and “territory” are used interchangeably). The Constitution is similar to many modern European constitutions in that human rights and civil liberties, principles of social justice, and rights of association are spelled out early in the document and are important judicially enforceable rights that apply to all levels of government. For example, Article 27(8) states that “the public authorities shall inspect and standardize the educational system so as to guarantee compliance with the laws,” a provision that tests principles of autonomy. It has led to acrimony between Madrid and some regions – over language, history, and other cultural instruction – with considerable tension regarding the state’s role in decentralized programs.

The powers laid down in the Constitution are somewhat misleading in an overlapping system that is designed to maximize intergovernmental cooperation. Article 149 enumerates some thirty-two different “exclusive state competencies,” including normal foreign and international relations, defence, international trade and organizations, state finance and debt, management of the economy, social pensions, interregional transport and economic matters, and many other matters that affect more than one region. Somewhat different from that of a number of federal systems are the administration of justice (all regional and municipal courts are, in effect, national), labour legislation, public security (except for municipal police, n(syl17c0.s2hx7 on. 6s7ti40.0.9 enT

programming, environmental protection, sport, tourism, health, and social services (Aja 2003; Argullol et al. 2004). Most important with regard to local governments is the fact that ACs are responsible for “organization of their institutions of self-government,” “alterations of municipal boundaries,” “in general the functions which belong to the State Administration concerning local corporations and whose transfer is authorized by the legislation on Local Governments,” “regulation of the territory, urbanism and housing,” and “the coordination and other functions with respect to local police forces.”

from the state and ACs and upward from municipalities (Article 4). Article 62 outlines local financing, including local governments' right to participate in AC and state revenues, the AC governments' right to fiscal oversight and supervision, the need to allocate funds according to legal criteria, and the need to follow statewide law in establishing a system of fiscal collaboration among entities.

The AC statutes of autonomy thus illustrate the dual constitutional level, with many basic laws being established by the government in Madrid and with the ACs sharing in constitutional and normative powers over local governments. As will be demonstrated, the situation is considerably more complicated in practice.

There is more besides the three basic tiers and four governments. Under state and AC government legislation, other units of government have been established, primarily for the purpose of municipal coordination. First, some ACs have created *comarcas*, or counties, for multimunicipal servicing and planning. Catalonia has the most active system of *comarcas* (forty-one); they emphasize the territorial planning coordination of rural services, and also cultural promotion.

Second are *mancomunidades*: single-purpose or multi-purpose public horizontal partnerships to deliver services, which are engaged in by two or more municipalities. They exist all over the country and are primarily designed to deliver the following services: collection of refuse, treatment and supply of water, cultural activities, fire services, social services, promotion of tourism, and economic development.

Third are consortia: vertical partnerships of public organizations from different levels (e.g., municipality or *mancomunidad*, provincial government, AC government). The most prevalent consortia, which are almost always single-function and most commonly are between provinces and municipalities, fall in the following areas: economic development, supply of water, cultural promotion, collection of refuse, management of theatres, management of hospitals, public works, urbanization, and promotion of tourism.

Fourth are several special or asymmetric arrangements. For example, the two large cities Madrid and Barcelona have metropolitan-level planning, water, and transit powers. The two North African city-territories (or possessions) have autonomy linked legally to two Andalusian provinces, even though they are independent city-states. Moreover, many cities possess submunicipal councils and have somewhat decentralized their service arms. The two island ACs emphasize their *cabildos*, or island councils (three for the Balarics and seven for the Canaries), effectively replacing the *diputaciones* at the provincial level. Finally, in the seven uniprovincial ACs, the provincial and AC governments are merged, effectively reducing the number of provinces to forty-three.

Table 1a
Census of Spanish Governmental Units, 2004: Units

<i>Units</i>	<i>No.</i>
Autonomous communities	17
Provinces	50
<i>Comarcas</i>	81
<i>Mancomunidades</i>	988
Consortia	909
Municipalities	8,107

Source: www.minhac.es (2005)

Table 1b
Census of Spanish Governmental Units, 2004: Autonomous Communities

<i>Autonomous community</i>	<i>Provinces</i>		<i>Comarcas</i>		<i>Mancomunidades</i>		<i>Consortia</i>		<i>Municipalities</i>	
	<i>no.</i>	<i>%</i>	<i>no.</i>	<i>%</i>	<i>no.</i>	<i>%</i>	<i>no.</i>	<i>%</i>	<i>no.</i>	<i>%</i>
Andalucía	8	16.0	–	–						

Table 1b enumerates the sub-AC governments by territory, where the range appears considerable. Generally, the more provincial governments there are in an AC, the more governmental arrangements exist (with the exception of the *comarcas*, which are concentrated in Aragon and Catalonia). Municipal distribu-

of the majority party in council and combines several functions: chair of the council, chief city representative, chief of municipal administration, and head of municipal police. Like the commission form of city government in the United States, departments are normally headed by elected councillors (Carillo 1991), a mayor-commission type of government. The municipal council does not have the authority to draft laws, but it can draft and enact regulations (*ordenanzas*) that are in conformity with legislation of the Cortes and/or the AC parliament. City officials are elected in constituencies called *términos municipales* by means of at-large or municipality-wide party lists in rank order, headed by each party's nominee for mayor. Electoral laws predate the LRBRL, having been enacted in 1977 and 1978, but local elections are now governed by a 1995 law, which statutorily assigns the number of councillors per municipality, with a minimum of five for small municipalities (Newton 1997).

The LRBRL specifies municipal functions, increasing the responsibilities as a city becomes larger. All municipalities must provide public lighting, a cemetery, refuse collection, street cleaning, potable water for homes, a sewage system, the paving of public streets, access (from the country) to the population centre, and food and beverage control. Municipalities with a population of 5,000 or more are additionally responsible for public parks, public libraries, markets, and solid waste treatment. Cities with a population greater than 20,000 must also include civil defence, social services, fire prevention and control, and public sports facilities. Municipalities with a population of more than 50,000 must also include urban transport and environmental protection. Of course, cities under these population limits can offer these specified services before they grow large enough for the services to be obligatory. For example, urban transport, social services, and fire protection are often offered when they are not mandatory. More important, the LRBRL states that municipalities may develop alternative servicing arrangements by soliciting their AC government; for small municipalities, this has led to a massive separation between the provision and production of services, particularly through provinces/consortia, but also by *comarcas* and *mancomunidades* (Banón and Carillo 1992). In 2003 major cities were also required to include municipal district committees, to decentralize management by districts, and to establish mechanisms of citizen participation in municipal management, but they maintained the mayor and council as the body of "maximum political representation" (*Ley 57/2003*, art. 122).

In practice, local government has become considerably more complex through expanding the organs of municipal administration. First are departments (*delegaciones*, or areas), usually headed by a council member. The types of department vary from city to city. It is not unusual for larger cities to have separate units for public works, public safety and security, traffic and transport, culture and tourism, economy and finance, commercial and industrial development, environment, and health and general government (human resources, purchasing, mayor's office, etc.). These departments are mostly staffed by non-political employees. Second, larger *ayuntamientos* often establish municipal autonomous bodies that operate like public enterprises in such areas as culture and sport, festivals, museums, water provision, and public housing. They generate their own

revenue and are considerably more free of budgetary restrictions. Third, larger

civil protection; (4) assistance to municipalities that cannot meet the required minimum services under Article 36 of the LRBRL, for example, water, sewerage, or others on the list of nine required services; and (5) functions that emerge to promote the general well-being of supramunicipal or “sectoral character” planning, human resource development, economic development, adult and continuing education, culture and tourism. Provincial governments are required to prepare an annual investment plan, *Plan provincial de cooperación a las obras y servicios de competencia municipal*, covering the needs of the smaller municipalities within the province, funded jointly by the provincial council, the AC, and sometimes the European Union (EU) government.

The *comarca*, authorized under Article 42 of the LRBRL, is formed by municipal assent and is subject to AC regulations. It is a form of service and/or planning district. Catalonia “comercialized” its entire territory in 1987 (*Boletín oficial*, 8 abril, 1621), after the Constitutional Court refused to let the AC government abolish its four provinces. Catalonia did this in order to engage a process of “modernizing local administration and increasing potential management capacity, yet preserving municipal autonomy through the ‘voluntary’ transfer of functions.” In other words, the *comarcas* would provide management where municipal functions were non-existent, thereby allowing for the functional organization of services, and would concentrate resources on a reasonable scale (Losada Marrodán 1989, 77). The Aragon region is another with active *comarcas*, particularly in such basic services as fire protection, water and sewerage, emergency services, and planning/development for EU funding.

The horizontal intermunicipal partnership, the *mancomunidad*, apparently began in medieval times. The oldest recorded is from 1409 in the Basque Country, comprising thirteen municipalities that joined to manage forest resources. According to a contemporary study by Font, Gutiérrez, and Parrado-Díez (1999), 87.3 percent of the municipalities joining *mancomunidades* are towns with a population of less than 5,000. The average number of municipalities in these special districts is eight. Almost half (43.4 percent) are single-purpose units, the average belonging to the fivej/F7 1 Tf10n nTw(')Tj/g4 -hdj/ 439wa 0 TD-0Aco877Arrez, and 9w8.9 Gutigle-pumege numTf

a number of AC governments discourage them in favour of *mancomunidades*, for they are less able to be legally controlled, and their managerial orientation erodes the role of democratically elected municipal councillors in favour of appointed administrators and professional managers (Font, Gutiérrez, and Parrado-Díez 1999).

4. THE FINANCIAL POSITION OF MUNICIPAL AND OTHER LOCAL GOVERNMENTS

Local finances have shifted from an almost exclusively centralized tax and tax-sharing system to a mixed system more typical of federal countries (Carillo 1997, 61). Today, local governments raise their revenues through a combination of own-source taxes, tax-sharing arrangements, and subventions from higher-level governments. The overall posture for all subnational governments, ACs, and local governments alike is fiscal dependence on the taxing and spending powers of the state. For municipalities, any system of local financing did not develop until the late 1950s.

A financial framework law (39/1988), *Ley reguladora de las haciendas locales* (LRHL), addressed local government finance for the first time since regime change. The LRHL identified permissible sources of local taxes, affirmed local powers to set rates, and prohibited taxes on public services, but it permitted fees, and it set local government subventions from central and regional government as conditional. Municipalities were granted the powers to tax real estate, economic activities, motor vehicles, construction and labour, and the increasing value of urban land, and they were allowed to exempt government entities and certain non-profit organizations. Provisions were also outlined for setting rates by tax base, population, exemptions, quotas, and the like. Provincial governments were originally allowed to establish tax rates and special service fees, and were allowed a surcharge on the municipal taxes on economic activities, the only provincial own-source tax. Since 1990, this surcharge rate has been left up to provincial discretion. In the pre-LRHL years, provinces enjoyed a share of a Spanish version of the transaction tax, but when Spain joined the European Union in 1986 and the value added tax (VAT) was enacted, the transaction tax was abolished and the provincial share was replaced by an unconditional central grant. Provinces also receive important infrastructure capital grants, which are mostly distributed to municipalities as project (conditional) grants. These financing patterns were changed for some large cities between 2002 and 2004, as will be described, but this pattern remains for most local governments.

Local governments traditionally rely on the same type of mixed-source financing as their counterparts in other federal systems. Table 2 is a reproduction and translation of Ginénog's (2002) calculations for the 1998 tax situation for municipalities by population size, provincial capitals, *diputaciones* and island councils, and *mancomunidades*. Before the reforms of big-city revenue of 2002–4, direct taxes and fees were key sources of revenue for all cities, as are transfers from AC and central government. On the other hand, the largest cities – those with over

100,000 population – plus provincial capitals received a notably large share of transfers. Smaller cities, on the other hand, received a greater proportion of capital transfers – no doubt a reflection of their poorer capital-borrowing position. Provincial governments display a similarly mixed pattern but receive less in certain fees and inheritance taxes. As mentioned earlier, *mancomunidades* rely mostly on payments from other governments (mostly municipal) and on some capital transfers. The final column in table 2 represents sources of revenue for all municipalities in 1998. Here again, own taxes, fees, and transfers appear to be the most important categories.

Several recent financial changes have altered this picture somewhat. Since 2001, the new AC financing surcharge has included increased income tax sharing (from 15 percent in 1993 and 30 percent in 1996) to 33 percent, plus new tax sharing of 35 percent of the value-added tax, 42 percent of the beverage tax, and 100 percent transfer of electrical energy, transport, and petroleum taxes. The new system ties AC financing more to the ACs' economies and revenue systems, and places them in a better position to help finance local governments (Ruiz-Huerta, Herrero, and Vizán 2002).

With regard to local governments, in 2003 municipal tax sharing was increased to cover the elimination of the tax on small businesses. Also, beginning in 2004, municipalities and provinces received a defined share (13 percent) of transfers. Cities with populations of over 100,000, provincial capitals, and certain other cities with populations of over 75,000 began receiving a share (1 percent) of income taxes collected and will participate in tax collection. Smaller cities will continue with the previously indicated system of state transfers. In addition, in 2003 a law on the modernization of local government gave cities more direct budgetary powers, including greater regulating power over local taxes. These changes, coupled with the fact that cities do not bear major financing responsibility for health, education, and social services, should give them greater flexibility

Table 2
Revenue Sources, by Population Size of Municipalities and for Other Subnational Governments, 1998

	Local revenue sources (percentages) ¹							Total
	Direct tax ²	Indirect tax ³	Charge/fee ⁴	Transfer ⁵	Income ⁶	Property ⁷	Capital ⁸	
Less than 5,000 inhabitants	22.69	3.51	15.26	29.70	4.12	1.54	23.18	100.00
5,001 to 10,000	26.73	4.52	19.71	30.49	2.32	2.28	13.95	100.00
10,001 to 20,000	30.00	4.57	21.33	28.88	1.81	3.02	10.39	100.00
20,001 to 30,000	31.47	4.72	19.00	29.79	2.20	3.57	9.24	100.00
30,001 to 50,000	34.81	5.32	20.67	27.10	2.68	3.13	6.29	100.00
50,001 to 100,000	34.26	5.01	18.67	28.63	1.53	4.03	7.88	100.00
More than 100,000	33.84	3.64	13.98	37.31	1.10	3.03	7.09	100.00
Provincial capitals	31.57	4.02	15.58	36.48	2.18	3.62	6.55	100.00
Provinces and island councils	29.82	32.61	4.36	26.39	0.79	0.38	5.65	100.00
Service districts (<i>mancomunidades</i>)	2.43	0.00	10.48	67.92	0.77	1.13	17.28	100.00

programs/financing, debt forecasts, and the status of consolidating budgets with local autonomous and municipal business enterprises. The latter is a move towards EU standards. The EU's new EAS95 accounting system requires consolidation of debt of public companies, in as much as Spanish ACs and municipalities tend to fund parts of their investment programs through public

Table 4
Budget/Spending Classifications of AC and Local Entities, 2002 (in percentages)

<i>Autonomous community</i>	<i>General services</i>	<i>Public security</i>	<i>Social protection and growth</i>	<i>Social services</i>	<i>Economic development</i>	<i>Economic regulation</i>	<i>Regulation of industry</i>	<i>Transfers to public entities</i>	<i>Public debt</i>
	CCAA ¹ EELL ²	CCAA EELL	CCAA EELL	CCAA EELL	CCAA EELL	CCAA EELL	CCAA EELL	CCAA EELL	CCAA EELL

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amount to a small portion of the budget, though some central government funds are passed through in ways that would not show up in this set of calculations. Local entities spend the largest share of their funds on social protection and social services, with smaller but significant amounts going to economic development and regulation. The expenditure levels on public security are also notable. What does not show up in this category is the large amount of provincial expenditures to municipalities. In fact, all but the line items for general services and civil protection – the social and economic categories – are really spent either by or on behalf of municipalities, particularly the smaller ones. Earlier data that separate out cities (Farfán Perez 2002, 76) indicate that municipalities spend more on civil protection (police and fire) but also a substantial share of their revenue on social services. Table 4 suggests that cities and provinces have somewhat higher proportions of public debt than that of the ACs, owing to a combination of lower fiscal transfer ratios and large capital expenditures. Overall, the welfare state costs of health, education, and social programs that were transferred between 1982 and 2002 comprise more than half of all subnational expenditures.

Two additional sources of Spanish project grants have a notable impact on local finance: the Interterritorial Compensation Fund (FCI) and the Regional Incentives Program. The FCI was established in Article 157(1)(c) of the Constitution and is designed to correct regional fiscal imbalances, especially for public works and economic development infrastructure projects. Established in 1984, it initially was oriented to poorer regions, but subsequently it was used as a vehicle to transfer funds to all ACs. In the 1990s, the FCI was realigned to be complementary to EU investment funds, particularly the European Regional Development Fund (ERDF), and thus was “rededicated” to poorer regions. By the year 2000,

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forum for local government interests. While the commission has been the catalyst for identifying municipal problems, it is not a particularly important intergovern-

more of their influential minority-party councillors who belong to the national party in power. Local notables who are known in Madrid may also be brought along.

Third, although they are decreasing because of the transfer of power to ACs, there are direct administrative contacts with the national government. For example, many infrastructure projects involve EU, national, and AC financing and, sometimes, approval. This generates regular direct administrative contacts, which begin at the proposal stage and continue through the design, approval, engineering, construction, and inspection stages. In this process, local administrators learn who the players are and how they may be handled. Although less apparent and visible than, say, interest-group representation, direct contacts are critical and are time-honoured in Spain, where the term *enchufe* has more than an electrical-outlet meaning; it also refers to the action or effect of personal connections.

Provincial governments provide an additional but declining channel of interaction with the national government. Until 1996 there was a civil governor (*gobernador civil*) in each province, representing the national government – a holdover from the prefectural system of the Franco regime. The civil governor was responsible for public order and public safety and was in charge of national police and security forces operating at the provincial level, especially in emergencies such as floods, storms, and droughts. The civil governor was also responsible for coordinating services of the national government between state and local authorities. With the advent of the ACs, a governor's delegate (*delegado*

The state has retained responsibility (in addition to foreign affairs, defence, and immigration) for a number of competencies of municipalities: public safety, including aspects of national police forces, largely rural and urban non-routine policing functions, conduct of public works, forests, and work alongside municipal police are primarily the responsibility of the state. Other responsibilities include minor order, such as beach and festival patrol, and the state works together on issues of major concern, such as demonstrations, bomb threats and bombings, and the state's control and planning remains centralized in the Ministry of the Interior. Certain types of local public-works “sign-offs” that are required by the rules and procedures of municipal traffic control are handled by the state in Madrid. In this sense, the national government’s exclusive competence for public order reaches deep into the municipal realm.

This phenomenon can be contrasted with the important concurrent competency under examination, that of the design and regulation of local governments. As demonstrated, the national government has established the basic patterns and forms of local governments, has established baseline competencies for municipalities and finance formulas, and authorized the ACs to establish further degrees of autonomy, through such means as the proposed *pactos locales* (described below). The Constitutional Court has upheld this basic central-government establishment and framework power (Baena 2000). It is up to the AC governments to establish the pattern of governments beyond the basic laws, to transfer powers to them, and to regulate their actions regarding autonomous municipal functions under the LRBLR and the financing regulations if they have not done so. One official put it this way, “Ellos legislan, municipios cumplen” (the [AC] authorities legislate and the municipalities comply). Even if it is always the case, the ACs hold the key municipal legal and fiscal cards for most programs.

Normally, in arenas of exclusive AC competency, there is only indirect federal interaction, if any. One example is social services, which were passed virtually exclusively to the ACs in the 1980s. Since then, social services have been legislated and delivered by ACs and municipalities, along with some contracting with non-governmental organizations, mostly with the Red Cross and Catholic Charities. In most ACs, municipalities directly contract with the regional governments for such services as integrating immigrant populations, to supplement social help that would go along with education, health, and housing. The regional governments develop plans and designate the services to be funded. The only central government involvement is some funding and the *Plan concertado de servicios sociales*, a program in which the ACs (with municipal representation) negotiate and voluntarily agree to provide minimum basic services in all regions (Chacón 1995). The national government gathers reports but does not regulate or supervise general social services. Thus, municipal intervention is almost exclusively by ACs.

Other types of competencies are those that are compartmentalized for each of the two spheres of government. The most important in this arena are railroads and

rail traffic, highways and roads, transport, hydraulic improvements and works, ports and airports, and museums and libraries. Some of these program arenas are AC in operation and some belong to the state. For example, rail transport includes a national network, and most ACs operate regional transit systems. Both of these systems connect the larger municipalities, particularly provincial capitals and cit-

to limit legal autonomy (Agranoff 2004). Nevertheless, municipal governments do have the means of autonomous interaction with the federal government.

First, there is the corporatist tradition of Spanish politics. As Wiarda (1993, 48–9) explains, Spain is one of several Southern European countries that not only has the tradition of recognizing the rights and obligations of certain social institutions – family, community, church, armed forces, organized labour, universities – but also has a way of structuring state-society relations in a hierarchical, disciplined, monopolistic, and state-centred manner: “Corporatism, in this sense, typically seeks to integrate labor, business and government in a functioning, well-ordered, harmonious, and technocratic regime.” While some of this has been broken

adopted the principles of the *pacto local* into its municipal code. Local officials complain that AC governments have not really supported further decentralization of power on their behalf. One official in a suburb of Madrid said that the “Madrid [AC] *Ley de Pacto* remains undeveloped. It only enters debate around election time when opportunist parties refer to decentralization. The goal of further decentralization should be to promote ‘co-responsibility’ in delivery of services between local entities, on the one hand, and regional and central authorities, on the other.” Another local official, from Andalucia, said that instead of ACs intervening with the state on behalf of local government, their neglect and unwillingness to share power had led to an alarming stagnation: “In 1975, 14–15 percent of public funds were managed and spent by local entities. In 2005, long after the ‘grand’ revolution of decentralization, that figure *decreased* to 13 percent. Apparently, decentralization has great limits.”

Local governments have largely been left out of the picture of AC-Madrid interventions on many questions of a basic intergovernmental nature. The pattern of negotiations, whether multilateral or bilateral, has led to waves of systemic asymmetry, followed by moves towards symmetry at the AC level (Agranoff 1999). For local governments, Carillo (1997, 53) concludes that the pattern follows at that level, “making the fate of a local government depend on its own AC either on account of its degree of self-government or on account of the policy it chooses to follow with regard to the local authority, or both.” For local governments, it has meant that to get the attention of the central government, they normally must get the attention of their AC government. In addition to direct contacts, and with some representation on national councils (e.g., the social services sectoral conference has local government representation), the process depends on the circulation of elites from local governments into AC policy and administrative positions, forming clusters of AC officials who have experienced local government and understand it, and who can become a “major influence on [local] policy questions and infuse more service capacities into intergovernmental cooperation” (Carillo 1991, 168).

9 MUNICIPALITIES AND INTERNATIONAL AFFAIRS

Municipalities’ roles in international issues fall into two general categories, ordinary and extraordinary. Ordinary affairs such as trade missions, commercial and cultural exchanges, “sister city” alliances, transport linkages, promotion of tourism, and other aspects of intermestic politics generally flow freely and directly between Spanish and foreign cities. Ordinary issues would include EU affairs, for example, for financial assistance. They are, of course, conducted under the umbrella of the national powers of foreign policy, currency, and commerce, and of relevant AC powers, for example, in infrastructure, urban planning, and social services. Extraordinary issues (for example, municipal appeals to the European Court of Justice, high-level meetings of foreign dignitaries, and cultural and sporting events) may require more direct involvement with the central government in Madrid. For instance, in March 2005 the City of Granada hosted an International

Summit on Security at the Alhambra Palace. The meeting was established by direct contact between city officials, the Spanish Ministries of Defence and Interior, and with foreign ministries. Between 2002 and 2005, a number of Valencian cities found themselves in the European Court of Human Rights, when Spanish courts refuse to hear landowners' appeals regarding their zoning under a controversial AC land use law (discussed below).

The most important international dimension is Spain's involvement in the EU. On the one hand, membership has negatively affected subnational (particularly AC) competencies in agriculture, fisheries, industrial policy, environment, regional planning, transport, energy policy, and culture by reducing the original autonomy of governments, either directly or through the fact that the central government has exclusive rights to final decisions on these issues within EU bodies (Colino 2001). Article 93 of the Constitution allows for transfer of sovereignty of competencies by organic law. Moreover, the central government is charged with compliance enforcement of all powers ceded. This strengthens the role of Madrid vis-à-vis subnational governments. Spanish membership, on the other hand, has enhanced AC interests in some other ways, giving them a role with regard to those domestic competencies over which they have primary control.

The Constitutional Court has approved AC international activity, so long as it does not compromise the unity of Spanish foreign policy. Where the issues between AC and Madrid become complex is when the national level sets policy and the AC implements it, as with the environment. “

funds do not normally involve direct contact with AC capitals. Nevertheless, local authorities are reported to feel that they are being marginalized by the ACs. They invoke the lever of the subsidiarity principle against the regional administration, particularly when their administrations are of a different party from that of the AC.

Another international body of direct interest is the Council of Europe, which was founded in 1949 in the aftermath of the Second World War and is directed towards promoting democracy among European countries. Most important is the 1985 European Charter on Local Self-Government, which places great emphasis on municipal (and other local) autonomy in decisions affecting the community, local own-source financing, and the right to settle jurisdiction-level disputes in each country's judicial system. Among others, Canales (1999, 252–3) suggests

Catalonia and the Basque Nationalist Party in the Basque Country – compete at all levels, including for local councils (Pallarés, Montero, and Llera 1997). But in most of the country the national party pattern is strong at the local level. For example, in the 1999 municipal elections, where over 21 million total (multiple) votes were cast, the PP received a total municipal vote of 7.3 million, capturing 24,625 local council seats. This amounted to 37.8 percent of the council seats. Meanwhile, the PSOE received 7.2 million total votes, capturing just under 22,000 seats, which amounted to 33.6 percent of all seats. The only other national party, the left-of-centre IU (Left United), captured only 3.5 percent of the seats. The remaining 25.1 percent were divided among twelve non-state and isolated municipal blocs (Olmeda and Parrado 2000).

City elections demonstrate this strong mutual influence between the levels of government. Carillo (1997, 59) says that national general elections “have thus far become a sort of primary or run-up for local elections, meaning that in most cities, local election results usually resemble those in the last general elections, with only marginal differences.” Subsequent research by Carillo and Díaz (2003) for localities in the AC of Madrid indicates that this trend has continued. Local elections can also be scenarios for changing national politics. Indeed, municipal electoral behaviour is often studied as a harbinger of future national trends. It is also important to note that the so-called non-state parties rooted in the ACs usually do better in AC and local elections than they do in national and European

such as central government, this is not as attributable to bureaucracy's involvement in politics as it is to the invasion of politics in administration. (Carillo 1997, 60)

As a result, in the local political culture the management function often takes on a secondary or even marginal role.

While corruption can occur in any political system, it appears to be particularly prevalent in Spain, including in local government. Fernando Jiménez (1999, 80–1) refers to influence peddling as one of the major concerns of Spanish politics, on a par with terrorist violence and unemployment. This type of corruption has become a major matter of public debate and a major concern of public policy. In the democratic transition, “[i]t has constituted a lost opportunity to build sound and practical rules and traditions of political responsibility” (ibid., 85). National scandals receive the greatest attention, the most recent being the collapse of a subway tunnel under construction in the Carmel section of Barcelona, which caused multiple injuries and led to the evacuation of hundreds of residents from their homes. The contractor was found to be using substandard materials to cut costs. The regional government lost control of the project through a series of subcontracts and “shadow companies.” Less visible and perhaps more prevalent are the many arrangements made by local governments with people who have a financial stake in the decisions of councils.

A notable illustration is the Valencia AC's LRAU (Law Regulating Urban Activity), a land use law, which has opened many corruption doors. Enacted in 1994, it was intended to protect small rural landholders from needless expropriation in areas that were in threat of urbanization and to protect them from having to bear large shares of infrastructure development costs. It has not worked out that way. The LRAU allows municipalities to create a *Plan de actividades integrada* (PAI) giving the urbanizing agent (developer) full autonomy in all matters related to projecting and implementing his own urban plans, and including any prices of land and or building he may see as convenient. The agent is supposed to present a “financial economic proposition” by which the developer will be paid for the work to be carried out to develop the urbanization. Moreover, the city government can benefit in that up to 10 percent of the land under the PAI can be reserved (that is, acquired) for “public use.” The property owner'

public lighting, water and sewers, street paving, refuse collection, and, for larger cities, parks, libraries, solid waster treatment, markets, fire services, urban transport, and environmental protection. Moreover, their role in social services, culture, and sport and recreation leads to infrastructure needs. There is also the possibility that they may become involved in activities that are shared between the national government, the ACs, and other local governments. For example, it is not unusual for municipalities to provide the land for public schools and to construct the buildings, even though education is a shared national and AC competency. Infrastructure funding, as will be demonstrated, follows a similarly mixed pattern, involving EU, national government, AC, and provincial funding streams.

The national program of infrastructure provision for municipalities is largely one of direct financing or by a series of discretionary conditional (project) grants that are channelled through provincial governments. Administered by the director general of local cooperation in the Ministry of Public Administration (MAP), these municipal projects are broad in scope or high in project eligibility, and they normally involve national, AC, provincial, and municipality financial participation – and sometimes EU and private financing as well.

Eligibility, according to the rules in the *Bulletin of the State* (BOE 30/1/04, 3721), involves a series of intergovernmental sign-offs, documentation of the relationship of the project to the Plan of Cooperation (see below), linkage to complementary plans and projects, a series of certifications (e.g., labour protec-



municipalities in such areas as water and wastewater, sanitation and public health, and road projects. In addition, provinces work with smaller municipalities in promoting sporting and cultural activities, secondary roads, and transportation coordination, all of which also lead to infrastructure needs. A royal decree (BOE 27/6/03, 27352-58) makes intergovernmental cooperation obligatory for infrastructure projects, while recognizing the mixed role of funding of different local entities and the EU and the central government.

Since provincial plans and local projects require AC approval, most local officials agree that regional governments do “have the last word.” Provincial and local officials have become increasingly “skeptical of the powers of autonomous communities to approve their plans,” commented a municipal councillor. “They [Valencia in this case] routinely act unilaterally in regard to our projects, making changes at will without discussion and consultation.” An official in the Madrid AC related that “road projects (of an intermunicipal nature) and public transport are imposed by the autonomous community in response to traffic jams and the problem that in Madrid City rush hour lasts all day.” With regard to a train extension project, several cities around Madrid mobilized to urge the AC government to address projects more openly and equally. One provincial official said that when plans for extending train services in a municipality arise, the management of the project becomes haphazard. The AC instructs a municipality to plan a project but does not guarantee that it will be funded. As a result, municipalities devote time to a project that may or may not ever happen. Another official said that when there was a decision to be made about building a regional hospital to centralize dispersed medical care in a series of growing Madrid suburbs, there were even municipal offers of donated land, but the Madrid AC government made a unilateral decision to locate it elsewhere.

Cities are required to submit to ACs, for approval, a *Plan general de urbanismo*, which outlines urban planning strategies and establishes specific criteria for the use of space and anticipated needs. To comply with the plan local governments must direct programs and resources for urbanization programs which are often beyond their powers and which project the use of regional resources to a greater degree than the law allows. For example, many local government officials know that the financing of new school buildings is well beyond their powers, but they are greatly encouraged (some would say coerced) into building them with local money. Social programs, such as retirement and youth centres, while locally needed and demanded, are often held up by AC governments.

Many small municipalities are reluctant to update their *Plan general*, because it reduces their flexibility to get approval if a lucrative project comes along. For example, at a general meeting in the City of Teulada (AC Valencia, Province Alicante) which the author attended, the mayor and the director of public works announced that a lucrative high-income housing project had come along at the city’s beach area, Moraria. Also announced were new projects – a Moraria school building (to replace temporary classrooms), expanded parking facilities, and a renovated building for a seniors’ cultural centre. None of these projects were on the *Plan general*, which had not been updated and filed since 1989. The city planned to file several amendments to the 1989 plan for AC approval. Teulada/



Moraria has grown in population from about 7,800 persons in 1989 to nearly 25,000. This regular practice of overlooking the *Plan* allows for flexibility and for greater facility in dealing with large private development corporations.

Larger cities have more difficulty in circumventing local plans because, unlike Teulada/Moraria, their projects are numerous and nearly always rely on a larger proportion of external funding, particularly from the central government. Meanwhile, the AC governments are not always particularly interested in enforcing updated general plans because that reduces their flexibility to say yes or no to a project. One municipal official said that often the message from his AC is, "Build it and then we will tell you if we can provide matching funding." When they spend a lot of money on a project, he explained, that "keeps us all very anxious," with both sides circumventing the plans and being pushed to engage in projects beyond municipal powers. To one official, it reflects little concern for public ethics: "No se dice, se hace" (This is not said, but it is done).

Cities turn to provincial governments for help on a case-by-case basis, as a rule. Initial contacts are nearly always informal. Any public works project will be *de facto* a collaborative effort. Municipalities (or other local entities) seek assistance through two separate channels: conditional grants (*subvenciones*) and less restrictive agreements (*convenios administrativos*). Conditional grants have to follow AC promulgated rules and guidelines, including inclusion in the *Plan general* (or amendment). A number of conditions follow, including intergovernmental collaboration, similar to those illustrated above with regard to national grants. Financing guidelines stipulate that provinces provide 60 percent of the funding while municipalities provide the remaining 40 percent. *Convenios*, as stated earlier, are agreements that take place outside the AC legislative process. They apply to public projects that require a significant portion (e.g., 98 percent) of public funding. There are few decrees or forms governing these agreements, and local officials can exercise considerable discretion in authorizing and executing these projects, including the channelling of funds to needed projects. These *convenio*-based projects are often the "crown jewels" of provincial and municipal governments, explained one provincial official. In his province, it is not unusual to have fifty or sixty such projects launched each year. This is not always good, he said, because many municipalities "lack a mature fiscal and budgeting capacity," and since so many are small, this is not likely to change. "Perhaps provincial governments should develop this expertise and act as municipal consultants, aiding in the decentralization process."

Finally, some infrastructure projects are not regulated and funded through intergovernmental cooperation. These tend to be projects of a private nature, such as residential and commercial development – utilities, roads, open spaces, and other amenities – which are funded either privately or through a combination of municipal financing and private funding. The latter is, of course, from property developers. It is not unusual for developers to suggest a tradeoff, by which land they have purchased or to which they have access (even when it is not in the town plan) is rezoned to residential, in return for their promising infrastructure improvements. One small coastal town exchanged permission to develop land that would double their housing stock in exchange for the developer supplying piping

to the water treatment plant for the entire city. The more a city is reluctant to go into debt to finance such infrastructure projects, the more amenable it is to this form of tradeoff private financing.

To many of the local officials who were consulted for this study, the issue of power distribution is as important as the issue of money. They want more direct control over infrastructure decisions and would even be willing to spend more money if they had control. One provincial official relates that in many ways the AC governments have become “a new enemy.” In addition to being against the centralization of power at the national level, local governments are more skeptical of the powers of the ACs. With regard to infrastructure, it is often the lack of concrete rules and of consistency in action. A deputy mayor said that with subsidized affordable housing, rents often ended up higher than many could afford, thus deflating the original purpose. Without rules regarding the management of residential properties for those of moderate income, many people go without affordable housing: “This lack of explicit rules is another form of control used by the autonomous community.” In other cases, the AC uses the lack of rules to push municipalities into infrastructure projects beyond the LBRLR. The same official concluded that “although the process is anti-democratic, we have little choice but to participate.”

The intergovernmental dimension of European and Spanish immigration policy can be broken into the four phases of prevention, admission, control, and integration. The first three – prevention of illegal entry, appropriate entry policies, and control over the number of immigrants – are considered to be EU and national government issues. The fourth, integration into recipient nations, regions, and

In addition to national action regarding the control of borders, deportation, and the encouragement of legal entry as a path to citizenship, the national government has undertaken some action on integration planning. As integration first came on

responsibility is not the real issue, since almost all immigrants settle in large cities. Where there are reasonable concentrations of them, they inevitably affect numerous city services. The municipalities of Catalonia, Andalucía, and Valencia, particularly their coastal areas, are the heaviest hit. While immigrant populations are heterogenous, they tend to congregate residentially by country of origin. This has been a barrier to interimmigrant integration, not to speak of integration in the general Spanish population (with perhaps the exception of the small number of middle-class Latin Americans, who assimilate rapidly).

Each municipality has a different capacity to meet the influx of migrants. The local service networks include the office of social services attached to the municipality, AC-run school programs, city housing agencies, AC-operated health services within the city, AC employment services, locally based immigrant associations (e.g., local solidarity groups for Latin American women and for North Africans and Chinese), the Red Cross, catholic Charities, and municipal cultural associations. Unless a city has a local agency, such as a commission for refugee assistance, services tend to be uncoordinated. If any coordination is done without a commission, the municipal social services office is likely to perform it. In the late 1990s, municipalities began to ask for additional grants and funding to meet the increasing demand for services. Some housing and relocation assistance has trickled down through *Provivienda*, a housing program operated in collaboration with NGOs. For example, Andalucía has increased its service monies, largely because its cities are periodically inundated by workers who are rotated off crop harvesting as agriculture becomes more diversified. Labour unions have denounced the poor conditions of immigrant agricultural labour (e.g., housing, working conditions, hours, wages, child labour) and have promoted regulation and assistance for services. Yet, the AC of Valencia has offered no new city money, expecting municipalities to finance integration programs out of their existing budgets.

Beyond providing services for integration, higher-level governments offer little in the way of assistance. The national government and ACs provide information to municipalities in the form of lists of known "illegals." The sweeps for illegals, who are then presumably slated for deportation, are the responsibility of the national police. Municipalities have not really had a role in the enforcement side of illegal immigration, though the new policies will alter this somewhat. One problem for municipalities is that illegal immigrants do not show up on municipal registers. The same is true of the wealthy "eternal tourists," who enter the country under visitor status but stay longer than the hundred-day limit. Usually they establish a residence, but they are not enrolled citizens, nor are they on the municipal census, or *padrón*.

This leads to service demands by immigrants and others residing in the territory, though they are not counted in the allocation of grants and in service allocations. For example, Jávea (Alicante, Valencia) has a *padrón* of 32,000 people, but the estimated actual population approaches 45,000, with an estimated loss of 190 euros per person per year (just under 2.5 million euros) in revenue sharing.

Municipalities have raised the question of whether they can register (*empadronar*) persons even if they are not citizens. For those who have lived in

Spain for more than 180 days and have a *residencia* registered with the *diputación*, the answer is yes. This normally includes the wealthier immigrants. But some of these well-off migrants are reluctant to register for fear of losing health benefits back home, or in the interest of maintaining a home in their country of citizenship, or out of concern over not being able to return home. For non-documented immigrants, no policy has been established. The problem of *empadronamiento* is one of the greatest concerns of municipalities that are hit especially hard by immigration.

In summary, the problems for municipalities with immigrants are myriad. Most important, municipalities have limited powers and resources with which to tackle the social and other service expectations placed on them. While local networks of employers are relatively well developed, local education, housing, and social service networks are uncoordinated in most places. Access to many services and programs require documentation and passports, which certain immigrants do not have. Undocumented immigrants tend not to be part of the system of assistance. This set of issues has been a persistent criticism of the Spanish Commission on Refugee Aid (CLEAR), an NGO. In addition, there is animosity and intolerance to immigrant groups, along with intergroup animosity (between Moroccans and Romanians, for example), and within communities. Sensitivity to diversity and intercultural consciousness is needed, particularly in nonsegregated housing areas. Another issue is the well-off eternal tourists. Not only do they make demands on municipal services, but in some towns they establish their own enclaves, often choosing not to learn Spanish, and establishing “Little Germany” or “Little Britain” communities. Their service expectations tend to mirror their home municipal experiences, while Spain has different traditions. In this situation, it is not so much the issue of jobs, but the degree to which new residents really integrate into their new places of residence.

In February 2005 the national government enacted a reform that is designed to stop the estimated 800,000 *clandestinos* (illegal immigrants) working in the underground economy. It is aimed at getting them to pay their taxes and contribute to social security, which will facilitate their blending into the economy. Spain will now grant residence permits to immigrants who can provide proof of their registration with a municipality before 8 August 2004, along with proof that they have no criminal record and have a work contract of six months (for agricultural workers three months, and for domestic workers thirty hours per week). Immigrant employees had until 7 May 2005 to provide contracts to local authorities. Once these conditions are fulfilled and are given conditional approval, immigrants

underground economy will not be changed. Ana Pastor, PP social affairs spokesperson said, "Those who ask for contracts will simply be fired" (*Levante*, 8 February 2005, 15).

A report in *El País* (24 February 2005, 15) stated that in the first sixteen working days a total of 48,247 immigrants registered under the new program, 63 percent of whom were from the Madrid, Catalonia, and Valencia regions. On the same day, the government announced that it planned to make half a million employment inquiries between the 7 May deadline and the end of 2005. By the end of

should manage about 25 percent of the public sector, and it names some nineteen specific services that would give them direct control over basic infrastructure, urban development, police and fire, health and sanitation, culture and sport, and



financial systems. Rules and qualification requirements have also been tightened regarding the appointment of administrative officials at all levels (Villoria 2000). European Union rules regarding bidding for contracts by member governments have also helped in this regard. The Zafra White Paper recommends combatting local officials' conflicts of interest by making it illegal to hold public office while one has investments in private businesses that benefit from public funds. Clearly, not all local governments are rife with corruption, but it is sufficiently widespread to require further design attention.

Transparency of local government is a related issue that is often lacking in Spain. In a few cities on the Valencian coast, actions under LRAU have been thwarted by vigilant citizen watchdogs who have mobilized against city hall's anticipated action (see www.abusos-no.org/LRAU2004). But many decisions are made without a great deal of citizen involvement. One local poll indicated that 80 percent of citizens consider that politicians are the group most taken into account in making decisions or designing projects, followed by interest groups; only 50 percent considered that citizens' views are taken into account (Villoria 2000, 22). Legal attempts have been made to enhance citizen involvement in neighbourhood or submunicipal organizations, but in the 1990s these organizations were reported as being mainly administrative and for the exchange of information.

In addition, the party list system of local elections does not allow for direct district representation (Carillo 1997, 61). Attempts to strengthen the role of district and neighbourhood councils (*juntas de distrito*, *consejos vecinales*) or functional consultative bodies (*consejos sectorales*) for larger cities were enumerated in the 2003 legal reforms, but they must be implemented locally, of course. Blanco and Ricardo (2003) list several emergent means of local citizen participation, including involvement in local development strategic plans, inputs on local budgets, involvement in Agenda 21, planning for land use and local public spaces, community social/cultural planning, planning for local education projects, plans for integration of immigrant populations, and plans made between city-based networks of actors to develop assistance for the Third World. This long list obviously does not include the actions of all cities, and no doubt few cities engage in all of them. But each of these actions – if carried out and if it influences municipal government – does indeed enhance transparency.

The actual form of municipal government is something that some reformers think needs to be addressed. The mayor–commission format, which is virtually universal in Spain (except in communities with less than a hundred people) is no longer considered to be efficient. It has become an invitation to corruption in most countries when it is adopted. In the United States, its adoption was almost accidental: the Texas legislature suspended the Galveston city government after a flood and imposed a temporary government of five businessmen. The commission form mixes legislative and administrative roles. In the United States it quickly fell out of favour and now is the least popular form (less than 5 percent of cities). According to Herson and Boland (1998, 104), it quickly lost favour because over the long haul it led to many problems: inept and unqualified councillors who became heads of department; problems of administrative coordination; inability

Only then will the capability for urban expression in policy and program match that of architecture.

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level of government and the higher levels. The new Constitution of 1999 provides a special section for the protection of municipalities and cities. This combines with institutional innovations – such as a tripartite coordination forum – that give larger cities and municipalities additional venues to influence the policymaking of the higher levels. In addition, there is a new financial equalization scheme for the centrality costs of large cities and agglomerations, as well as financial incentives from the federal level to stimulate cooperation in the urban space. These innovations have been conducive to more policy-oriented cooperation, more policy networks, and the recognition that the three territorial levels cannot function in isolation from one another. Finally, we have noticed changes at the municipal level: not only has intermunicipal collaboration increased, but there is a noticeable trend towards municipal fusions. However, the effective functioning of the Swiss federal matrix substantially hinges on the behaviour of the participating actors at the different levels of government. In this regard, there was increasing political polarization among the major political parties during the 1990s, decreasing cooperative attitudes. This tends to hinder the potential of the extended matrix of Swiss federalism from being fully exploited.

In this paper, we first describe Swiss federal-municipal relations from a constitutional point of view. We then give an overview of municipal responsibilities and functions. This is followed by a description of the fiscal position of municipalities. Next, we focus on the organization, scope, and nature of federal-municipal interactions with a particular eye on the interaction patterns between the federal and municipal levels of government. This is followed by two case studies, one on emergency planning and one on metropolitan governance of land-use and transportation policy. We then look at recent trends in Swiss federal-municipal relations and finally make an overall evaluation of the adequacy of the current system of multilevel governance in the production of (good) urban and municipal policy.

2 THE CONSTITUTIONAL POSITION OF MUNICIPALITIES VIS-À-VIS THE CANTONAL AND FEDERAL GOVERNMENTS

The relationships between the federal state and municipalities in the Swiss political system are regulated in Article 3 of the Constitution. Article 3 indirectly stipulates that the regulation of municipal competencies is in the exclusive jurisdiction of the cantons (Meylan, Gottraux, and Dahinden 1972, 29). Strictly speaking, the federal state cannot interact directly with the municipalities but has to do so via the cantons. However, the Constitution of 1999 explicitly mentions municipalities for the first time as a potential sphere of cooperation for the federal level (Article 50). Even though this may not imply a qualitative change in the legal situation of municipalities, it has encouraged institutional cooperation and closer interaction between the federal and municipal levels. This topic will be addressed in the fourth section. Furthermore, while municipalities are not mentioned as autonomous and independent forces in the decision-making processes

of the federal state, this does not mean that participation in federal decision-making processes would not be allowed from a constitutional point of view (Thürer 1986, 203).

The constitutional position of municipalities is anchored in the cantonal law. Thus, it is the cantons that decide on the existence of municipalities and the range of their competencies. Since the competencies of the municipalities are regulated in cantonal laws, general statements about municipal autonomy are difficult to make (Schenkel and Serdült 2002, 473–4). From a comparative point of view, it is assumed that Swiss communes have a considerable amount of autonomy within cantons and could maintain their position well over time (in 1848, when the new federal state was founded, there were 3,203 political communes, only about 10 percent more than today). Moreover, the Swiss system is based on a subsidiarity principle, which stipulates that the higher unit only intervenes where the lower unit cannot fulfill its tasks anymore.

Table 1
Degree of Municipal Autonomy (evaluated by the municipal authorities)

<i>Canton</i>	<i>Degree of municipal autonomy</i>
Schaffhausen ¹	6.1
Obwalden ¹	6.0
Zug ¹	6.0
Thurgovia ¹	5.9
Appenzell, Outer-Rhodes ¹	5.8
Grisons ²	5.8
Glarus ¹	5.6
Nidwalden ¹	5.5
Valais ²	5.5
Uri ¹	5.4
Zürich ¹	5.4
Argovia ¹	4.9
St Gallen ¹	4.9
Solothurn ¹	4.9
Vaud ³	4.7
Bern ²	4.6
Schwyz ¹	4.6
Basel Country ¹	4.3
Ticino ⁴	4.3
Fribourg ²	4.2
Lucerne ¹	4.1
Neuchâtel ³	3.7
Basel Town ¹	3.2
Geneva ³	3.2

¹German-speaking

²Bilingual or trilingual (French- and German-speaking, with the exception of Grisons, which is trilingual: German, Romansch, and Italian)

³French-speaking

⁴Italian-speaking

Source: Ladner 1994

Table 2
Types of Commune in Switzerland, 1996

<i>Commune type</i>	<i>Number</i>
Political communes	2,940
Citizen communes ¹	1,519
School communes	516
Church communes	
Catholic	1,455
Protestant	1,100
Corporations	309
Fractions ²	78
Further types of commune	73
TOTAL	7,990

¹Citizen communes grant communal citizenship; corporations are associations for pooled resources (such as pastures and woods).

²Fractions are subcommunal jurisdictions that have traditional competencies in construction politics.

Source: Frey and Eichenberger 1999, 491

Swiss federal government does not possess its own implementation apparatus and is dependent on the cantons and municipalities for executing its policies. With the increasing intervention and the rise of the welfare state, Swiss federalism began to resemble the model of cooperative federalism with the centre providing the basic legislation and the cantons and municipalities in charge of implementation. Hence, a clear-cut separation among the three layers of government has become less possible (Schenkel and Serdült 2002, 470). Although the principle of subsidiarity still has validity, tasks and competencies in many policy fields cross-cut the three levels. Especially when it comes to new policy fields such as environmental protection, the federal state, cantons, and municipalities are simultaneously in charge (Nüssli 1985, 283). This is also true in the context of transport, social policy, and educational policy, where legal prescriptions are found at all three levels. This has also led to strong financial integration, as we shall see in the next section.

The sharing of competencies does not necessarily mean collaborative relations between the different levels of government. Traditional cooperative federalism in Switzerland features hierarchical relations between municipalities/cities and the higher levels, with the former sometimes acting as mere executive organs of cantonal and federal policies. In recent times, this pattern has been accentuated; there has been a shift of law-making and financial powers to the federal level and wider implementation powers to the cantons. Thus, municipalities' financial and legal room for manoeuvre has been reduced, while the range of functions they must fulfill has grown (Klöti et al. 1993). An increasing number of municipalities report

that they have reached their capacity for solving policy problems on their own (Ladner et al. 2000, 3; Ladner and Steiner 2003, 243ff). This particularly concerns the larger cities, which are confronted with increasingly complex policy problems (for example, in the social domain).

As mentioned above, political communes are supplemented by 5,000 communal associations (*Zweckverbände* or *Gemeindeverbände*). Since 1980, no less than 216 communal associations have been formed; 93 percent of the Swiss political communes b0ner 200 n

lighting. They also provide specialized public services on a larger scale, for example, hospitals, nursing homes, and garbage collection. In rural areas, the major goal of communal associations is to gain more professional administration and more effectiveness, while in urban areas the major goal is to solve problems that

Municipalities also have other sources of revenue, both from the federal government and the cantonal government. The financial integration between federal and cantonal governments as well as between cantonal governments and municipalities involves a complex array of vertical transfer payments (Schenkel and Serdült 2002, 474–5). Transfer payments include contributions (conditional payments that are bound to more or less strict rules of compliance with executive prescriptions); reimbursements (conditional payments compensating for the municipal execu-

Table 6 gives the total revenue and expenditures of all levels of the Swiss polity (federal state, cantons, and municipalities). The figures for municipal and can-

5 ORGANIZATION, SCOPE, AND NATURE OF FEDERAL-MUNICIPAL INTERACTION

As Armingeon (2000) holds, Swiss federalism is a relatively loosely coupled system. A loosely coupled system is one where the demands of the lower levels of government are heard and evaluated by the higher levels, but the decisions of the latter are not fully bound by the interests of the former (Benz 1998, 563–5). This is particularly true of Swiss municipalities (including cities), which have no formal or fiscal veto power to block decisions of the higher levels. It is also partly true of the cantons, at least when it comes to the production of policies. While the array of the cantons' formal veto points is impressive at first glance, many of these veto points are not – or only partly – effective.² Hence, the federal state is



strategies and build large supporting coalitions for policy proposals (Neidhart 1970; Linder 2005; Trechsel and Sciarini 1998, 110). The referendum threat has led to the establishment of an institutionalized grand coalition (called “magic formula” since 1959). Since referendums are also held at the cantonal and municipal level, the aforementioned mechanisms also come into play at the lower levels.

As Armingeon (2000, 124) notes “direct democracy at all major levels of the political system (local, cantonal, federal) penalizes political elites which consistently pursue conflictual policies.” This congruent logic of negotiation and accommodation in the federal arena is supported by the composition of local and cantonal governments, which tend to follow a pattern of coalitions similar to those at the federal level (on average, cantonal governments involve 3.34 parties; Vatter 2002; see also Geser et al. 1994; Geser 1999). The exceptions – as mentioned earlier – are the larger cities, which are frequently governed by left-wing and green parties, while in smaller municipalities, in cantons, and at the federal level, right-wing parties dominate. In addition, cooperative interaction orientations are stabilized by the fact that the Swiss political elite is a very small circle, and actors in different arenas know each other and need to work together for a long time. This can create habits of working together, friendships, group loyalties, and knowledge about others; it can also create convergence, mutual confidence, and positive trust spirals.

Another reason for the integrative political system is the “weakness” of the federal level. The federal government has no implementation apparatus at its disposal and hence cannot directly control the implementation of its policies by the cantons and municipalities. The major means of federal control are the subsidies offered to the cantons and the municipalities. The lack of a federal implementation apparatus and the absence of coercive means induce the federal authorities to negotiate with the lower levels. Given the necessity of maintaining cooperation over the long term, the federation prefers cooperative to conflictual strategies (Kissling-Naef and Knöpfel 1992; also Neidhart 1975, 22). The fact that many federal policies have to be implemented by municipalities gives the latter an important voice at the design stage of federal policies. This partly compensates them for their lack of formal veto power.

At the federal level, a key arena for integrating the diverse demands is the pre-parliamentary consultation procedure, where bills are submitted to a number of political and societal actors, among them the cantons and, less frequently, the municipalities. The pre-parliamentary consultation procedure consists of two stages: first, an expert commission evaluates or elaborates a first draft of the bill; second, the political and societal actors evaluate the draft of the bill. Although in the latter stage the consultation procedure does not involve direct negotiating among the actors (the federal administration only collects the different opinions and then prepares a bill), the consultation procedure can still be considered a functional equivalent of classical “consociational” arenas: it is the locus where corporate actors express their interests and where consensual solutions are crafted. Unlike cantons, municipalities have not automatically been consulted for a long time.

However, a new law on consultation (introduced in 2005) previews a better participation of municipalities' and cities' associations in this process.

Another important feature of the Swiss political system is the fact that Switzerland is the only "consensus democracy" that has "non-parliamentary" features. Although MPs elect the government (the Federal Council), the legislature cannot stage a vote of no confidence; if a government proposal is defeated by parliament, it is not necessary for the Federal Council to resign (Steiner 1974, 43). Accordingly, MPs are quite independent in drawing up legislation and party discipline is relatively weak compared to other European parliamentary systems; (see Kriesi 2001). This means that there is a good chance for municipalities and their associations to influence individual MPs during parliamentary deliberations. In addition, there is a specific parliamentary group, the *Kommunalpolitik*, dealing with municipal affairs.

The realization of municipal interests is helped by four additional factors (see Thürer 1995). First, municipal politicians are often recruited by regional and federal parties; second, there are frequent role combinations between municipal authorities and national MPs (role combinations are not prohibited in Switzerland). Third, there are municipal-friendly attitudes in Parliament. Fourth, the party system is weakly centralized: local and cantonal parties play an important role in national politics (Ladner 1991; Kriesi 1995, 144; Armingeon 2000).

While it is certainly true that the Swiss federal state is basically responsive to municipal and urban interests, there has still been a deficit in the degree of interaction and institutional cooperation. In the last few decades, there was growing awareness that in the context of increased policy interdependence and complexity, a top-down approach might not be adequate to attain a high quality of governance. There was also growing awareness that the problems of large cities and agglomerations had to be tackled in a more comprehensive fashion.

Serdült 2002, 478). In addition, there are conferences of cantonal social, transport, construction, and planning directors, which city representatives are now invited to join. The federal state also provides financial and knowledge-based support of innovative model projects in urban network building (public authorities, city planners, private landowners, investors). Finally, the new financial equalization scheme (introduced in 2004) previews compensation for the centrality expenditures of large cities and agglomerations.

There is not much concrete research on the municipal level's real influence on federal politics and the respective evolution of municipal influence in the 1990s. In order to get more information in this critical yet underresearched area, we conducted two interviews with the chairmen of the two key associations of municipalities: Urs Geissmann from the Schweizerischer Städteverband (SSV) and Sigisbert Lutz from the Schweizerischer Gemeindeverband (SGV).³ The interviews focused on the chance of influencing federal politics, the nature of interaction with the federal state (and the cantons) in the diverse phases of federal decision making, and the effect of recent institutional innovations on the relationship between municipalities/cities and the higher levels of government.

With respect to the representation of urban and municipal interests at the federal level, both the SSV and the SGV make use of the same instruments: participation in committees of experts and the pre-parliamentary consultation procedure as well as participation in parliamentary deliberations. The SGV, however, is better represented in the National Assembly than the SSV, since there are many current and former representatives of smaller municipalities in the National Assembly. The two associations voice their concerns both directly to MPs and in hearings of parliamentary committees. As mentioned earlier, there is also the group *Kommunalpolitik* which holds meetings twice a year. According to Geissmann, this group is a "showroom for representation purposes" rather than an arena for the effective enforcement of municipal interests. Real influence is exercised via MPs who represent municipal and urban interests. The enforcement of SSV interests occurs mainly through informal talks (according to Geissmann, around 80 percent is through informal talks). These talks have gained great importance during the last twenty years and are now even more important than the official consultation procedures.

As mentioned above, there have also been institutional innovations to strengthen the position of municipalities vis-à-vis the federal level (Article 50 of the Constitution of 1999 and also the TAK). According to Geissmann and Lutz, the TAK allows cities and municipalities to have better contact with the federal level, since

mostly mediated by the cantons (such as the *Regio Basiliensis* project of the Basel cantons).

7 CASE STUDIES

7.1 EMERGENCY PLANNING (CIVIL PROTECTION)

In this case study, we analyse how emergency planning works in practice, specifically with reference to multilevel governance and the interaction between municipalities and the federal level. We decided to focus on civil protection because this is a policy field where the policies of the federal state create a strong link to the municipalities (Meylan, Gottraux, and Dahinden 1972, 30; Bassand

This case displays the traditional hierarchical pattern of multilevel government in Switzerland. The higher levels are in charge of the planning, while the municipal level has to execute what the higher levels have decided, without much input, voice, or participation from below. Granted, one might argue that emergency planning requires hierarchy in order to be effective. While this undoubtedly is true when it comes to emergency action in a disaster, one might well ask whether a modicum of input from the local level at the design stage of emergency planning might help to produce better policies.

7.2 METROPOLITAN GOVERNANCE OF LAND-USE AND TRANSPORTATION POLICY

The second case study focuses on the coordination of land-use and transportation policy in Swiss urban areas. The urbanization problem is also a problem of rising mobility and growing space needs: the more people move to the suburbs, the more commuter traffic there is in the central city, and the less attractive it becomes for city residents. Therefore, the integration of the policies for urban development and transportation constitutes the crucial means for curbing the spread of urbanization.

In the course of its new urban and agglomeration policy, the federal state provides financial and knowledge-based support to innovative model projects in urban network building (involving public authorities, city planners, private landowners, and investors). To date, the federal government's financial engagements are rather modest, but substantial amounts have been reserved to finance improvement of public transport infrastructure. A high-performance public infrastructure (e.g., transportation and communication networks) is considered crucial for the competitiveness of a metropolitan area. The condition for support is that these urban policy projects involve area-wide cooperation between the large city, the surrounding communes, and the canton. Projects supported by the federal state in this context concern the creation of new urban policymaking structures (Lucerne, Fribourg, Argovia, Bern) or the upgrading and conversion of urban areas into a broader spectrum of urban functions (Neuchâtel, Zürich, Lausanne, Delémont, St Gallen; Tobler 2002). While in Zürich and Geneva/Lausanne urban governance consists merely of ad hoc cooperation, steps towards the institutionalization of urban cooperation can be observed in the areas of Basel and Bern/Fribourg. As such, the nature and extent of vertical and horizontal interactions is shifting towards a network approach involving more collaborative modes of policymaking. Yet an analysis of multilevel governance must also be sensitive to additional, municipal-specific factors. The impact of both municipal-specific factors and coordination schemes in "metropolitan" areas on the production of metropolitan policies was the focus of a study of land-use and transportation policy conducted by Fritz Sager (2002, 2005).

Sager analysed nine infrastructure projects marked by a need for policy coordination in four urban areas.⁹ The research question was whether different "metropolitan" institutional settings affect the quality of political negotiation

cities for the effective implementation of federal policies, and the cities and the cantons need the financial and organizational resources of the federal state in order to attain their goals successfully. Moreover, the new agglomeration policy makes intermunicipal cooperation within agglomerations a condition for gaining federal support. This provides a strong incentive for large cities and the surrounding communes to overcome their conflicts (Kübler et al. 2003, 276).

Cantons, too, have become more actively involved in urban governance. Again, cantonal regulations often cast the shadow of hierarchy, thereby fostering cooperation among municipalities. The strengthening of area-wide governance in metropolitan areas will see more intergovernmental forums, more purpose-oriented cooperation, and more policy networks. But the creation of true regional institutions will be fairly exceptional. To date, the creation of a new regional layer of multipurpose government between the cantons and the communes is projected in only one urban area (the rather small Fribourg agglomeration). Due to widespread reluctance and high institutional hurdles in the form of direct democracy, significant reform of territorial institutions has not taken place in Switzerland.

Nonetheless, we should not overlook the fact that there is ongoing institutional change at a more subterranean level of the Swiss federal matrix. Confronted with increasing policy interdependence, policy complexity, and the financial distress of municipalities and cities, reform discussions about a new division of functions and finances between cantons and municipalities have been launched. In fact, some cantons have restructured their system of financial compensations, for large cities as well as for other financially distressed municipalities (Schenkel and Serdült 2002, 480–1). Moreover, as Ladner et al. (2000) note, in almost two-thirds of municipalities (especially the larger municipalities) intercommunal, functional cooperation increased. Ladner et al. (2000) note, in almost two-thirds of municipalities (especially the larger municipalities) intercommunal, functional cooperation increased.

9 ADEQUACY OF THE INSTITUTIONAL FRAMEWORK FOR THE PRODUCTION OF (GOOD) URBAN AND MUNICIPAL POLICIES

What leads to the production of good urban and municipal governance? On the basis of a global inquiry, Gerring, Thackers, and Moreno (2005) provide evidence that institutional arrangements which increase the quality of governance must involve two features. On the one hand, they must be authoritative: “they must provide an effective mechanism for reaching agreement and implementing that agreement” (ibid., 569). On the other hand, they must be inclusive: “they must reach out to all interests, ideas, and identities” (ibid., 569). Regarding the institutional preconditions for good governance, current Swiss multilevel governance has increasingly embodied one of these requirements, namely, the inclusion of relevant interests (in this case, municipal and urban interests). As for authoritative government, the other requirement for good governance, Switzerland is not a paragon at first glance. Featuring a nonparliamentary consensus system with no federal implementation apparatus at hand, the possibility of authoritative and effective government seems to be severely limited. But on closer inspection, the Swiss system is not so ineffective when it comes to reaching agreement and implementing policies. First, the levels are relatively loosely coupled, with the higher levels not being fully bound by the will of the lower levels. Second, Swiss multilevel government is premised on consensus systems across all levels (with the partial exception of larger cities), leading to relatively congruent actor logics at the different levels of government. Cooperative interaction orientations are further backed by direct democracy and the referendum threat. These factors create a governance system that can be quite innovative and is less prone to deadlock than the more tightly coupled German system which involves joint-decision traps and suboptimal policy outcomes (Armingeon 2000). In addition, the mixture of type 1 and type 2 jurisdictions in Swiss multilevel governance creates considerable flexibility. Political communes are supplemented by a great number of functional communes (*Zweckverbände* or *Gemeindeverbände*). These type 2 jurisdictions, which aim at solving actual policy problems and cross-cut traditional territorial

production and the implementation process can be hierarchical, without participation or input from the municipal level. Hence, one may wonder whether formalized veto positions and tight coupling of the three levels might be the better option for furthering municipal interests. In a comparative study on the effects of veto power on cooperative and deliberative policymaking, we found neither positive nor negative effects (Bächtiger and Hangartner 2005). The findings did not support the arguments that veto power and unanimity is strongly counterproductive to the production of cooperative policymaking entailing policy learning and argumentative change (Austen-Smith and Feddersen 2002); nor did the findings support the argument that veto power forms an “enabling constraint” in this respect (Steiner et al. 2004). What matters for cooperative and deliberative policymaking are consensual decision-making patterns. This may be a hint that productive multilevel governance does not primarily hinge on tightly or loosely coupled multilevel governance systems but seems to be highly dependent on the cooperative interaction orientations of the relevant actors.

In conclusion, we would like to stress the importance of the complementarity aspects of multilevel governance. In Switzerland, the production and implemen-

governments, and councillors of state frequently defend the same group and party interests as MPs in the National Council (Heger 1990). For a long time, councilors of state rarely made use of their blocking power, and the relationship between the Council of States and the National Council was not very conflictual (Trivelli 1974). This pattern has changed since the 1990s, with increasing differences in political preferences between the two chambers. But there is no clear evidence that the Council of States has started to defend cantonal interests more forcefully (Wiesli and Linder 2000). Further-

- 7 However, a recent study (Lüchinger and Stutzer 2002) shows that fusions have not yet led to increasing “economies of scale,” with an improved financial capacity, compared with municipalities that have not merged.

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FEDERAL-MUNICIPAL RELATIONS IN AUSTRALIA

Douglas M. Brown

1 INTRODUCTION

1.1 FEDERALISM AND LOCAL GOVERNMENT

A number of new realities are challenging traditional perspectives on federalism in the first decade of the new millennium. The boundaries of all states are increasingly porous, and many policy matters increasingly overlap or entail joint responsibilities of governments. Global economic forces are present in everyday local economic transactions, and local government actions can be as important as national or international ones in responding effectively to global competition. This interdependence is challenging – and changing – the role of the nation-state. Policy fields are more naturally concurrent and interdependent; for example, externalities of international trade and competition and of environment extend through all the levels of government in a federation – indeed, beyond them to international governance institutions.

A renewed emphasis on the significance of cities to the globalized economy is also contributing to the changed context in federations. With the focus on urban economic and social development also comes renewed attention to city governance. This inevitably raises the relative importance of local government. In this paper, assume that local government is an important part of what may be termed the governance requirements of competitiveness. However, more important for the federation as a whole may be the effectiveness of local government within a wider system of intergovernmental relations.

Thus, a key reality of the twenty-first century may be more intense multilevel governance, in which policymaking and intergovernmental relationships will span from local to global. For the purposes of this paper, one may define “multilevel governance” simply as the condition of power and authority that is shared in institutional relationships in which the scope of public policy and the mechanisms of policymaking extend by necessity beyond the jurisdiction of a single government (see Marks and Hooghe 2004). In particular, this paper examines whether municipal-federal relations in Australia contribute to multilevel governance in that country in ways that empower local government as a partner and not merely as a dependent or supplicant party. As will be shown, modest but significant movement is being made towards multilevel governance, as a result both of recent developments and of structural features that have been present for decades. Brown

1.2 THE AUSTRALIAN CASE

Compared with many other federal systems, Australia is significantly more cen-



theless, local governments, while relatively stable in fiscal and functional terms, continue to be subordinate. They are vulnerable to attack in terms of democratic integrity and autonomy from the federal government and especially from the state governments (Kiss 2001). Part of the context for this vulnerability is that public policy solutions in Australia continue to take on a flavour of uniformity, stressing equitable national standards. The same public sector values – including, in recent years, thoroughgoing public management reform – extend through all three orders of government. In addition, federal and state funding to local government is strongly conditional and programmatic or, where it is meant for general purposes, comes with conditions concerning equitable redistribution.

Australia as a whole is highly urbanized. What has been called the “mega metro” regions surrounding the state capital cities have retained a stable 70 percent share of the national population since 1981 (ABS census figures cited in O’Connor et al. 2001, table 3.7). Moreover, Sydney has emerged as the foremost globalized city in the South Pacific, and it is also significant in comparison with its hugely dynamic Southeast Asian neighbours. It is an exemplar for the effects of globalization on urban society: multicultural, an advanced postindustrial economy, and a tourist mecca. However, Australia as a whole exhibits a serious case of urban/rural divide in terms of population growth and, more particularly, economic development.

It is notable that despite this urban dynamism (which by no means is confined to Sydney), there are so few metropolitan governments in Australia. The only urban areas to have consolidated metropolitan governance are Brisbane (even though it does not extend to the entire urban area) and the Australian Capital Territory (ACT), where the territorial government is in effect a metropolitan government for Canberra and the surrounding rural municipalities of the ACT. In effect, as will be outlined more fully below, most important urban governance functions in Australia are undertaken by the state governments, all of which, in addition to their dominant capital regions, have extensive hinterlands, which on some issues may be seen as the tails that wag the city dogs.

In summary, Australia is an intriguing and instructive case for the set of federations examined in our research program. It is relatively centralized yet resolutely federal and democratic in spirit; and although it is highly urbanized, local government is not a dominant player in urban decision making. Nonetheless, as discussed in the following sections, there is much to be learned from the Australian experience, including the depth and directness of the federal role in supporting local government, the relative fiscal autonomy of local government entities, their record of innovation and reform in terms of public management, and their modest but important integration into intergovernmental decision making.

2 CONSTITUTIONAL SETTING

2.1. OVERVIEW OF THE AUSTRALIAN FEDERAL SYSTEM

Six self-governing British colonies joined in 1901 to form the Commonwealth of Australia. To the six states were added two territories, the Australian Capital

Territory and the Northern Territory; the total national population in 2005 was approximately 20.4 million. Over its first century the federation engaged in a nation-building process with a strong central government and a political culture that valued uniformity, equity, and national standards. As noted, the population is increasingly urban, with most states dominated by the state's capital city. Yet there is a growing tension between urban and "regional" Australia (the latter consisting of smaller cities, towns, and rural shires, including the outback).

The basic features of the federal Constitution and federal system¹ may be summarized as follows:

- Westminster-type parliamentary institutions providing a fused executive and legislature at both the federal and the state level. The state parliaments have all adopted state constitutions, and all states but Queensland have an upper house.
- No explicit constitutional bill of rights.
- A distribution of powers modelled on the U.S. Constitution with enumerated federal powers, some concurrent with the states, and the residual power to the

of citizen responsiveness and liberty through the dual occupancy of sovereignty (Galligan 1995). The development of national integration and nation building over the past century has led to what political scientist Campbell Sharman calls a “closed, bureaucratic and collusive” type of intergovernmental relations, able to adopt more comprehensive cooperative schemes than other federal systems (Sharman 1991). As noted, there is no constitutionally entrenched bill of rights, and there is far less use of rights discourse in the political culture than in some other federations.

2.2 CONSTITUTIONAL AND LEGAL BASIS FOR LOCAL GOVERNMENT

Local governments have never been considered as fully constitutional federal partners in Australia. Legally they are creations of the state governments. Yet local government has existed in some states since the 1840s – in some cases, even before the colonies themselves attained responsible government. The emerging cities were all incorporated by the 1860s, and general multipurpose local authority systems became established at the same time. All municipal government is now governed by the various states’ Local Government Acts, as well as by other state statutes.

Local government advocates have pushed to have the roles and functions of municipalities protected by the federal and state constitutions. They received a reasonable hearing in federal constitutional review exercises in 1969–83 (the on-again, off-again Australian Constitutional Convention [ACC]) and in 1985–88 (the federal government’s Constitutional Commission). The ACC was initiated by the states, seeking broader fiscal and economic powers. However, the federal

“establish” and to “continue” local government bodies but stipulated that their elections and their legal authorities were to be in accordance with state law. In other words, the amendment would have provided bare symbolic recognition and would hardly have been a charter for local autonomy. The proposal received about 33 percent support nationally, following a referendum campaign in which neither the Hawke federal government nor the states exhibited enthusiasm for the measure (Galligan 1995, 126–32).

Despite the failure of efforts to recognize local government in the federal Constitution, the general advocacy did have a more positive outcome at the state level. All the states have separate written constitutions, and all of them were amended in the 1970s and 1980s to provide for the general recognition of the status and role of local government. Rosemary Kiss describes the general tenor of these state constitutional provisions:

Each state’s Constitution Act provides that there shall be or continue to be a system of local government in the state, [e.g., section 74A *Constitution Act 1975* (Victoria); section 54(1) *Constitution Act* (Queensland)]. This does not mean, however, that the constitutions guarantee the continued existence of local governments. Every constitution expressly provides for the suspension and dismissal of individual councils and for appointees to perform the functions of local government. (Kiss 2001, 10)

In any case, if there was any doubt, the state constitutions’ grant of general power to the state legislatures makes it doubly clear that any state legislation shall prevail over local government enactments.

Finally, there has been a trend in the 1990s in some states (e.g., Victoria and Tasmania) to provide greater regulatory autonomy through a more general legal expression of the scope of municipal powers (Tasmania 1996; Mathews and Grewal 1997). These provisions have been undermined, however, by detailed reporting prescriptions. For example, senior governments in Australia have included local government in broad-sweeping microeconomic reform aimed at creating a more competitive public sector (as discussed more fully below). In the State of Victoria, municipalities continue to seek more extensive constitutional protections. In general, only Queensland seems to stand out in terms of allowing somewhat more leeway to local government and greater protection against state government intervention. These more liberal provisions are located in its *Local Government Act* – but not in the Queensland constitution (Kiss 2001).

3 RANGE OF LOCAL GOVERNMENT FUNCTIONS AND RESPONSIBILITIES

Local government functions are shaped by three key characteristics: a narrow initial allocation of functions, a conservative disposition to municipal consolidation, and the strong influence of intergovernmental relationships. As noted above, the state governments assume directly many functions that are assumed by local governments in other federations. The key remaining functions are local streets

(but not highways), sewers (but not trunk systems), garbage and waste management generally, local utilities (in some states), building and food inspection, public health, local environmental management and planning, and recreation and parks. Local governments are also used as agents to deliver state programs, such as sports and recreation, cultural services, and land use planning. Other functions are shared with the state and federal governments, and require extensive negotiation, including major roads, utilities and water supply, environment, and some aspects of housing and community services. There is some variation among the states and territories, with local government in Queensland, rural New South Wales, and Tasmania being responsible for water and sewer, for example (May 2003; NOLG 2005).

The narrower allocation of functions results in a smaller share for local government expenditures in terms of the public sector, or as a percentage of gross domestic product – again when compared with other federations.³ For 2002–03, for example, local government expenditures amounted to only 2.3 percent of GDP and only 6.4 percent of total government expenditures. This compares with the states making 38.7 percent of total government expenditures, and the Commonwealth 54.9 percent.⁴

the numbers of local governments in the 1990s from 210 to 78 (May 2003; Australia 2003, 83). However, there has been no significant movement either to the megacity or to extensive regional intercouncil arrangements. Instead – and one might say by design – it is the state government itself that assumes the functions of (often coercive) coordination of overlapping responsibilities (Chapman and Wood 1984). As a result, and especially when compared with the United States, there is less room for strong interlocal competition.

4 THE FISCAL FRAMEWORK

The federal Constitution makes no explicit provisions for local government either to tax or to spend. Rather, these powers are wholly delegated to local governments by State law. (Note the brief discussion above of the failed attempt in 1974 to amend the federal Constitution. This would have strengthened the federal parliament's powers to make direct transfers to local bodies and to borrow funds on their behalf.) Despite the lack of constitutional provision, local government revenues have remained relatively stable for several decades, at about 1.2 percent of GDP. Own-source revenues (widely defined) account for over 87 percent of the total, compared with intergovernmental transfers at approximately 13 percent. In the figures provided in table 1, where local own-source revenues are defined by the IMF somewhat more narrowly, the 1997 proportion of grants to total local revenues is 16.3 percent. Since the mid-1980s, a reduction in the rate of growth in transfers has been partly met by increased own-source revenues, especially user fees, but this is not enough to correct what has become a modest but chronic aggregate deficit at the local government level (Mathews and Grewal, 1997). Of their own revenues, property taxes are by far the most important source at 69 percent (the figure is 100 percent in the IMF data that excludes user fees, as shown in table 2). When

Table 1
Australia: Government Revenue, including Grants, 1997

	<i>Aus\$ millions</i>	<i>Percent</i>
Federal government: total	134,579	
Federal government: grants	–	–
State governments: total	90,969	
State governments: grants	35,656	39.10
Local governments: total	12,177	
Local governments: grants	1,986	16.30

Source: IMF 2000

one combines the unconditional nature of most (66 percent) of the transfer funds from the Commonwealth (a sum about twice as large as the total of all state grants to local government) with the substantial record on own-source revenue, Australian local government would rank among the most autonomous in a survey of OECD countries (Caulfield 2003). Indeed, in terms of the vertical fiscal gap, local government – despite its more limited responsibilities at the small end of the inverted pyramid of Australian government (see figure 1) – is more fiscally autonomous than the states are in the overall federal system.

There has been considerable public policy debate and change with regard to the tax system in Australia in the past fifteen years (e.g., introduction of the GST, reform of other business taxes, abolition of several regressive state taxes, and the flattening and simplifying of the income tax). Municipal property rates have also been controversial, but the more problematic issue for local government is the fact that the states in general reap even more from property than the municipalities do. The states, however, raise their funds in the form of property sales transactions and financial and other capital transactions.

Of the intergovernmental transfers, the Commonwealth provides the largest set of payments. Key features include the following:

- The largest transfer is designated as “general purpose assistance” (GPA). It began in 1974–75 as a 2 percent share of federal income tax revenue, and since



- The general purpose assistance is delivered in a program entitled Financial Assistance Grants (FAGs) in two separate funds, one totally untied, which in the financial year 2005–6 was estimated at Aus\$1,127 million; the other a loosely conditional fund for ‘identified road grants,’ at Aus\$500 million (ALGA 2006).
- The federal government also makes a variety of conditional Specific Purpose Payments directly to local governments, totalling about Aus\$440 million in 2005–6 (for both current and capital outlays). These grants cover such social services as municipally run child care, aged and disabled persons care, and programs for Aboriginals.

As noted, state transfers to local government are about one-half the size of the overall federal transfers, and they tend to be highly program specific, for such purposes as roads, housing, libraries, aged-care facilities, and recreation and culture. Otherwise the states have a complex financial relationship with local government through such instruments as subsidized loan interest on approved infrastructure borrowing programs; ad hoc capital grants for infrastructure; and exemption from state payroll, land, and other taxes. In turn, local governments provide the state governments with shared levies for fire protection, planning, and other purposes. Neither the federal nor the state governments appear to make payments in lieu of taxes for their property within municipal boundaries.

While the overall fiscal framework has changed only incrementally in the past decade, there are several emergent fiscal issues of concern to local government that figure prominently in intergovernmental relations (for a good summary, see Johnson 2003, 41–53). A chronic problem for local government with respect especially to the state governments is the growing occurrence of what in the U.S. literature (and increasingly in Australia) is referred to as “unfunded mandates.” These are especially onerous now in terms of state legislative and regulatory requirements on local government in the fields of planning, environment, and waste management. A more recent problem, termed “cost-shifting” by local governments, seems to incorporate unfunded mandates, but it also relates to the cutbacks of state or federal funding for previously funded and relatively mature programs delivered by local government in such areas as community security, fire services, health, welfare, libraries, and airports. These funding cuts leave local councils with the difficult choice of cutting services or raising new revenues (Australia 2003, 25–38). As with unfunded mandates, this is a worldwide problem. Recently it was the subject of an extensive federal parliamentary inquiry, the Hawker Report (Australia 2003). Infrastructure funding is another important current concern, but one now involving very substantial intergovernmental cooperation (discussed below). In addition, more or less perennial problems, some of which may be perceived as worsening in the current decade, include the lack of transparency in state to local funding, the inelasticity of local property tax revenues, and concern about the escalation or growth formula and the interstate distribution of the major federal transfer, the FAGs.



5 FEDERAL-LOCAL RELATIONS

5.1 BRIEF HISTORY, SCOPE, AND DYNAMICS OF FEDERAL-LOCAL INTERACTION

The Commonwealth government takes a strong interest in both urban and rural development. This interest goes back to 1920s programs for roads, but the most activist federal government since Federation has been the Labor government of Gough Whitlam, 1972–75. His government’s political objectives were complex, but they seem to have included a deliberate attempt to outflank the states by appealing directly to local government and by creating a regional administrative structure of its own. This reflected a traditional position of hostility to federalism by the Australian Labor Party (Galligan 1995; Mathews and Grewal 1997). As noted, the Whitlam government introduced the payment of general-purpose funds to local governments and sought, unsuccessfully, to amend the Constitution to entrench a federal role in local government finance. Also it began to spend heavily in state-local programs such as housing, urban social services, public transport, and recreation. Transfers to local government from the federal government doubled in four years – all aimed at promoting greater equity in services. A new federal Department of Urban and Regional Development undertook a wide array of direct federal programs as well, for “growth centres, land acquisition and development, area improvement and a national sewerage program” (Mathews and Grewal 1997). The Fraser (conservative coalition) government (1975–83) retreated from such programming and ended overtly hostile moves towards the states. It continued the basic, general-purpose financial support to local government, but made the payments “through” the states on condition that the states establish State Grants Commissions to allocate the funds at arm’s length from the Commonwealth and state governments.

The Hawke-Keating Labor governments of 1983–96, inheriting large economic and fiscal problems, accomplished a significant amount of microeconomic, fiscal, and intergovernmental reform. Their incursions into urban and local affairs were selective but important. They continued a strong federal presence in housing programs (delivered generally by the state governments, not the local), and the Building Better Cities program, again with a strong intergovernmental component of capital grants for social and physical infrastructure. On the broader intergovernmental front, Prime Minister Hawke initiated a series of special premiers’ conferences in 1991, ultimately leading to the creation of the Council of Australian Governments (COAG) in 1992. As noted above, COAG includes the first ministers of the Commonwealth, state and territorial governments as well as the president of the Australian Local Government Association (ALGA). Particularly in 1992–95, COAG led a highly coordinated and integrated set of economic and public-sector reform processes, to which numerous federal-state ministerial councils reported.

While the current conservative coalition government (since 1996) under Prime Minister Howard maintains these intergovernmental mechanisms, it tends to take a more standoff attitude to local government. Yet on rural issues in particular, the



prime minister is faced with a restive coalition partner in the National Party, which is under pressure to reverse the economic decline of “regional” Australia. This has had the effect of a distinct federal emphasis on rural and regional funding.

In more general fiscal policy terms, the Howard government proposed in 1998 to roll GPA payments (i.e., the lion’s share of the FAGs to local government) into overall state funding, as part of the negotiations over the introduction of the GST. However, the federal government relented in the face of widespread local government pressure, but not before raising considerable worry among local government about the stability of this key funding relationship and the long-term nature of the federal commitment to local government (interview with Rosemary Kiss, University of Melbourne, July 2004). Finally, and most recently, in June 2004 the Howard government announced a major renewal of its Roads to Recovery infrastructure program, costed in the 2005–6 federal budget at approximately Aus\$1.4 billion over four years to 2008–9.

5.2 ORGANIZATION OF FEDERAL-LOCAL RELATIONS

Due in large part to the smallness of local government entities, especially in the cities and in comparison with many other countries, Australian local government relies heavily on its organized representative bodies for relations with the federal government. Only rarely are there formal or bilateral discussions between elected mayors and councillors (or municipal managers) with federal cabinet ministers or departmental officials, although informal meetings occur frequently with local federal MPs.

The ALGA is a federation of the associations of municipalities of every state and the Northern Territory. Its board of directors comprises two representatives of each of the state and territorial local government associations. The Australian Capital Territory, which represents its local governments directly, also sends two representatives to the board of directors. The president and two vice-presidents of the ALGA are elected, by the annual national general assembly, from among the state and territorial delegates of local government associations. These associations in turn are composed of elected officials (e.g. mayors or councillors) from each of the 730 municipalities in Australia. Thus, the president and other senior executives of the ALGA are all elected officials from one or other of these local governments.

The ALGA seems to have achieved legitimacy as the sole and credible voice of local government interests throughout Australia. Of course, the president of the ALGA cannot speak authoritatively for all individual local governments in inter-governmental forums in the same way as the first ministers can speak for their

Transport and Regional Services (DOTAS). In addition, this federal agency convenes an annual meeting of the State Grant Commissions. The NOLG, as an arm of the federal bureaucracy, is somewhat less visible within the federal ministry structure than the former Department of Urban and Regional Government of the Labor governments of the 1970s. However, the NOLG has survived, albeit within a series of larger departments, through many government changes since its establishment by the Fraser Liberal-National coalition government in 1979. Its current home within DOTAS reflects the Howard government's priorities with respect to local government on regional infrastructure and services, especially roads.

Since the ALGA took its seat at COAG in 1995, it has also been represented at the Local Government and Planning Ministerial Council. This council has made some important intergovernmental strides, including the completion of a national review of local government labour markets (Baker 2003, 121). However, until recently, the trilevel intergovernmental relationship lacked much in the way of structure. A federal House of Representatives committee examined, *inter alia*, the nature of these relationships (Australia 2003). It recommended that COAG – i.e.,



making strides towards integrated decision making. Nonetheless, key limitations remain, as illustrated more clearly in the two policy cases discussed later in this paper.

6 SUMMARY CHARACTERIZATION OF MUNICIPAL-FEDERAL INTERACTION

As the above discussion makes clear, municipal-federal interaction mainly falls within a category of *nonhierarchical interdependence*. The local government sector has a significant financial relationship with the Commonwealth, but one in which it enjoys a reasonable degree of discretion over expenditures – indeed, full discretion over the largest portion of federal transfers. This relationship differs significantly, as outlined below, from the municipal-state dimension, which can be characterized as *hierarchical interdependence*, marked by heavily conditional financial transfers and a strongly supervisory and regulatory role for state governments.

In areas where local government remains independent, this independence seems to have little impact by way of direct competition with the federal government. Rather, competition tends to occur in the municipal-state dimension and, of course, in the state-federal. In any case, the overall tendency in Australia, compared with federations such as Canada and the United States, is for cooperative and coordinated federalism rather than competitive federalism.

7 STATE GOVERNMENTS AND THE MEDIATING ROLE

As noted already, state governments take a dominant role in urban affairs as well as in specific regional and rural development. A recent example is the successful bid and implementation of the 2000 Olympic Games in Sydney, which was almost entirely a state-run affair. The Government of New South Wales passed the legislation, coordinated the bid, provided and managed the budget and the infrastructure, and took over the local organizing committee (in which the local governments per se played only a minimal role) when it looked as if facilities would not be ready on time. Federal funding to the Games went to the state government, not to the city or cities. In general, the states run directly many public services that elsewhere are associated with local government, such as police, housing, and welfare; and for all the major cities, it is the state government that delivers directly the major urban infrastructure (Murphy and Wu 2001, 407). State transfers to local government tend to be disaggregated across departments and are, highly project-specific and conditional. Indeed, some state budget documents – those of New South Wales, for example – provide no consolidated information on transfers to local government at all (New South Wales 2004).⁷ Nonetheless, the most important role of the states towards local government is regulatory: departments of local government tend to be overseers of municipal councils, rather than funding agencies.

While state agencies pursue various bilateral relations with individual municipalities, all states have peak associations empowered by statute to represent the interests of local government, as noted above. In Tasmania there is also a “premier’s forum” in which the premier meets quarterly with the executive of the state-wide municipal association (elected mayors or councillors). In some states, such as Victoria, the peak municipal body has signed protocols with key state departments to ensure that its view is considered apart from the regular interest-group consultations.

The peak municipal bodies, both state and national, are wholly independent of the state governments as such. State governments do not attempt to coordinate local government input to the national (federal) level. They play no overseeing role; nor, it seems, do they make any significant effort to influence or steer the state-wide municipal associations in their relations with Canberra. This does not mean that municipal-state relations do not affect federal-municipal relations. Of course they do. But there is an acceptance, if not always an enthusiasm, among the state and territorial governments that the local government associations will pursue their own relationship with the federal government and have a place at selected intergovernmental tables. And there is the realization on all sides that on some issues the local government representatives will seek to exploit state-federal differences to their own advantage.

How, then, do state-local relations – described above as essentially hierarchical – fit with federal-state and federal-local relations that are increasingly nonhierarchical? For much of Australia’s history up to the 1990s, intergovernmental relations were in three separate spheres – a three-ring circus with little overlap. With the creation of COAG and the ALGA’s participation in the Local Government and Planning Ministerial Council, there is considerable potential now for the three rings to overlap and occasionally to join up, if not to become fully integrated. This occurs because, while the states retain a dominant and often domineering role with respect to the local governments within their jurisdiction, they

8 THE FOREIGN RELATIONS OF LOCAL GOVERNMENTS

It would be a stretch to characterize local government in Australia as playing any significant role in foreign relations. Municipal government functions are too constrained and metropolitan government too undeveloped for city governments to become major transnational players as they are in Europe or North America. The state governments assume the kinds of role in international exchange and promotion that match those of a New York, Frankfurt, or Toronto (Ravenhill 1990). That said, in the larger state capitals the central city governments have been drawn into some internationally focused activities, such as tourism and trade and investment promotion. For example, the City of Melbourne has a twinning arrangement with New Delhi (i.e., both were host cities of the Commonwealth Games); and the City of Sydney is active in the International Council for Local Environment Initiatives.

9 THE POLITICAL DIMENSION OF THE MUNICIPAL-FEDERAL RELATIONSHIP

In political terms, municipal government in Australia fits into what has been termed the “anglo model”: self-governing entities, constrained but not normally dictated to by senior governments, with directly elected officials (mayors and councillors) and independent public servants; that is, they are not part of a larger national or state-run bureaucratic hierarchy (Sancton 2002). In three states – Queensland, New South Wales, and Victoria – voting in local elections is compulsory (as it is in all state and federal elections across Australia). Moreover, local councils and mayors in Australia, with some exceptions, do ed but not norstates 4 Gamsm Tj[css,r



10 BRIEF POLICY CASES OF FEDERAL-LOCAL RELATIONS

10.1 INFRASTRUCTURE FUNDING

While the direct federal role in the provision of urban infrastructure has declined over the past three decades, targeted federal initiatives continue to be negotiated and implemented. As noted, the Labor federal government that was in office until 1996 initiated the Building Better Cities program, with specific-purpose conditional grant funding both to state governments and, through the states, to local governments, covering a variety of housing, recreation, cultural, and related programs. These programs have been maintained in general terms through specific-purpose payments through the state governments.

The current federal government's newer initiatives tend to be targeted to "regional" (i.e., non-urban) Australia, which includes the smaller cities and towns, remote resource and farming communities, and the "outback" in general. A major issue has emerged in recent years over the level and quality of services to regional Australia. This has occurred as the Australian population becomes increasingly urban and as the role of government as a whole has declined, both in the direct provision of goods and services – for example, through state-owned monopolies for air and rail transport, electricity, and telecommunications – and in the liberalized regulatory structure of private markets (Gray and Lawrence 2001). In response, a political coalition of rural municipalities, resource industries, and the National Party (the latter being the minor partner of the Howard government coalition in the federal parliament) has emerged to fight back for regional services. This coalition of regional interests has been especially concerned with the effect of public sector reform, especially privatization, on service availability and access. A prime example has been the ongoing debate over the conditions to be placed on the final privatization of the once wholly publicly owned telephone utility, Telstra. Nonetheless, the most pressing infrastructure need identified by virtually all local governments in regional Australia continues to be road construction, repair, and maintenance.

Urban infrastructure needs are also pressing, as local and state governments face constrained fiscal capacity, as infrastructure built in the mid-twentieth century requires replacement, and as there is an increasing need to deal with urban congestion and growth, particularly in Sydney, Melbourne, and the urban area of southeast Queensland (Murphy and Wu 2001, 415–17). Yet while the Howard government sees political capital to be gained by investing in rural (and resource export) transportation infrastructure, it has jumped less quickly to assist the state governments in their task of directly delivering key aspects of urban infrastructure, notably major highways and public transit, including commuter railways. The latter were under state control through direct ownership until recently.

Since the early 1990s, many of the larger investments in urban roads in particular have been through state-based public-private partnerships that entailed considerable controversy. Critics charge, among other things, that private funding and/or the operation of major highways (usually involving tollways), for example,



reduces the strategic capacity of the state governments to plan and execute overall infrastructure needs (Murphy and Wu 2001). In any case, an additional political factor in the lack of direct federal support for urban infrastructure has been the

small bargaining power over the timing and extent of the application of competition policy to their sector. For example, there is no indication that they played an important role in the initial bargaining over the National Competition Policy in 1993–95.

Observers have compared the different approaches of Victoria and Queensland to the implementation of competition reforms by local government. The Kennett government (1992–99) in Victoria adopted a basically Thatcherist approach to the public sector and, like the United Kingdom government, imposed the microeconomic reform agenda (including a heavy emphasis on cost cutting) onto local government, engendering considerable conflict in the process (Hughes and O'Neill 2000; Baker 2003; Kiss 2001). In particular, the Victoria government's imposition of compulsory competitive tendering was seen as misguided and later had to be withdrawn. The Queensland approach seems to have been more cooperative and gradual, targeted to those local governments with heavier service responsibilities in key utility fields, including the Brisbane City Council, the largest municipality in the country. Queensland also decided to pass on to local governments a part of the compensation payments provided by the Commonwealth (Australia, 2003, 45–7), one of the few states to do so. While this discussion cannot attempt a full comparative assessment, there does not seem now to be an enormous difference in the efficiency and performance of the local government sectors in the two states, but at least one observer notes that values of local autonomy and democracy have been more fully preserved in Queensland (Kiss 2001; also Baker 2003).

11 CONCLUSIONS AND ASSESSMENT

To conclude, we return to the questions posed at the outset: Do federal-municipal relations contribute to multilevel governance in Australia and, if so, does this

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govern large hinterlands comprising smaller cities and towns and rural municipalities, sometimes at the expense of urban priorities and development. Yet the states *are* city-states in the sense that they make all the truly strategic urban development decisions. What is left for local government is a smaller basket of goods and services provision than in most other federations. Nonetheless, in respect of the relatively narrow set of functions, local governments retain an important degree of autonomy, largely because of their fiscal position, which relies heavily on own-source revenues, and because of their largest transfer, an unconditional grant from the federal government. This funding relationship has been stable for the past twenty years or more.

Local governments remains relatively minor players, in part because of their small size as governments. With the partial exception of one city, Brisbane, there is neither metropolitan government in Australia nor the kind of intermunicipal or interregional cooperation that one sees in North America. The states, by design, have assumed the regional coordination function. Nor does Australia provide any

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broad-based public management reform, where local government has been drawn into a comprehensive intergovernmental web of reforms. Here the Howard government has been more interventionist, pursuing standards that are applied uniformly across the public sector. This it has achieved through cooperation with the states and local governments. Thus, it seems that where regulation is the chief policy instrument involved, Australian norms for uniformity and national standards constrain local autonomy. The latter is retained, or at least much more flexibly exercised, when the federal policy instrument involves primarily the expenditure of funds.

A third observation relates to the assessment of the role and future of multilevel governance. In federal systems – Australia is no exception – intergovernmental relations have often been bifurcated: a federal-state system, and a state-local system. To these two can be added the more limited but certainly active federal-local relationship. In Australia the principal traffic remains in these dyadic patterns, but there are important and interesting signs of a more truly multilevel (i.e. trilevel) system emerging. The Council of Australian Governments and its related intergovernmental mechanisms provide a strong set of instruments for co-decision and joint action. The president of the ALGA has been a member of COAG since the beginning, a role that seems to have promoted a greater policy capacity in the ALGA as the national representative body of local government, as well as in the state-wide local government associations.

In Australia, the harnessing of the COAG process to any given set of issues requires executive political will, particularly the lead of the federal prime minister. This will has not been significantly present for action on urban issues thus far, though it has been for more generic public management reform, including, as noted above, the introduction of broad-reaching competition principles in the public sector, as well as for other issues significant to local government as a whole, such as water supply and management and other environmental issues.⁸ More recently, the federal and state ministers of local government have concluded a potentially significant framework agreement with the ALGA on their continuing intergovernmental relationship, very much building upon and in keeping with COAG norms.

In the meantime, the main action in multilevel governance is likely to continue to be in the separate municipal-state and federal-state arenas. For urban issues, and the sustainability and competitiveness of Australian cities, the focus seems increasingly to be on the state governments and their fiscal and policy capacities. Indeed, one recent and impressive set of academic analyses of local government finance, governance and reform ended by not mentioning the federal role at all, let alone an expansion of it, in its prescriptions for the future, but it had plenty to propose for action by the states and municipalities as such (Dollery and Marshall 2003, 238–50; Murphy and Wu 2001). Perhaps a renewed avenue for inquiry, then, would be to start with a fresh survey of just exactly how the Australian state governments manage urban issues, with or without local government. But that is for another day.

In sum, multilevel governance involving local government is a real phenomenon in Australia. It is constrained by the narrow allocation of powers and responsibilities to local government, by the strong role of the state in urban and

regional governance, and by the seeming decline of federal interest in urban matters. And, as noted above, while the three rings of the intergovernmental circus increasingly overlap and join up, it is the traditional dyadic patterns of federal-state, state-local, and federal-local that remain the most heavily used.

Some Australian features stand out as particularly helpful and promising for

NOTES

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MUNICIPAL-CENTRAL RELATIONS IN FRANCE: BETWEEN DECENTRALIZATION AND MULTILEVEL GOVERNANCE

Emmanuel Brunet-Jailly

1 INTRODUCTION

The global economy, as many scholars have noted, modifies the politics of state relations in the intergovernmental and international arena (Courchene 1999; Duchacek 1988; Risse-Kappen 1995; Brown and Fry 1993; Balme 1998; Keating 1998; Young 1999). There seems to be no consensus, however, on the general transformation of states. Is the state hollowing out? Is it a functional reorganization? Is it multilevel governance? New technologies of information and communication affect states, free trade integrates the economies of Europe and North America, and free trade regimes pressure governments to ease regulations and open new markets (Keohane and Milner 1996). Furthermore, these changes

instances, central governments are less able to regulate, to organize fiscal equalization, and to reduce interregional or provincial competition; in other instances, central governments actually encourage intergovernmental competition at lower-government levels. Overall, policymaking is increasingly based on “territorially overarching policy networks” that involve public- and private-sector organizations and all levels of government (Marks 1992). In the end, it seems that such changes in federal territorial politics characterize tendencies towards greater legal, institutional, and functional complexity and an asymmetry of rights, while institutional capacity, as well as functional allocation, increasingly characterizes disparate and decentralized politics.¹

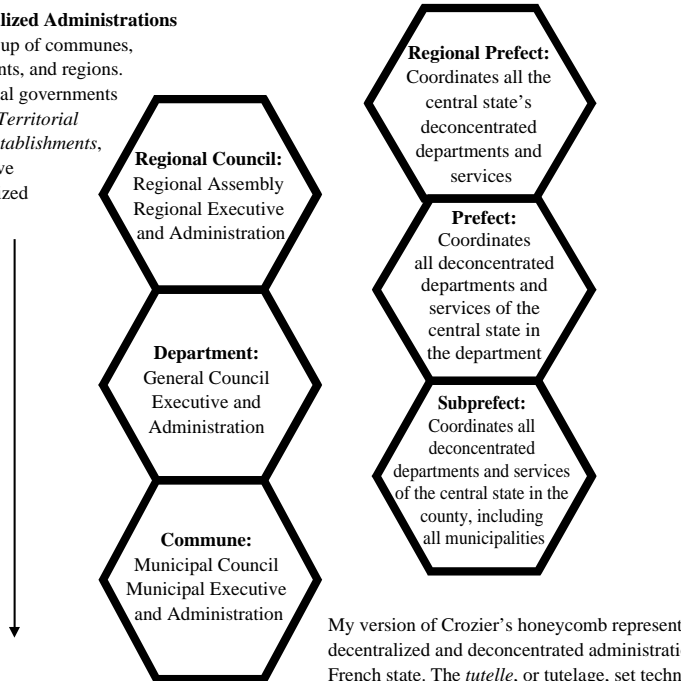
Although these features may seem clear in most federal state systems, where they tend to provide mechanisms of power sharing among the various levels of government that are more flexible, they are not found in central state systems in the same way (Keating 1999c, 8–12). The Constitution of the French nation-state does not recognize asymmetry. In this nation-state, asymmetries seem to develop functionally but with much greater regulatory constraint because France’s institutional system is less flexible than that of most federations (*ibid.*, 22). After an introductory overview of the key features and recent evolution of the French system, this paper is divided into twelve sections that address successively the constitutional dimension of municipalities; their range of functions; their fiscal

remained an exclusive feature of the central government. The administration of the central government was ingrained with a fundamental distrust of local and regional democratic institutions. Prefects, those “Napoleons with small feet,” centralized and controlled all the executive and administrative activities of each level of government from the top down.

Until the 1960s and 1970s, local and regional policies in France were the result of national regional policy. Every four or five years, from 1946 through the mid-1970s, a so-called *Plan*

Decentralized Administrations

are made up of communes, departments, and regions. These local governments form the *Territorial Public Establishments*, which have decentralized powers.



My version of Crozier's honeycomb representation of the decentralized and deconcentrated administrations of the French state. The *tutelle*, or tutelage, set technical and legal control of all the activities of decentralized administrations. The *tutelle* was partially abolished in 1982 and disappeared in 2003. Cooperation has taken over.

these is the prefect. The prefect is the highest deconcentrated territorial authority. In principle, all other deconcentrated field offices fall under the authority of the prefect, though there are four partial exceptions: finance, education, justice, and health. Each has its own deconcentrated system.

The basic territory of deconcentration is the department (*département*), originally established and designed by Napoleon, who argued that a man on horseback should be able to cross a department in one day; hence their round or oval shape. Above the department (since 1982) is the region, whose prefect, the regional prefect – accumulates all functions of the central government concerned with departments and regions. Departments are made up of counties whose deconcentrated authority is in the hands of a subprefect. There are very many communes in each department and in each county. Their mayors are elected locally. They head the commune's executive, and in matters of public security they are the local representatives of the central government under the authority of the prefect and subprefect. The prefect heads the local administrations of the central government. His signature is required on all documents that involve any department or agency of the central government in his constituency (law 92-125 of February 1992). This control extends to all deconcentrated government funds.

Analysts of the French system question whether the end of the unitary state has occurred (Loughlin and Mazey 1995). Levy's interpretation of French decentralization is that the weakness of French civil society limits the transformation of the *dirigiste* state. The state remains a coordinator and a "firefighter" (Levy 1994). Baverez and Olivennes (1989) contend that the state apparatus faces "public powerlessness" because it remains an ambitious state that supports a large bureaucracy that lacks productivity. From Crozier'

First, the Deferre Acts created twenty-one regional governments. Second, instead of the prefects, the elected presidents of regions and departments became heads of their executives. Third, the principle of tutelage, which gave all of the executive powers of regions and departments as well as supervision over all municipal decisions, was subjected to legal scrutiny, whereby the prefect had to refer those decisions to administrative tribunals. The fourth and final central element of the reform was the downloading of the economic development function to all local authorities under the leadership of the region, including some taxing and financial-incentive powers.

Soon after this primarily institutional reform was in place, two laws – one passed on 7 January 1983, the other on 22 July 1983 – downloaded functions to each level of local government. The 1982 laws attempted to disentangle functions and funding. They were partly successful in that they organized all primary responsibilities or the leadership role, for each level of government.

forms of intermunicipal partnerships. Today, most scholars and policy analysts agree that these reforms constitute an important yet quiet revolution that has profoundly transformed mechanisms of municipal service delivery and the local government map. Intermunicipal partnerships have allowed for greater economies of scale and greater policy differentiation that further entrenched policymaking at the local level.

Most scholars and experts view the first wave of decentralization in the 1980s and 1990s as a significant success in the policy arenas where all four levels of governments cooperate, such as education and public transportation. This consensus does not extend to the 1992 and (5 February) 1995 reforms, which are generally seen to have failed. However, the 1999 Acts on intermunicipal partnerships and territorial development and planning – the LOADT (*Loi d'orientation pour l'aménagement et le développement du territoire*) and the LOADDT (*Loi d'orientation pour l'aménagement et le développement durable du territoire*) of 25 June 1999 – which allowed rural municipalities to organize themselves into “*Pays*” (countries) around specific partnership goals, are perceived as a successful silent revolution.

The Chevènement Acts of 1992 had attempted to reduce them from seven to five. “Districts” and “city communities” disappeared, and the new Act (1999) created “commune communities,” an “agglomeration of communes,” and “urban communities.” These three new types of partnership, however, have had to cohabit with the pre-existing “unions of commune” which set up either unifunctional or multifunctional upper-tier special-purpose bodies.⁴

Regourd (2004) argues that five such local mechanisms of cooperation only add to the complexity of the French system, which also includes four levels of government and the European Union. He also points to the progressive emergence of intermunicipal partnerships – more than 25,000 in 2004 – which focus on one or more local functions and seem to add much complexity to the French local government system. The system is now made up of about 36,000 municipalities as well as 25,000 local governments. Knowing who does what is just about impossible (*ibid.*, 2004, 7). These intermunicipal partnerships are criticized for

2 CONSTITUTIONAL DIMENSION

government. *De facto* co-decision becomes the new principle that organizes the interactions of the newly decentralized republic (see Article 72.1).

The third important reform (see Article 72.2) is that each territorial level of government “has the vocation to take decisions using all competencies necessary at their level of government.” It suggests that non-central governments share all regulatory and executive powers with the prefects. These local governments freely administer themselves. They have an elected council and regulatory powers (72.3).

The fourth constitutional amendment consists of the new principle of

the central government, while municipalities' staff and budgets account for about 20 percent of the whole.

4 THE FISCAL POSITION OF MUNICIPALITIES

The French local government tax system consists of grants and tax-sharing mechanisms. The first pillar is a system of *dotations* – conditional grants that are usually attached to a new transfer of responsibilities. These grants have been criticized for not addressing the issue of the level of public service and concurrent cost. Despite indexation on inflation and on GDP growth, the central government often does not devolve adequate funding to guarantee a high standard in the quality of public service. A traditional example of such imbalance in revenues is the transfer of high schools to regional governments; over time, this transfer has cost regions four times as much as the corresponding *dotations*.

The second pillar is a mechanism of tax sharing, where the central government procures either a specific portion or all of the revenues of a tax instrument to local governments. But downloading certain types of taxes contravenes European law. For instance, the transfer of the value added tax could precipitate a multiplicity of local rates, which is contrary to European law (de Courson 2003). The transfer of the “petroleum products interior tax” (TIPP), which is paid and monitored at the

view of local government officials, the central government administration understood the principle of “free local administration” as a principle that, *de facto*, left local governments with minimal financial autonomy.

According to Didier Migaud, the member of parliament for the Département d’Isère, the underlying ideology of the central government that justified this financial disengagement and recentralization is fuelled by views that deficits and balanced-budget issues at the level of the central government can be addressed by transferring expenditures and responsibilities to local governments. It assumes that such transfers should secure balanced budgets and limit the overall deficits to less than the 3 percent of the GDP threshold mandated by the European Union. Also, local governments are perceived as being smaller, inexpensive, and efficient policy actors that can shoulder having decreasing sources of revenue. The transfer of the TIPP⁸ is a good example. Its revenues accounted for about 1.94 percent of GDP in 1994 but were down to 1.6 percent in 2001. With the signature of the Kyoto Agreement and related increases in gas prices that will assuredly reduce consumption, revenues are expected to reach new lows by 2012, thus affecting local government revenues time and again. This downloading will lead to future local tax increases, which will further constrain the implementation of territorial solidarity and equity (Migaud 2003).

The Senate president and president of the Association of French Departments,

negotiated with financial institutions, fees for services set by its elected council, local taxes, tax rates, and mechanisms of evaluation.

However, this aspect of the reform does not comprise “real innovations,” since local government councils were already empowered to set tax rates on built and vacant properties, real estate ownership, and specific professions (Sauvageot 2003). In the end, these considerations are probably included in the reforms because the Senate committee insisted on them. The real innovation is found in Article 72.2.3, which affirms that local fiscal revenues and other resources are *fundamental* local government resources. This suggests that specific central government grants should be reduced and limited to less than half of local revenues (the “majority” principle).

The implementation of these rules leads to particular difficulties. For instance, which local governments are to be included? A restrictive understanding would limit the application to metropolitan local governments and exclude all others (Polynesia, Mayotte, and St Pierre and Miquelon). Also, how is the principle of “majority” to be understood? Is it exactly 50 percent of all resources, or should it be a significant amount as long as no local government’s action is restricted? The spirit of the law seems to indicate that local elected officials be protected from having to agree with the decisions of central state officials concerning the administration of their territory. The majority principle might end up being referred to the Constitutional Council, and it could be particularly controversial for larger local governments. Article 72.2.5 suggests a constitutionally entrenched equalization mechanism. Although it suggests that the Constitution favours equality among local governments, it does not extend to an obligation that equality be the end-result.

In conclusion, the nonspecific nature of the constitutional text seems to imply that the substantive meaning of these constitutional reforms will primarily rely on future interpretations of the Constitutional Council.⁹ Regarding expenditures, the new texts forbid any downloading and any new expenditures that are not entirely funded by parallel transfers of resources or fiscal instruments. The Constitution also guarantees fiscal autonomy, but vagueness in the wording left commentators without a clear interpretation. A dual interpretation is possible: fiscal autonomy is constitutionally guaranteed, but French legislators inherit the right to organize its exercise. The current debate suggests that any attempt at formulating an explanation could be thwarted by a decision of the Constitutional Council in the near future. According to this interpretation, commentators suggest that Constitutional Council jurisprudence might resemble what was in force before the 2003 reform,¹⁰ while legislators might be able to specify mandatory expenditures and both gov-
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resources, such as transferring the TIPP to the regions and the TSCA (special tax on insurance conventions) to the department. Another reform discussed is the municipalities' block-grant system, which sets an allocation of 60 to 120 euros per capita that increases according to each municipality'

representations – the Association of French Mayors, the Association of French Big City Mayors, the Association of French Departments, and the Association of French Regions – have been extremely influential in their interaction with the central government and the personnel who drafted the reform proposals, and with the National Assembly and the Senate more generally.

Why are locally elected officials so influential at the national level? Le Lidec's historical description of the genesis of their influence underlines the fact that the political system is built on a century-long practice of officials getting elected locally and then protecting this mandate as their political "base camp" before they attempt to gain influence regionally and nationally. They rely on small local networks of political friends (their spouses and close and trusted political com-

limited the kind of mandates elected officials could have, it did not abolish the practice. The inability to accumulate a European mandate with a national one led to an increased specialization and division of labour among elected officials and their political teams.

Today, important political figures are able to accumulate by “delegation.” A typical elected official wins a mandate, establishes a team and selects lieutenants, and then resigns from office, giving the office to his designated deputy, and so on

partners. Municipalities were free to participate in the negotiations – or not – which led to these contracts.

During the 1970s, the *politique de la ville* relied on these contracts to frame the use of specific grants; at the time, these agreements focused primarily on major infrastructure projects (André 2005). By the late 1970s, cities had managed to broaden the agenda to include social housing and the rehabilitation of downtown. These years that preceded decentralization also marked a pause, because these contracts were very unsuccessful at being inclusive and local elected officials were losing interest.

After 1982–83, the focus of new contracts expanded to include neighbourhood

contract and the fact that those contracts affected only a small proportion of the population. Measured by the number of intermunicipal agreements, recent reforms have been quite successful. The impact of this policy, as it now concerns half of the French population, is being transformed by municipalities' taking the initiative to collaborate. Mayors and municipal elected officials engage their colleagues in their region, their department, and the central government to co-produce and implement policies that specifically address the needs of their communities from a grassroots perspective. From a top-down policy, the *politique de la Ville*

general view is that elected officials are not constrained by this control of legality because it is not used against them for two reasons. First, the prefects' staffs do not have the resources (human or financial) to monitor all local government decisions. Indeed, they review few of them and refer even fewer to administrative tribunals. In theory, prefects are supposed to review about 7.5 million Acts yearly, yet only about 1,500 to 1,700 Acts are brought before administrative tribunals. When prefects suspect something illegal, their office is to prepare a letter "observation" to ask for an "explanation" and to refer the case to an administrative tribunal. In 1989 no Acts were referred to administrative tribunals in seven departments. Overall, only 0.022 percent of all Acts have ever been referred to administrative tribunals: 420 of those were deemed suspended, and only 1,293

or *Plans*, date back a quarter of a century and constitute a well-established tradition of broad economic development and planning “contracts” that bring together, around the negotiating table, all levels of governments with a large number of public and private organizations, and which hold them accountable to each other through contracts that span at least five years. The current contracts for the 2000–2006 period concern the twelfth plan. For instance, in the last round of negotiations regarding the Nord-Pas de Calais 2000–2006 contracts, the region was a key partner alongside each level of government – the central state, both departments, and a number of key municipalities (Dunkerque, Boulogne-sur-Mer, Lille-Roubaix-Tourcoing, Lens-Liévin, Valenciennes, Maubeuge-Val de Sambre) – and the European Union. All partners fund the contract for a total of 28 billion francs: the central government contributed 10.4 billion, the region 7 billion, the departments, 2.6 billion, and the European Union 8 billion (Conseil regional du Nord-Pas de Calais 2004).

Furthermore, the European Union’s Structural and Social Funds, launched in 1974, and its Community Initiatives policies, introduced in 1989, have chosen the regional level as their key territorial unit for all policy negotiations and all processes involving partnerships, funding, applications, implementations, and evaluations. Regions, however, are not the exclusive partners of the European Commission. Its funds and policies bring a multiplicity of governments and pub-

Source: notably Act 2000-374, of 29

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networks of influence and control over regional political networks (as described in section 5) show that they are emerging as *primus inter pares*.

9 ARE MUNICIPALITIES BYPASSING CENTRAL AND REGIONAL GOVERNMENTS AND ENGAGING IN INTERNATIONAL RELATIONS?

French municipalities have been active internationally since the 1980s, when EU funds were made available that encouraged them and the regions of Europe to take part in pan-European networks and to design and implement programs spanning the borders. Today, it is arguable that French local governments' new vertical relations with the European Commission and their horizontal relations with their peers across the European Union interfere greatly with the traditional, hierarchical, and submissive relations they had with the central government until the 1980s. Also, the influence of EU law on the framework of action of local governments is felt everywhere – from environmental law to public service regulations (Jouen 2002; Rossinot 2003; Behar 2002c; Behar and Estebe 1997, 1999, 2004; Morin 2003).

Until the early 1980s the European Union was not particularly concerned with subnational governments, but it has since opened new arenas of policy discussion

and the Community Initiatives for about 6.5 percent (European Commission 2005). For the period 2001–6, the French share of structural funds amounted to about 10 billion euros, or 2 billion annually. During this time, the structural funds (objectives 1 and 2) accounted for about 42 million euros, or about 8 million annually, for the Nord-Pas de Calais region, which compares well with the 140 million euros attached to the five-year *contrat de plan* (France, DATAR 2005). It is rea-



local interests. The future of such networks, once funding is spread thin between twenty-seven rather than fifteen members, is difficult to predict. Yet it is possible that funding may not be key at all. Instead, it may be that these networks have become the very fabric of local governance of Europe, thus influencing local government policy views and practices.

10 POLICY CASE STUDIES

10.1 IMMIGRANT SETTLEMENT POLICIES IN FRANCE: SOCIAL DIVERSITY AND URBAN SEGREGATION

Immigrant settlement policies are generally viewed as unsuccessful, fuelling segregation in France. For the last fifty years, policies designed by the central ministries in charge of transportation, infrastructures, and planning have attempted to engineer social mixing, diversity, and assimilation.¹⁴ In effect, they have produced segregated neighbourhoods, municipalities, and cities.

During the 1950s and 1960s, urban planning was the key policy tool used to engineer social mixing and assimilation. Varied populations were targeted to live together. At the time, the idea of diversity, social mixing, and assimilation was not a clear policy choice. Instead, it was assumed that if populations with similar social and economic backgrounds were settled side by side they would naturally assimilate. The unsuccessful assimilation attempts of this era precipitated a major social crisis in the 1970s and eventually gave rise to the 1977 reform. The idea then was to socialize the populations being targeted by mixing them up within designated social-housing parks. An additional view was that transferring ownership would maintain diversity while increasing social mixing and assimilation. A tax called “1 percent lodging” was levied on all new construction projects. Loans were set up to help potential residents. The central government systematically monitored and regulated the mixing of populations in particular neighbourhoods, and prefects managed quotas for each department. But the policy only aggravated the situation. It was characterized by a rise in crime and high geographic ethnic concentrations in specific urban social-housing parks.

During the 1980s the implementation of social housing was downloaded to municipalities. This resulted in even greater fragmentation of social housing. In the 1990s the policy recommendations were that specific areas could be detached from the housing parks to be managed by social mixing and social assimilation professionals. At the same time, there was a policy of better-balanced assimilation that offered lower rents – the *Plan de Localisation de l’Habitat* (PLH). Management of PLH was extremely expensive. Municipalities limited eligible social housing; consequently, despite a steady demand for such housing, its availability actually declined.

In 2000 there was renewed interest in urban social issues, especially urban segregation, social mixing and integration, and social-housing policies. The law *Solidarité renouvellement urbain*¹⁵ mandated that all new residential construc-



tion projects in French municipalities would have to set aside 20 percent of their units for social housing. It also introduced the possibility of public-private partnerships. Policy mechanisms included funding for targeted populations. The availability of social housing was manipulated to encourage a better mix of the middle class and groups in need of social housing. Public safety was improved, rents were controlled, and eviction procedures were set up to protect three types of landlords: municipalities, prefectures, and the private sector.

This short history gives rise to two sets of questions. First, who are the key policy actors in immigrant settlement and social integration? Second, what is the specific role of municipalities and their relationship with the responsible ministry? In 2003 the infrastructure ministry initiated a series of policy papers in order to come to grips with the failure of social-housing policy and social segregation in France. The body of research that emerged

educated groups were to be avoided, because they threatened to transform the electoral fabric of the municipalities.

In the end, demographic factors worked against Montreuil but not St Denis. The municipality of St Denis chose to focus on developing office buildings and to make do with the overall decline of its blue-collar population. Montreuil built more social housing, but it lost its traditional electoral groups.

Officials skirt the issue of ethnicity. Yet municipalities define diversity in terms of either ethnicity or class. St Denis is a blue-collar but ethnically homogeneous municipality; Montreuil is ethnically diverse but less stratified. Municipalities are able to manipulate specific mixing and social-housing goals effectively because they mediate the policy goals of the central government, of their departments, and the private sector (Bacqué and Fol 1998). Until the late 1980s, these municipalities did not want their electorate to buy housing, so they invested in rental housing on a large scale. Their electoral base was made up of the white working class. Their social and integration housing policies



10.2 ROAD INFRASTRUCTURE

In 1960 France had only about 120 kilometres of highway but a good network of national roads that were well maintained, though it lagged behind other European countries. By 2003 France had 11,383 kilometres of highways, 27,893 kilometres of national roads, 363,033 kilometres of departmental roads, and 609,635 kilometers of municipal roads. Over the past twenty-five years, however, the central government has downloaded to municipalities the responsibility for more than one million kilometres of road. Whereas departmental expenditures for maintenance decreased by 31 percent between 1985 and 1995, investment in new road infrastructure had risen by 77.6 percent (France, Ministère de l'Équipement et des Transports 2006).

Between 1950 and 1990, the way transportation was administered and funded changed significantly. In 1950 the central government had full responsibility for France's network of roads and bridges. By 1990, however, about 2 billion euros came from public-private partnerships that had been set up to build new toll highways, while about 1 billion euros came from the central state and 1.1 billion came from the departments.

The bureaucracy in charge of the administration of roads modernized only slowly. In 1992 the Court of Accounts reported that the economy of roads and highways was still not subject to the general principles of free market competition, while the central government progressively was disengaging from maintenance expenditures and from funding new roads (France, Cour des Comptes 1992). In 1998 the Court of Accounts once again noted that the central government was withdrawing from building new roads, while regions and municipalities, and especially departments, shared the newly decentralized responsibilities to fund and harmonize roads in regional and municipal networks. Departments are key funding partners among local governments. Yet, they also have to take into account the regional plans and subsidize municipalities. The Court of Accounts, however, observed that equalization across departments, regions, and municipalities was based on different procedures that failed to produce equalization. The court underlined regional, departmental, and municipal variations that resulted in the creation of a national network of roads of increasingly varied quality, where maintenance varied from eight to twenty years, depending on capacity, weather, geography, and local politics (France, Cour des Comptes 1998).

More recently, with the statute of 13 August 2004, the minister of transport further decentralized to the departments 20,000 kilometres of national roads, along with administrative and fiscal resources. Following the recommendation of the Fourcade Commission, this law transferred 185 million euros in block grants to departments and forbade all future central-local funding partnerships for the construction of new roads. Furthermore, 24,000 central government employees, whose primary task is to build or maintain departmental roads, became departmental staff (France, Ministère des Transports 2006).

On the one hand, the administration of roads was slow to modernize. On the other hand, decentralization played a big part in its rapid expansion and



modernization. How is one to explain such rapid change in a policy area where most of the road system has been progressively downloaded to local governments? The literature points to two major shifts in the postwar period. First, over the years, the central government was able to download responsibilities to lower-level governments, particularly to departments, which invested in roads. Second, as the central government shifted costs and responsibilities, it never lost control over the direction of policy. The training of central state officials at the School of Bridges and Roads – one of France’s *grand corps* a “caste” of engineers, who were able to retain tight control over the construction of roads and bridges and to continually influence decisions about roads by lower level governments, is key.

The engineers’ particular interest in modernizing roads and bridges involves a form of legal corruption, or personal interest, that would be unacceptable in any anglophone country (Mény 1996). A financial incentive causes the engineers to lobby lower-level governments for a multitude of new contracts to modernize their roads. The more contracts are signed, the greater their annual bonus (Mény 1992). When individual or commercial traffic increases, elected officials turn to those employees of the central state who are in charge of roads. Over the last twenty-five years, elected officials have been sold on their municipality being at the “heart” of Europe and in great need of renewed investment to ensure that it is properly connected to national and international transportation networks. Yet existing roads are poorly maintained, and most local solutions seem to culminate in the construction of a new toll speedway.

Since the creation of this caste of engineers by Napoleon Bonaparte – when post-revolutionary France had no resources to pay its staff – the payment of bridge and road engineers has been paid based on the portion of the works they supervise. In Jean Petot’s history of the administration of bridges and roads from 1599 to 1815, he notes the progressive establishment of these technocrats and the particularity of their wages, which include a bonus of one-twentieth of all work supervised (Mé-i4poh13e8e25

“bonus,” not only those staffing the Ministry of Transport. Over the past twenty-five years, the road system of France was largely decentralized to departments, along with regions and municipalities, but the staff and expertise necessary to study and supervise roadways has remained part of the central government technocracy. This is in the process of changing. Staff is being decentralized, and financial and human resources are being downloaded to local governments in order to address local and central needs to maintain a well-balanced network of roads. In this case study, as in the first, successive decentralization reforms have increased asymmetry – in this case, asymmetry of the quality of roads across France.

11 WHAT ARE THE RECENT TRENDS?

The 1982 decentralization laws democratized the system of local government. All are autonomous and elected. Traditional top-down control by the central government was replaced by judicial review. The 2003 constitutional reforms entrenched the organization of France as decentralized, with three levels of local government and other intermunicipal partnerships, and guaranteed financial autonomy. Au-

12 IS THE SYSTEM OF MULTILEVEL GOVERNANCE ADEQUATE IN RELATION TO MUNICIPAL AND URBAN POLICY?

French scholars and elected officials concur that recent decentralization reforms have been important and successful because of a rare coincidence of interests. The former prime minister Jean-Pierre Raffarin, understood local issues well. He had emerged from the political elite that accumulates local and regional mandates. Since 1988 – before becoming prime minister – he had held a council mandate in a small municipality and was the elected president of the Région de Poitou Charentes. His published work on regional political life testified to his strong beliefs in strengthening local government. In his efforts to reform the French system of local government, he coalesced with Senate President Christian Poncelet, whose ambition was to reassert the Senate's role in taking important policy initiatives.

Both leaders were quite successful. In part, the reforms merely organize and legislate a pre-existing policy practice. This is not unusual in French politics. Yet the process also allowed for serious and wide consultations and analysis. Scholars and elected officials now argue that this process established the importance and historical significance of these reforms when compared with previous ones. Voices on the left of the political spectrum, however, would like to have seen the reforms extended further. This is indicative of possible future pressure to persist with the current decentralizing and regionalizing trends.

France has fashioned its own form of multilevel governance. Elected and staff officials in central or local governments have great difficulty in pointing out a single policy arena where they dominate. All levels of governments are tightly entangled and complementary in all areas of social and economic policy. It follows that the French Republic is now decentralized and is becoming a system of multilevel governance. Even if the 2003 constitutional reforms and the 2004 laws are considered an experimental part of an ongoing process to find the appropriate level of territorial application of a particular policy, it seems that at this time the decentralized French Republic is made up of intermeshed and territorially overarching policy networks (Marks 1992), which are a classical example of multilevel governance.

Constitutional reforms have affected the organizational governance of France. French government is now about governance among equals, where contracting establishes the influence of local governments. The regional level, where all interests of the intergovernmental network seem to converge, emerges as the new locus of the political territory. This is reminiscent of Keating's (1998, 1999b, 1999c) and Sassen's (1996) work on the influence of global markets on the politics of state relations in the intergovernmental and international arenas which make governing much more complex. Yet issues of complexity and accountability –

- 5 European and North American jurists who specialize in European Union law contend that the 10,000 pages of legislation that include major treaties and a European Charter of Human Rights form a constitutional body of law that profoundly affects the legal systems of all member states. The French parliament spends half its time reviewing and enacting EU laws.
- 6 See the so-called Deferre Act, 82-123, regarding the freedoms and rights of regions, departments, and communes (JORF 3 March 1982, 730), particularly Article 102, which states that “resources should be transferred along with all net increases in charges resulting from state downloading to local collectivities or the region.”
- 7 In 1993 the central government cancelled the region and department tax on “vacant properties”; the finance law of 2000 cancelled the regional share of the “habitation tax”

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MUNICIPAL-CENTRAL RELATIONS IN FRANCE





MUNICIPAL-FEDERAL RELATIONS IN GERMANY

Rudolf Hrbek and Jan Christoph Bodenbender

1 INTRODUCTION

German local self-government is constitutionally guaranteed and protected, and has a long historical tradition. But according to its Constitution, the Federal Republic of Germany has only a two-tiered structure, consisting of the Federation and the federal states (*Länder*). According to the Constitution, the municipalities are part of the executive branch while being constituent parts of the *Länder* in organizational terms (Nierhaus 2003, 31). Functionally, however, the administrative structure includes the municipalities as a third tier, though the separation between the federal, *Land*, and municipal levels is ambiguous. Over time, a system of multilevel governance, marked by complex political interdependence (*Politikverflechtung*), has evolved and become emblematic of Germany. Against the background of the ongoing process of European integration, the European Union represents a fourth level, adding yet another layer of political interdependence for the German municipalities, the *Länder*, and the Federation (*doppelte Politikverflechtung*) (Hrbek 1986).

Within the European context, the concept of multilevel governance is nowadays most often associated with analytical attempts to describe the *sui generis* character of the European Union, with its highly interdependent multilevel structure (Knodt and Große Hüttmann 2005, 227). The point of departure for this approach is the “existence of overlapping competencies among multiple levels of governments and the interaction of political actors across those levels” (Marks et al. 1996, 41). The levels of political decision-making are interconnected, not nested. There is no clear division between national and supranational decision making levels. Subnational – i.e., regional (*Land*) or local – actors can operate on both levels. They do not necessarily have measurable influence on the overall decision-making process because “mobilization and influence are not synonymous” (Knodt and Große Hüttmann 2005, 241). The separation between domestic and international politics is blurred. The multilevel governance approach recognizes the “multilevelness” of a polity where authority is spread over various levels of governance and among different actors, including potential sectoral variations in patterns of governance. Multilevel governance is not a “grand theory”; it is more an “attempt to depict complexity as the principal feature” of a political system (Rosamond 2000, 111). Therefore the approach serves as an analytical tool to ascertain the established pattern of governance in Germany’s political system. Hrbek



In Germany, public tasks and responsibilities have been distributed among the European Union, the Federation, the *Länder*, and the municipalities. Local authorities play a key role in the entire intergovernmental setting of policy implementation, the application of law, and service delivery. A wide range of public tasks and responsibilities are accomplished on the local level by the territorially based, multifunctional, and general-purpose local governments, which are endemic to the German tradition (Wollmann 2004a, 118). Local government is an institutional, cultural, and normative component of Germany's democratic constitutional system (Wollmann 2002, 29). In an international comparative perspective, the German municipal model ranks among the functionally and politically strongest types of local government (see Goldsmith 2003). In recent years, this traditional model has been subject to challenges from the regional, national, and international levels in response to fundamental political and economic changes.

German municipalities face two major problems. First, owing to the increasing extent of legal requirements coming from the Federation and *Länder*, municipalities' capacity for autonomous decision making has been reduced. Second,

2.1 CONSTITUTIONAL POSITION OF LOCAL AUTHORITIES

The Federal Republic of Germany is a two-tiered political system consisting of the Federation and the *Länder*. This dualistic structure also determines the legal position of German municipalities. Their status is regulated by the German Constitution – the

for tasks that cannot be carried out by individual municipalities or counties.⁴ The *Länder* have also installed *Land* authorities, mostly called *Regierungspräsidien*, as an intermediate authority between the Ministry of the Interior of the *Land* and its counties and municipalities.

As a result of shifts in the way settlements are structured and – in answer to the ensuing debate on regional planning – territorial reforms were initiated in the mid-1960s to enhance the administrative capacity and efficiency of municipalities. In the course of this reform, the overall number of municipalities in the Federal Republic was cut by 65 percent, from 24,300 to 8,500. There were two strategies for territorial reform. The first included redrawing the boundaries of all existing municipalities by amalgamating them and forming territorially and demographically enlarged unitary municipalities. The second strategy allowed existing municipalities to remain as political local government units, while a set of joint authorities was created of which the municipalities are members and serve as administrative support units. The way these reforms were carried out varies considerably from *Land* to *Land* (Wollmann 2004a, 111).

After Germany's unification in 1990, the number of municipalities in the new *Länder* was not initially reduced further. Today, there are about 13,500 municipalities in Germany. They vary considerably in number and size among the thirteen *Flächenländer*.⁵ In the most populous *Land*, North Rhine–Westphalia (18 million residents), there are only 396 municipalities with an average of 45,500 inhabitants. Rhineland-Palatinate, by contrast, has only 4 million residents but 2,320 municipalities, with an average population of 1,700. The five *Länder* in the eastern part of Germany have 7,564 municipalities. Compared with the differences in the territorial reform of municipalities, the *Länder* proceeded rather uniformly with the territorial reform of counties. The number of counties was reduced by more than 40 percent to 323, with an average size of 170,000 (Wollmann 2004a, 112).

All municipalities and counties possess the same legal status irrespective of their size. The local charters apply to small municipalities as well as to large cities, leaving no sign of asymmetry (Püttner 2004, 31). For citizens, there is no qualitative difference between state and municipal administration, since local administrative activities are equivalent to the exercise of state authority according to Art. 20 (2) GG. Therefore, municipalities and counties constitute the third administrative level in Germany.

Constitutional Court as well as the entire judiciary and legal doctrine have interpreted these provisions guaranteeing the principle of local self-administration (*Wesensgehaltsgarantie*) (Andersen 1995, 180). A “general competence clause,” Art. 28 (2) 1 GG, recognizes the special status of local government. It binds the *Länder* accordingly. Its core and essence are therefore immune to legislative encroachment by the Federation or the *Länder*. But there is also a consensus that the Basic Law neither guarantees that the single municipality will continue to exist in its territorial boundaries nor that specific municipal functions and responsibilities will remain unaltered (Gburreck and Kleinfeld 2005, 122). The same article also determines that the municipalities can exercise their functions only within the framework of existing legislation. This clause has been used as a “door opener” for legislation – particularly by the *Länder* – to curb local autonomy (Wollmann 2002, 24).

Since local self-government is conceived as an institutional guarantee rather than a basic right, municipalities have their own indefeasible but not unrestricted

3 THE RANGE OF MUNICIPALITIES' RESPONSIBILITIES AND FUNCTIONS

The Basic Law stipulates that local self-government does not encompass a specific catalogue of functions and duties but has the right "to regulate all local affairs."

The *Länder* have mostly delegated administrative functions to the local level. Following the principle of administrative legality, all actions and functions of municipalities and counties must have a distinct legal basis. Altogether, between 70 to 80 percent of all legal provisions of the Federation and the *Länder* are implemented by local authorities (Schmidt-Eichstaedt 1998, 325). The process of European integration affects the administrative functions of German municipalities as well.¹²

German local authorities are administratively responsible for a wide variety of public functions which in other countries are carried out by single-purpose local field offices of the state government (Wollmann 2004a, 108). Municipalities receive compulsory tasks with the authority to issue directives in such areas as civil registration, citizenship, and food quality control. However, the Federation is prohibited from dictating to the *Länder* whether or not a task has to be transferred to municipalities. The Federal Constitutional Court has allowed exceptions to this rule only if it can be deduced from the factual connection that a concurrent regulation of responsibilities is appropriate (BVerfGE 77, 288). The federal level is constitutionally denied the right to have administrative offices of its own at the sub-*Länder* level, except for a constitutionally enumerated minimal number of functions, such as customs and border police. This also corresponds with the limited array of special-purpose administrative units (*Sonderbehörden*) that have been installed by the state via federal laws, such as employment offices and the internal revenue service (Püttner 2004, 124). Finally, the Federation and the *Länder* may transfer warrants or tasks to a specific municipal organ, which then acts as a federal or *Land* agency rather than a local one (so-called *Orich-0.048pue69(v)13(e)0()-1i-5iesst for Sr1 Tf28ljs oe admT24.9(v)14.9(e)-0.1d [(ageO[(al)]TJ)9*

Table 1
Municipal Spending, 2004 (in billion euros and percentages)

	<i>Germany</i>		<i>West Germany</i>		<i>East Germany</i>	
	<i>Billion euros</i>	<i>Percent</i>	<i>Billion euros</i>	<i>Percent</i>	<i>Billion euros</i>	<i>Percent</i>
Overall	149.95	100.0	124.80	100.0	25.15	100.0
Human resources	39.90	26.6	32.80	26.3	7.10	28.2
Material expenses	29.35	19.6	24.70	19.8	4.65	18.5
Social services	32.25	21.5	27.60	22.1	4.65	18.5
Interest	4.80	3.2	4.00	3.2	0.80	3.2
Investment	20.10	13.4	15.50	12.4	4.60	18.3
Other	23.55	15.7	20.20	16.2	3.35	13.3

Source: Statistisches Bundesamt

Since the mid-1990s, the Federation, the *Länder*, and the local governments have reduced their bureaucracy by more than 15 percent (see table 2). In 2002 the Federation had 490,000 civil servants (this includes the armed forces), while the *Länder* had 2.1 million employees (this includes personnel in schools and tertiary education). The municipalities and counties had a workforce of more than 1.4 million, which accounted for almost 35 percent of the bureaucracy. In 2004 the municipalities spent almost 40 billion euros, or 26.6 percent of their budgets, on human resources.

Table 2
Public Service Personnel (in thousands)

	<i>Federation</i>	<i>Länder</i>	<i>Municipalities / counties</i>	<i>Zweckverbände</i>
1994	577	2,482	1,806	66
1998	516	2,363	1,580	67
2002	490	2,156	1,441	71

Source: Statistisches Bundesamt

3.4 ECONOMIC ACTIVITIES

Public services comprise economic activities of the municipalities and municipal enterprises, such as the public utility companies (

active and make a profit. But the *Länder* have drawn restrictive lines. These activities are permitted only if they fulfill a public purpose and if the private sector cannot fulfill the same task adequately. Especially in economic matters, municipalities join forces with one another in special-purpose associations (*Zweckverbände*)

There are elements of a discrete, a combined, and an allocative system.¹⁴ The underlying political goal of this mixed financial system is the adjustment of differences in tax revenue (Kipke 2000, 82). The allocation and separation of powers, in connection with the principle of political competition within a federal state presuppose that all levels are able to exercise their powers independently from one another. This includes the availability of financial resources. Autonomy in this respect requires that each level is equipped with sufficient funds to fulfill its tasks. It also presupposes the right to decide on expenditures independently.

4.1 CONSTITUTIONAL AND LEGAL FRAMEWORK

While municipal tasks are regulated by the Basic Law only in very general terms, it spells out the financial position of German municipalities in considerable detail. The Constitution mandates that tax revenues be distributed among the different levels of government. The most fundamental rule concerning the municipalities is stipulated in Art. 28 (3) GG: “The guarantee of self-government shall extend to the bases of financial autonomy; these bases shall include the right of municipalities to a source of tax revenues based upon economic ability and the right to

this as an instrument to coerce municipalities to co-finance the burdens of German unification via the Fund for German Unity (*Fonds Deutsche Einheit*) and the Solidarity Pact (*Solidarpakt*). Contrary to the original plans, the *Gewerbesteuerumlage* was not abrogated with the reform of municipal finances (*Gemeindefinanzreform*) in 2003. Instead, the participation of the Federation and the *Länder* in the municipal trade tax was reduced from 28 to 20 percent. This reform was intended to provide local authorities with additional revenues of at least 2.5 billion euros per year. Overall, financing through taxes is marked by a high degree of heteronomy for the municipalities, because they can only decide independently on the *Hebesätze* for real taxes.

From a formal point of view, the different levels of government are financially independent and autonomous because they set their own budgets. According to Art. 106 (9) GG, however, revenues and expenditures of municipalities and counties are also deemed revenues and expenditures of the *Länder*. In principle, the dual structure of Germany's political system therefore also applies to its financial system, because the financial power of municipalities and counties is legally attributed to the respective *Land*. Municipal claims for adequate financial strength are therefore primarily targeted at the *Länder*, which supposedly function as guarantors. This term describes the obligation of the *Länder* to take responsibility for their municipalities (Dieckmann 1998, 296). Nevertheless, the Federation influ-

Table 3
Municipal Revenue, 2004 (in billion euros and percentages)

	<i>Germany</i>		<i>West Germany</i>		<i>East Germany</i>	
	<i>Billion euros</i>	<i>Percent</i>	<i>Billion euros</i>	<i>Percent</i>	<i>Billion euros</i>	<i>Percent</i>
Overall	145.85	100.0	120.90	100.0	24.95	100.0
Taxes	51.10	35.0	46.50	38.4	4.60	18.6
Trades	20.45	14.0	18.53	15.3	1.92	7.6
Income	18.55	12.7	17.50	14.4	1.05	4.2
Turnover	2.61	1.8	2.22	1.8	0.39	1.6
Fees	16.14	11.0	14.15	11.7	1.99	7.9
Grants	47.02	32.3	33.01	27.3	14.01	56.0
Others	31.59	21.6	27.24	22.6	4.35	17.5

Source: Statistisches Bundesamt

Table 4
Tax Yield, 2004

	<i>Billion euros</i>	<i>Percent</i>
Overall	442.971	100.0
EU equity capital	19.640	4.4
Federation	186.950	42.3
<i>Länder</i>	179.887	40.6
Municipalities / counties	56.494	12.7

Source: Statistisches Bundesamt

municipal income in the West and for 26 percent in the East. Other taxes – such as those levied on entertainment and dogs – account for only 1.5 percent of local budgets. These taxes mainly serve as elements of regulatory policy (Karrenberg and Münstermann 1998, 444). For cities and towns, the tax on trades is the most valuable source of revenue; in smaller municipalities, the income tax is more important (ibid., 439). Compared to municipalities, counties do not have significant tax revenues of their own. They rely mainly on revenues from fees and financial subsidies and on municipal allocations (*Kreisumlage*), which amounts to 40 percent of the income of the counties.¹⁷

Both tied and unconditional financial grants from the *Länder*, the Federation, and the European Union also make a considerable contribution to municipal budgets. These financial transfers are carried out by the *Länder* within the framework of “municipal equalization” (*kommunaler Finanzausgleich*), using their

annual financial equalization laws. These grants serve several purposes: to increase the financial clout of municipalities (fiscal function), to soften and alleviate differentials in revenue (redistributive function), and to help finance special needs

Table 5
Public Debt Burden (in billion euros)

<i>Public corporations</i>		<i>Dec 2000</i>	<i>Dec 2002</i>	<i>Dec 2004</i>
Federation	Money / capital market	715.626	719.397	802.994
	Cash advances	0.192	6.008	9.088
<i>Länder</i>	Money / capital market	333.187	384.773	442.922
	Cash advances	4.886	7.350	5.700
Incl. Berlin	Money / capital market	33.453	44.647	53.876
	Cash advances	2.252	1.489	0.189
Bremen	Money / capital mark			

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debt ceiling, which does not exist in the same way at the levels of the Federation and the *Länder*. However, differences in the amount of loan financing in the budgets of municipalities are substantial. Economically underdeveloped cities with weak tax power and a high burden of social benefits tend to have a lower debt ceiling than cities in economically stronger regions. Nevertheless, throughout the 1990s, deficits in the budgets of larger cities were the rule rather than the exception. Whereas the rise in the debt load in the West has been gradual, East German municipalities have plunged into debt very quickly. They now have the same level of indebtedness as West German municipalities. City-states are in a special situation. Because of their status as *Länder*, they are not bound by the same strict debt ceiling as other municipalities. In 2004, the level of debt of Berlin (53.9 billion euros), Bremen (11.3 billion euros), and Hamburg (20.4 billion euros) equalled the level of debt of all German municipalities together.

4.4 FINANCIAL CRISIS

The financial situation of German municipalities deteriorated throughout the 1990s. In 2004 the municipal share of the overall tax revenue was 12.7 percent (see table 4), which is 2 percent less than twenty years earlier (Keller 2006, 102). The gap between revenue and expenditure widened, leading to the steady erosion of the financial pillars of municipal self-government. Reasons for the aggravation of local finances and municipal budgets include macroeconomic and structural

problems; shifts in age, population, and social structure; financial ramifications of German unity; erroneous trends in the system of municipal financing; increasing encroachment on local revenue; municipal responsibilities and the way they were fulfilled by the Federation and the *Länder* (Karrenberg and Münstermann 1998, 437). This municipal financial crisis differs from the financial situation of the Federation and the *Länder*, insofar as the latter can decide more or less independently on their revenue and their expenses. For municipalities, revenue as well as spending are marked by a high degree of heteronomy.

The traditional concept and financing of the local welfare system is especially a cause for massive budgetary concern. The mounting burden of social services is the largest reason for the growth in municipal expenses. Between 1980 and 1996,

5 REPRESENTATION OF MUNICIPAL INTERESTS VIS-À-VIS THE FEDERAL LEVEL

The *Länder* participate in the legislation and administration of the Federation through the Federal Council (Art. 50 GG). There is no equivalent body to the Federal Council for the nationwide representation of municipal interests. Their political legitimization and their grass roots level notwithstanding, municipalities do not have an institutionalized opportunity to participate in the legislation process of the Federation (Gburreck and Kleinfeld 2005, 122). Due to the complexity of the process of policy formulation, the representation of interests is getting more complicated for the municipalities. Because of their nature and their number, municipalities are not ideally suited to participate in a bottom-up process of opinion formation and political agenda setting at the national level (Thränhardt 1998, 367). Hence, local authorities have to rely on the commitment of the *Länder*, to which they are assigned under constitutional law. Most *Länder*, however, are keen to represent their municipalities vis-à-vis the Federation without the actual participation of the local authorities (Dieckmann 1998, 302). A direct means of influence for municipal interests are the three associations of local government.

5.1 CENTRAL ASSOCIATIONS OF LOCAL GOVERNMENT

To avoid being marginalized in Germany's federal structure, municipalities need lobbying institutions and advisory bodies (COR 2004, 374). In light of the trend to transfer certain areas of legislation from the Federation to the *Länder*, municipal lobbying will become even more difficult, because lobbying activities at the federal level tend to be more powerful than on the regional level (Dieckmann 1998, 302).

Three central associations of local government (*kommunale Spitzenverbände*) seek to promote the constitutional right of local self-government. They also encourage and facilitate the exchange of experiences and represent the common interest of all local government bodies vis-à-vis the state and the public. The German Association of Cities (*Deutscher Städtetag*) represents the interests of its 216 direct members, including the three city-states; the German Association of Towns and Municipalities (*Deutscher Städte- und Gemeindebund*) speaks for more than 12,500 towns and municipalities within counties (*kreisangehörige Städte und Gemeinden*); and the German County Association (*Deutscher Landkreistag*) represents all 323 German counties. The division of labour between these three central associations reflects the differing needs and problems of smaller municipalities, larger cities, and counties. In order to coordinate and ease cooperation between the three central associations and to increase their clout in relations with the Federation, the Federal Union of Local Government Central Associations (*Bundesvereinigung der kommunalen Spitzenverbände*) ((

5.2 COOPERATION WITH THE FEDERAL LEVEL

Collaboration between the federal government and the central associations has been regulated within the joint standing orders of the federal ministries. A similar regulation can be found in the rules of procedure of the Federal Parliament. Both ensure that the central associations' representatives are involved and consulted at an early stage by the federal government and by the committees of Parliament in connection with legislative projects that affect local interests (DLT 2005). Contrary to provisions in the constitutions of eight

which results in a structural bias to the detriment of municipalities (Gburreck and Kleinfeld 2005, 122). The increasing governmental influence from the Federation and the *Länder* on the execution of municipal tasks is further curbing local autonomy.

6.1 THE PRINCIPLE OF CONNECTIVITY

Constitutionally, the *Länder* execute federal laws in their own right (Art. 83 GG). They are bound by the so-called connectivity or costs-cause principle (*Konnexitätsprinzip*) if they delegate the execution of federal laws to their municipalities. This principle is enshrined in the constitutions of the *Länder*.

constitutionally enshrined in the form of an amendment to Art. 28 (2) GG (Gburreck and Kleinfeld 2005, 126).

6.2 LACK OF REGIONAL MEDIATION

There are no specialized ministries or agencies in charge of municipal affairs at the federal level. At the regional level, there are no institutional structures de-

7.2 FROM TOWN TWINNING TO DEVELOPMENT ASSISTANCE

The encroachment of German municipalities as constituent parts of the *Länder* in

and rights of representation vis-à-vis the European level. Thus, local self-government is caught in another trap, jeopardizing the representation of its vested interests in political processes that serve European integration (Articus 2002, 22). Unlike the *Länd* level of government, the position of German municipalities has not really been strengthened by European integration.

As a result, single municipalities as well as the central associations of local government are directly engaged in various lobbying activities to further the interests of German local authorities within the European Union. They are trying to achieve this through their representations in Brussels, via members of the European Parliament who have special links to the local level, or by lobbying the European bureaucracy, especially the Commission (Thränhardt 1998, 370). Over the past decade, the German central associations and their regional branches have established offices (some of which are joint) in Brussels. The *Länder* have been closely observing these direct contacts between EU institutions and German municipalities (Thränhardt 1998, 369). In addition, the three central associations are direct members of the Council of European Municipalities and Regions, the largest organization of local and regional government in Europe (in the framework of the Council of Europe), and they are also members of the European section of the worldwide organization United Cities and Local Governments.

8 THE POLITICAL DIMENSION OF THE MUNICIPAL-FEDERAL RELATIONSHIP

In theoretical terms, the political status of German local government remains controversial (Ott 1994). On one hand, local councils must be treated as purely administrative organs, rather than as local parliaments, if the local government level is seen as a constituent part of the administrative structure of the *Länder* (Wollmann 2002, 28). On the other hand, the constitutional provision of Art. 28 (1) GG suggests that local councils have the same constitutional quality as *Länder* parliaments (Wollmann 1998, 61).

In practical terms, however, it is widely agreed that local government has been increasingly politicized. Political parties perform the same functions at the local level as at the *Land* or federal level. The influence of local media, civic action

in a party, a growing number of these associations' politicians are close to traditional political parties (Kipke 2000, 86).

Parties are the major political players in local politics. This *de facto* situation has gradually been recognized *de jure* in local government charters as amended by the *Länder* parliaments. The introduction of local referendums and the direct election of the mayor and the chairman of the county have further accentuated the political and partisan profile of local government (Wollmann 1998, 56).

It is difficult to assess systematically whether voters in municipal elections cast their votes based on regional and national topics or on very specific local issues (Holtmann 1998, 211). Likewise, it is difficult to measure whether, and to what extent, (national) party politics programmatically influence policy outputs at the local level. Several empirical studies have tried to show that local decisions on factual issues reflect the programmatic options of national political parties only to a small degree. These studies argue that variables from the local and regional context – such as the need to solve local problems or to maintain local continuity in spending patterns – seem to be more important (ibid., 212). But the distinction between decisions on specific single issues in the local context and program-oriented decisions on the overall direction of politics is at least questionable. Owing to the advanced political interdependence between the European Union, the Federation, the *Länder*, and the municipalities, issues in the municipal area are subject to cross-level preliminary decisions (or non-decisions). In other words, political interdependence fosters the politicization of local affairs (ibid., 215).

Since the very beginning of the Federal Republic of Germany, local politics has been considered a democratic stepping stone. This applies not only to the active involvement of the population but also to the training of politicians. While most local politicians limit their involvement to the local sphere, municipal parliaments serve as the most important preparatory stage for the careers of politicians at the *Land* and federal levels. But the importance of personal involvement in local politics and the significance of nominations and elections at that level to launch a career in the regional or federal arena have been reduced. Since the 1970s, political parties have increasingly been nominating younger politicians, who do not have extensive experience in local politics, for seats in the *Länder* parliaments or the Federal Parliament (Dieckmann 1998, 302). However, certain ties with the grassroots of political parties still seem to be necessary and unavoidable. In some *Länder* (e.g., Baden-Württemberg), numerous mayors and county chairpersons are at the same time members of the *Länder* parliaments. This accumulation of offices, which does not exist between the local and federal levels, entails closer ties between the municipalities and the *Länder*.

The standing and influence of municipal incumbents depends to a large degree on the size of the municipality they represent. Only the mayors of very large cities appear on the national political scene and are thus able to play a certain role in national party politics. It is rare for municipal incumbents to take office at the national level. The situation is a bit different for the mayors and civil servants of the city-states. They are able to use their membership in the Federal Council as a platform to further their federal ambitions.²¹

coordination centre for large-scale danger situations. As a result, the Joint Federal Situation and Information Centre, the German Emergency Information System, and the Academy for Crisis Management, Emergency Planning, and Civil Protection were established. Finally, the new Federal Office for Civil Protection and Disaster Response (*Bundesamt für Bevölkerungsschutz und Katastrophenhilfe*), under the auspices of the federal Ministry of the Interior, began operations in May 2004.²⁴ This office underlines the importance of civil protection for national

of migrants: recent repatriates (especially until the mid-1990s), asylum seekers (whose numbers also have dropped drastically since the mid-1990s), civil war refugees from the Balkans (who for the most part have returned to their home countries), and a small number of labour migrants. In 2003, fewer than 800,000 people moved to Germany, while more than 600,000 left.²⁵ Today, the most significant and stable form of legal immigration is family-member immigration (*Familiennachzug*), with 55,000 to 80,000 migrants per year. The numbers mentioned above suggest that Germany is as an immigration country.²⁶

The spatial distribution of people with a migratory background shows a significant regional imbalance. The share of legal foreigners in former West Germany ranges between 6 and 15 percent. In the East German *Länder*, they account for less than 2 percent of the population. Immigration is predominantly an urban phenomenon all over Germany: 80 percent of people without German citizenship live in cities of more than 100,000 inhabitants. They represent 15 percent of the urban population. In large cities and urban agglomerations, this number is even higher.²⁷

Immigration Act's Regulation on Integration Courses specifies that integration courses are to conform to a nation wide standard. The Federal Office for Migration and Refugees is responsible for the development of these standards. This reorganization represents an improvement over previous support for language courses.

Following the provisions of Art. 30 GG, the "exercise of state powers and the discharge of state functions is a matter for the *Länder*." In addition, Art. 104a (1) GG stipulates that the *Länder* and the Federation "shall separately finance the expenditures resulting from the discharge of their respective responsibilities." These provisions apply to immigration as well as to integration policy; consequently, each *Land* is responsible for the general costs that arise from the integration of immigrants. In addition, the *Länder* are responsible for executing federal laws in their own right, including the right to regulate the establishment of authorities and their administrative procedure. These provisions also apply to the new immigration law (Art. 83 GG).

Counties and urban municipalities have been designated by the *Länder* as "foreigners' authorities" (*Ausländerbehörden*), which are responsible for residence- and passport-related measures. The local foreigners' authority, as a government agency of its respective *Land*, is subject only to directives by its supervising regional government which serves as the central foreigners' authority. According to section 71 (1) RA, the *Länder* may determine that only one or several foreigners' authorities are competent for specific tasks or areas of activity. Within Baden-Württemberg, for example, the regional government of Karlsruhe is responsible for the regional distribution of foreigners who have entered the country illegally.

Local authorities are responsible for the implementation of the Residence Act, which has organizational, personnel, and financial ramifications for the local level. Tasks must be redistributed, integration programs must be modified, and the implementation of the integration courses by the responsible organizations must be planned and coordinated. However, many municipalities, especially those with a high share of residents with a migratory background, were well prepared for these challenges since they already had experience in the development of integration programs. In addition, the Federal Office for Migration and Refugees has appointed regional coordinators to assist the local authorities in dealing with the changes that are induced by the Immigration Act.

For a long time, the policy on foreigners was mainly perceived as regulatory policy. Yet integration policy is also social policy. The local administration must, therefore, understand integration as a cross-sectional task. Many municipalities are working on a comprehensive approach to the coordination of integration policy. There is a growing need for increased inter- and intra-administrative cooperation and coordination. A central coordination office within the local administration seems to be necessary. In Stuttgart, for example, a central department for integra-

municipalities to decide whether or not to be in charge of the long-term unemployed on their sole responsibility or in cooperation with the local job center. Overall, sixty-three counties and six urban municipalities have decided to make use of the optional model. They are also in charge of the long-term unemployed, including their job placement. Yet the Federation remains responsible for the payment of the *Arbeitslosengeld II* as well as for administrative costs.

Municipalities are ambivalent about the changes associated with the *Hartz IV* reform. Local governments will get rid of a substantial part of the financial burden of unemployment, while the overall fiscal effects remain unclear because of incalculable follow-up costs (Gburreck and Kleinfeld 2005, 119). Owing to the higher accommodation costs of *Arbeitslosengeld II*, the Federation donated 3.2 billion euros to the municipalities as financial grants in 2005. At the same time, the local government's role in labour market policy is changing. The sixty-nine counties and urban municipalities that are making use of the optional model will be able to increase their role because of a new and broader set of activities. However, the influence of the majority of municipalities and counties will decline, because the traditional instruments of local labour-market policy are no longer available to them. As a result of the reform, local governments lose a major part of their traditional responsibilities, thus probably reducing their role and visibility in the German welfare system (Bönker and Wollmann 2004, 255).

10.2 REFORM OF THE FEDERAL SYSTEM

2005). This proposal included municipal demands, a major aspect of the whole reform package. With the new government in office, chances have improved that the reforms will be approved by a two-third majority in both Houses of the Parliament.

The CMFS was composed of the Federal Parliament and the Federal Council (each of which sent sixteen representatives), the sixteen *Länder* parliaments (each of which sent six), and the federal government (which sent four members in an advisory capacity). Municipalities were represented by three members from the three central associations; although their membership was *ex officio*, they were entitled to speak and make proposals (Gburreck and Kleinfeld 2005, 123).

The main concern of the municipalities was to ensure that local self-government was respected and protected in accordance with Art. 28 (2) GG, which allows them to “regulate all local affairs on their own responsibility.” The central associations argue that this principle of self-government has been put at risk by the structural flaws and shortcomings of German federalism and that it has caused the sustained financial crisis. Municipal representatives have identified the decline in local tax revenue and the imbalance between delegated tasks and financial compensation by the Federation and the *Länder* as the main reasons for their financial malaise (Gburreck and Kleinfeld 2005, 125).

It was clear from the outset that the municipalities would not succeed in getting their proposals for a radical reform of local finances onto the CMFS’s agenda. But the prospects were better concerning another core demand. The municipal representatives insisted on the introduction of the connectivity principle in federal-municipal relations, unless the direct delegation of tasks by the Federation to the municipalities was not generally prohibited in Art. 84 GG. *Länder*

- 4 Examples include the Westphalia-Lippe and Rhineland associations of local authorities in North Rhine – Westphalia or the state welfare organizations (*Landeswohlfahrtsverbände*) in Baden – Württemberg.
- 5 The main reason for this variance is the creation of joint authorities for several smaller municipalities in some *Länder*.
- 6 If the European Union is taken into account as another level, municipalities and counties represent the fourth administrative tier.
- 7 A prominent example for this is the demand that the Federation should not be authorized to legislate that individual citizens may claim a place for their child or children in a kindergarten (Isensee 1995).
- 8 Art. I/5 (1), EU constitutional treaty: “The union shall respect the equality of Member States before the constitution as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government.”
- 9 The performance of tasks within the municipalities’ own field of activity is subject to legal supervision which, however, does not relate to the suitability of municipal decisions. The performance of tasks in the field of transferred activities are subject to expert supervision, which relates not only to the legality, but also to the aptness of municipal decisions. See section 3, below.
- 10 West Berlin was not considered to be a *Land*. Its citizens were not authorized to vote in federal elections but were indirectly represented in the Federal Parliament by twenty deputies (without voting rights) chosen by the West Berlin House of Representatives. Correspondingly, representatives sent by the West Berlin Senate (that is, the government) to the Federal Council had no voting rights.
- 11 In a political system, several tasks must be fulfilled: maintenance of internal and external security, (re)distributive policies, stabilization policies, maintenance of sustainability, and the allocation of public goods and services. The distribution of these responsibilities and functions amongst the different levels of a political system should follow the fundamental principle that services provided by the state shall correspond with the needs of the citizens and their preferences. In this context, the normative principle of subsidiarity applies, according to which public tasks should be performed at the lowest level possible; the *Land* should take action only if municipalities are not capable of doing so properly.
- 12 For example, 120 out of approx. 300 EU directives concerning the Internal Market had to be implemented by the municipalities. In general, these EU directives have to be transformed in federal and *Länder* laws (Thränhardt 1998, 365).
- 13 An example of a special purpose association is the Lake Constance Water Supply (*Bodensee-Wasserversorgung*), which was set up by 126 municipalities and 31 smaller *Zweckverbände* to provide nearly half of the *Land* Baden-Württemberg with drinking water.
- 14 The jurisdiction over taxes encompasses three elements of fiscal sovereignty: the claim to tax revenue; the authority to introduce, alter, and repeal taxes, including the right to change tax rates and the assessment basis, thereby increasing or decreasing the revenue; and the responsibility for the imposition, enforcement, and control of taxes. In a system of separate taxes (*Trennsystem*), specific tax revenue exclusively accrues to one

territorial authority. The alternative option is the distribution of specific tax revenue amongst several levels of government. In a system of joint taxes (*Verbundsystem*), tax revenue is distributed amongst the territorial authorities via quotas. The lower levels of government receive a share of tax revenue which is imposed by a higher level. In these systems, the fiscal autonomy of each level of government remains relatively high. The level of autonomy is considerably lower in an allocative system (*Zuweisungssystem*), where allocations of funds are transferred to the recipients by other levels of government (top-down as well as bottom-up) (Scherf and Hofmann 2003, 313 – 316).

- 15 Often, there is a *Hebesatz* differential between cities and municipalities. Larger cities especially are forced to set their *Hebesatz* at a higher percentage than smaller municipalities in their vicinity (Karrenberg and Münstermann 1998, 445).
- 16 This applies to Berlin and Hamburg. The situation in Bremen is different, because it consists of two municipalities (see section 2).
- 17 This source of revenue has become more salient in recent years. A growing number of tasks has been delegated from the municipalities to the counties without adequate financial compensation by the *Land*. Thus, many counties can only secure their budget by increasing this form of allocation from their municipalities.
- 18 The expression commonly used by municipal representatives, including the central associations, is “He who orders, has to pay” (in German: *Wer bestellt, bezahlt*;) See DStGB 2005a).
- 19 There are examples of conflicts between the federal government and German municipalities. In 1986, Munich’s city council decided to help out Nicaraguan municipalities. At the same time, the federal Ministry for Economic Cooperation and Development decided to discontinue all assistance (Nuscheler 1996, 385). Another case in point relates to the current situation in Iran. After the Iranian nuclear program was relaunched, members of the conservative Christian Democratic Party heavily criticized the mayor of Freiburg, a member of the Green Party, for the continuation of the town-twinning activities between Freiburg and the Iranian city of Isfahan.
- 20 Only the federal chancellor (Helmut Kohl) intervened when the *Länder* reluctantly agreed that municipalities would be represented in the Committee of the Regions (3 out of 24 seats). With the exception of Germany (with strong *Länder*) and Belgium (with very strong regions and communities as entities of the federal state at the subnational level), all other EU member states have incorporated the municipalities

following natural disasters, such as floods and storms, and also in reaction to large traffic crashes, accidents in chemical or nuclear power plants, and terrorist attacks.

24 Note that the German term *Bevölkerungsschutz* (protection of the population) illus-

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THE INTERACTION OF MUNICIPAL AND FEDERAL GOVERNMENTS IN MEXICO: TRENDS, ISSUES, AND PROBLEMS

Allison Rowland

1 INTRODUCTION

The gradual fall of the one-party political system in Mexico, beginning in the 1970s and culminating in 2000 with the election of the first non-PRI president in seven decades,¹ has transformed nearly all aspects of governance in the country, including intergovernmental relations and the activities of the local unit of government, the *municipio* (municipality). Everything from constitutional provisions to fiscal arrangements to interactions of federal and state line agencies with municipal government has been altered in recent decades, either as part of an attempt by the former ruling party to maintain its hold on power or in reaction to these attempts. As a result, the system of more than 2,400 local governments, 31 states, and one Federal District continues to be characterized by uneven change and increasing regional variation in practices and activities.

The present p 1a- an attempt bmcionrsystem o0o bs1(v oTJa.,w[o].o6v oit95s5has improved in Mexico as the re ment. The text also identifies several areas in which modifications in federal and state legal structures could improve this framework. Nevertheless, it stresses that noticeable gains in governance will take time, since dramatic change in political and legal spheres has taken place in an environment characterized by inexperienced and technically deficient local governments, whose current practices are a result of nearly a century of weakness relative to other levels of government (Merino 1998). Even the most advanced municipalities are immersed in an intense process of “learning by doing” as they try to respond to mixed and sometimes confused messages both from higher levels of government and from their own electorates.

Thus, the panorama of intergovernmental relations in Mexico is varied and rapidly evolving. The general direction appears promising, but many obstacles to improved policymaking remain to be overcome. Two examples of this pattern are explored in more detail in section 11. Here, the discussion of federal-municipal interactions in the use of federal property and the examination of strategies of image definition and promotion for certain places bring to light the specific

challenges facing municipalities, as well as the uneven process of change across the country.

2 CONSTITUTIONAL DIMENSION

Municipalities predate the establishment of modern Mexico by more than three hundred years. Their relatively disadvantaged legal and political status today reflects the reduction in their importance as part of the long process of consolidation of power at the central level, especially during the early part of the twentieth century (Merino 1998). Nevertheless, the Constitution of 1917, which remains in effect in amended form, defines municipalities in Article 115 as a republican, representative, popular, and “free” unit of government; most of the municipalities’ faculties, responsibilities, and revenue sources are specifically enumerated in this article. The structure of local government is laid out in the same article: a local council (*ayuntamiento*) to be led by the mayor (*presidente municipal*) and composed of a group of councillors (*regidores*) and comptrollers (*síndicos*), whose number varies according to municipal population and state law. These officials are elected for three-year nonrenewable terms on the basis of municipality-wide party slates, with Mexico’s version of proportional representation laws providing for a minimal presence of opposition parties in municipal governance.

In practice, this is a “strong-mayor” system, not only because the municipal president is guaranteed a party majority in council sessions, but also because the role of other council members is not clearly stated in law (Rowland 2004). This helps explain why the latter’s activities vary widely, both from place to place and within a single jurisdiction over time. The mayor names department directors for such areas as public works, police and

Recent trends towards increased attention to the formal rule of law in all areas of Mexican government, not to mention the rise of parties to compete with the PRI, have led to some new developments. Constitutional reform in 1999 defined municipalities as formal units of government rather than mere administrative subdivisions of the states, as they had been before. This paved the way for a growing number of “constitutional controversies” through which municipalities (and, in some cases, states) ask the Supreme Court to mediate in intergovernmental disputes. Municipalities rarely win these cases, since their scope of action is relatively restricted in legal terms, and all powers not reserved for them explicitly in law are considered state or federal domains. However, the growing importance of the law in determining municipal faculties and responsibilities, combined with more competitive and “cleaner” elections, has encouraged the expansion of the range of policies chosen at the local level, has improved local service provision, and has led to the development of new administrative and technical capacities.²

security” is interpreted to include local “preventive” policing, but these police officers must deliver suspects they capture to state officials, since municipalities do not have their own criminal courts.

The lack of precision in law about the ways that responsibilities should in practice be distributed among different levels of government may not be unusual in federal systems, but in Mexico this has resulted in some problems. On the one hand, as mentioned previously, it has facilitated the usurping of municipal spheres by state government. Some dramatic examples include state control of local police forces in the metropolitan area made up of the municipalities Port of Veracruz and Boca del Rio in the State of Veracruz; and state control of local mass transit in the immense municipality of Nezahuacóyotl, State of Mexico. In strictly constitutional terms, these practices are illegal, and many other examples elsewhere

However, if state governments are prone to ignore or usurp the areas in which municipalities have exclusive jurisdiction, they are, not surprisingly, even more likely to do so where responsibilities are nominally shared among levels of government. In other words, truly shared responsibility is more common on paper than in practice.

On the other hand, and perhaps more commonly, some basic public functions routinely go unmet by any level of government. Shared responsibility can often mean that residents have difficulty in deciphering just whom they should hold responsible for failures in government performance. Again, in part because of budget constraints, this kind of administrative limitation is more common in rural than urban areas. Thus, although the Constitution does not distinguish between



The definition and promotion of an urban agenda for the second type of cities – those that overlap municipal (and state) jurisdictions – is much more complex and problematic. Legally, the function of urban planning in such cases is assigned to the state and federal governments, but they rarely are active or successful in carrying out this role. In part, the problem is that the political benefits of doing so are not clear: few states appear willing to take over officially and manage such thankless and expensive tasks as urban waste disposal, water provision, or public security, even where economies of scale and greater efficacy clearly would be achieved. The increasingly plural political affiliation of Mexican municipalities has complicated this situation further, since many municipal presidents and governors see little reason to cooperate with politicians of other parties, even when improved urban governance is at stake.

These problems are especially dramatic in the Mexico City Metropolitan Area, where nearly twenty million residents, spread over two states, forty-one municipalities, and the Federal District (itself composed of sixteen precincts or *delegaciones*, the local unit of government in the DF) live in close physical proximity but under dramatically different governing structures. In forty other cities around the country, coordination among multiple municipal jurisdictions is also problematic.

4 THE FISCAL POSITION OF MUNICIPALITIES

An analysis of the fiscal position of Mexican municipalities must start with two general observations. First, the total amount of public revenue of all three levels of government amounted to slightly over 15 percent of GDP in 2000 (Rowland 2005). This is considered a low level of collection by international standards and may indicate other problematic aspects in the system. Second, the central government receives by far the largest share of this public revenue – even after taking intergovernmental grants into consideration – which is also notable in international terms.

Indeed, vertical imbalance has been a feature of Mexican public finance since at least the 1930s, when growth in the share of central government revenue began to surpass that of state and local governments. However, the problem was little noticed during much of the twentieth century, because local governments were in fact expected to fulfill few tasks (Fagen and Tuohy 1972; Graham 1968). Meanwhile, state governments typically received massive ad hoc subsidies from the central government, provided that their leaders cooperated with their federal counterparts.

The trend towards the increasing vertical concentration of public revenue began to reverse itself in the 1980s (Díaz Cayeros 1995), but the general pattern persists to this day, in spite of the vastly expanded role of municipalities in public service provision since then. In 2000, federal government collections amounted to 75 percent of total public revenue, states contributed 18 percent and municipalities 7 percent (IMF 2002).⁵

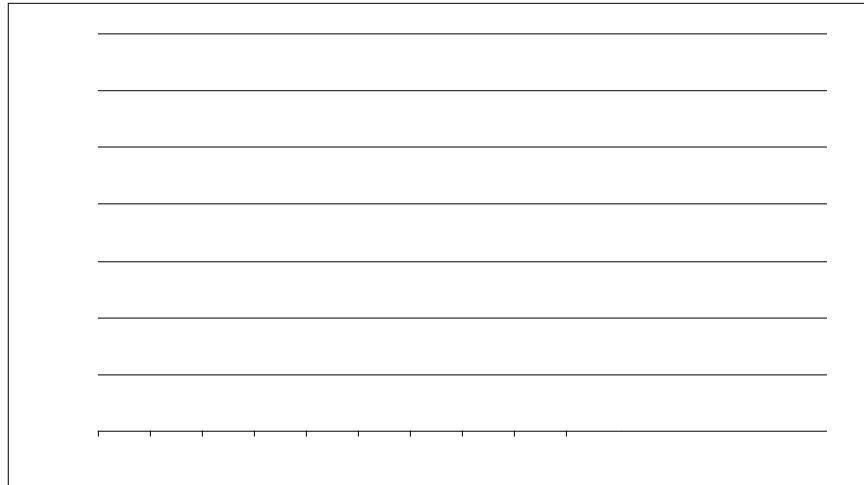
These national-level figures mask wide variation among particular jurisdictions. Still, part of the reason for the municipalities' small overall share in revenue

raising is related to the assignment of revenue bases. According to Article 115 of the Constitution, municipalities are entitled to exclusive access to the following revenue sources: property taxes, fees and charges for local services, and certain fines. Not surprisingly, the most important of these revenue sources in urban areas are the taxes on property ownership and sales (table 2). However, municipalities do not have independent taxing authority, so neither do they set their own tax rates (a state function) nor can they invent new taxes to cover expenditures. In fact, most municipalities depend much more on federal conditional grants and revenue sharing than on local tax revenues. These transfers have amounted to two-thirds of combined local budgets in recent years, as will shortly be discussed in more detail.

Table 2
Revenue Sources for Mexican Municipalities, 2002

	<i>Percent</i> ¹
Federal revenue sharing	34.4
Federal conditional grants	33.7

Figure 1
Evolution of Major Sources of Municipal Revenue, 1989–2002



Source: Derived by author from INEGI, SIMBAD 2005

between urban and rural municipalities. In 2000, federal revenue sharing to the municipalities nearly equalled the amount spent on conditional grants (SHCP 2000). However, unlike federal grants, revenue-sharing monies are distributed to municipalities via the states, according to their own criteria. The states are obligated to distribute 20 percent of the total revenue-sharing funds they receive among municipalities within their jurisdictions, but their internal rules do not always reflect concern for issues of horizontal imbalance among local governments. Instead, political criteria often appear to dominate these decisions.

In fact, Mexico has been remarkably ineffective – or uninterested – in addressing equalization among municipalities. Rowland (2001) argues that state and especially federal governments prefer to spend directly in rural areas rather than allowing municipal governments in these areas to exercise larger budgets. Again, the reason is that this direct spending by higher levels presumably offers the possibility of converting public monies into electoral advantage.

5 HOW MUNICIPALITIES ORGANIZE AMONG THEMSELVES TO DEAL WITH THE FEDERAL LEVEL

The federal structure of Mexico, along with its evolving political traditions, militate against direct, one-on-one relationships between central and municipal governments. Even under the one-party system, the state government or its party machine was normally consulted when the federal government planned any substantial activity in a municipality. Today, states jealously attempt to maintain their role as intermediaries in the federal-municipal relationship. It is not clear, at any rate, that the federal level has the administrative capacity to develop relationships of any depth or importance with many of the 2,400-odd municipalities. For example, the federal conditional grant program mentioned above is often criticized both as an illegitimate intrusion into state affairs and for its perceived ineffectiveness in ensuring that municipalities use these ostensibly conditional grants in the way they are intended to be used.

Nor is there any official body to represent the interests of municipal officials at the national or state levels. The official organs, such as INAFED (Instituto nacional para el federalismo y el desarrollo municipal) and its state counterparts, are oriented towards information-gathering and training programs rather than representing local interests. However, in recent years, at least three major non-governmental organizations have arisen in response to the needs and interests of local public officials. In spite of the fact that each of these groups – AALMAC (Asociación de

Still, while these non-governmental organizations have become important in terms of the definition of the agenda for improvements in municipal government (as shown by their work in the constitutional reforms to Article 115 in 1999), they are far from exerting a notable influence on other issues of government. A clear example of this is that although representatives of these groups were allowed to attend the first national convention of public finance in 2004 (Primera convención nacional hacendaria), their ability to influence decision making in that event was virtually non-existent. Not only are federal and state officials generally dubious of the potential of these organizations – and of their members – to contribute to the affairs of national and state government, but the extent to which municipal officials can agree on lobbying agendas is limited by the great differences among the interests of different types of municipality. The very profile of local government authorities in terms of administrative experience and educational background can also mean that political issues take a back seat to capacity-building efforts.

6 THE SCOPE OF MUNICIPAL-FEDERAL INTERACTION

Given the role of the states as intermediaries between municipal and federal governments, as discussed in previous sections, the scope of the direct relationship between the latter two is relatively circumscribed. In general, federal programs and financial support – even those with an explicit focus on municipalities – tend to be channelled via the states. Depending on the political importance and practices of each state, this level exerts different degrees of influence over the shape of programs within its jurisdiction. The major exception, as noted earlier, is the federal grant program known as Ramo 33, which has been controversial precisely because it aims to avoid state intervention.

The federal government does attempt – at least nominally – to include municipalities in some of its most important programs, including three that are defined in the constitution: the National System of Democratic Planning (SNPD), the National System of Public Security (SNSP), and, as of 2004, the National System of Social Development (SNDS). However, it is unclear whether municipalities play more than a symbolic role in any of these systems, which tend to be dominated by federal and state agendas. In addition, education, health, communications, and transport, as well as other line ministries, have some direct dealings with local governments, but these generally take place within a framework (*convenio*)



including the growing Hábitat program. But the states maintain wide discretion and bargaining power in the precise definition of these programs, and the results of their negotiations are rarely made available to the public.

Exceptions to this general pattern of limited direct federal-municipal interaction include international border zones, areas of domestic armed conflict, and regions in which federal property is particularly important in fiscal terms, such as the sites of petroleum extraction and processing, electricity generation, and federally developed tourist resorts. In these areas, the actions of the federal government are generally carried out in a flexible and ad hoc manner by particular line agencies (the Secretary of Defence or of Tourism) or semi-autonomous units (PEMEX, the state-owned oil company, or CFE, the Federal Electricity Commission).

7 THE NATURE OF THE MUNICIPAL-FEDERAL INTERACTION

As explained in the previous section, the extent of independence of Mexican municipal governments from the federal level depends in part on the issue at hand. It also depends on other variables, such as population and political and economic importance. For example, if the central government intends to undertake extensive new activities in large and prosperous municipalities like León or Tijuana, which are important both in terms of their role in the national economy and the number of voters who live in these jurisdictions, it must engage in a certain amount of negotiation with local authorities. In smaller and poorer jurisdictions, both federal and state governments have more leeway to ignore or try to manipulate local affairs.

Still, the formal constitutional definition of areas of exclusive municipal responsibility, combined with trends towards greater adherence to the law and growing dynamism in local government, mean that at the local level there is an increasing number of issues that the federal government tends to leave to its local counterparts. It is still possible, and even common, for federal government infrastructure or social welfare programs – which may have a substantial direct and indirect local impact – to be undertaken with little or no consultation with local authorities. Indeed, municipal, state, and federal governments at times appear to pursue parallel but unrelated agendas, with none adhering to plans or taking a more comprehensive view of a region or locality. Paradoxically, this does not imply much competition among levels of government: rarely is more than one actor involved in providing the same type of service, nor are voters normally given a choice among distinct service “packages.”

It should be noted, however, that the very existence of local policy agendas is relatively new in the Mexican context. Until at least the late 1980s, local elections tended to revolve around national issues, including both the management of the national economy and the desirability (or not) of unseating the PRI (Rowland 1997). This is no longer the case. While municipal authorities still routinely complain of the imposition of federal and state programs and priorities, the need to win competitive local elections (since the 1980s, in most municipalities) has

Still, it should be recalled that the majority of municipalities, especially in the central and southern regions of the country, have reaped little if any direct benefit from economic liberalization. However, these regions tend to be responsible for much of the migration to the United States in recent years, and this factor may exert a different kind of impact on local government behaviour. Approximately 21 million people born in Mexico or with family in Mexico live and work in the United States (CONAPO 2001), permanently or temporarily. Many of these migrants appear to adopt new expectations for their municipalities of origin. This is reflected in the large number of “hometown” associations in the United States (and elsewhere) that have organized themselves to finance and otherwise support community development programs at the local level back in Mexico.

Finally, international organizations such as the World Bank and the IMF have

Nevertheless, uncertainty over short-run national electoral and political outcomes persists. The paucity of tangible gains as a result of the political and economic changes in recent years – at least in certain regions of the country and for certain sectors of the population – has spawned support for national- and state-level candidates who call for a return to earlier nondemocratic practices of government. The success of such candidates might imply a return to previous patterns of intergovernmental relations, as well as greater government intervention in the economy.

may help overcome some of these persistent problems, but the personal cost and risk for individuals and families who opt to migrate remain high.

The growing internationalization of Mexican society may be more readily felt in urban municipalities, where migration is accompanied by the increasing presence of international firms and products, as well as by television and Internet access. The long-term impact of these changes is, of course, unknown, but they at least offer new sources of information to residents and may encourage them to demand more responsive and effective government. If this is the case, such demands may be most evident at the local level, where many of the services that affect residents most are provided. One illustration of the tendency to demand more from government is evident in the proliferation in recent years of non-governmental and non-partisan organizations, a novelty in this country after many decades of PRI cooptation or repression of independent social movements.

Other profound shifts in economic and demographic patterns may support social changes that favour the trend towards greater municipal autonomy and dynamism. As mentioned previously, the liberalization of the Mexican economy since the mid-1980s has resulted in a massive reallocation of comparative advantage in the northern regions of the country. Both domestic and international firms have increasingly settled outside the traditional consumer market of Mexico City to take advantage of new export opportunities to the United States. Residents have followed in search of employment opportunities, transforming what were until recently small cities into large metropolitan areas, as occurred with Tijuana and Ciudad Juárez. This has resulted in a shift of traditional migrant streams all over the country. The north has replaced the central valley of Mexico City as the primary destination both for rural-urban and urban-urban migrants. Thus, the twin

- Change in the country's basic economic model has served to undermine municipal dependence on higher levels of government in many regions. New market opportunities, cutbacks in state-owned enterprises, and reductions in federal subsidies for diverse activities have served to reorient the incentives for local government action, as well as those for citizens and firms.
- States, reacting to the same changes in context as local governments, are also reasserting their role in intergovernmental relations. In some cases, this may lead to support for improved local government; but in others, state governments appear to try to replicate the previous centralized, authoritarian system within their jurisdictions.
- The possibilities of fruitful interaction with federal and state governments are increasingly divergent for large (urban) and small municipalities. Urban municipalities have been much more successful in raising local revenues, which makes them less dependent on higher-level largesse. The rise of non-governmental municipal associations may help alleviate some of the problems for small localities, to the extent that these associations are not also dominated by the interests of their large counterparts.
- Remaining spheres of federal prerogatives in municipalities (such as *ejido* landholdings and tourist enterprises, as explained below) are the subject of increasing tension and demands by local governments for clearer rules.
- Frustration with some especially difficult social problems – such as crime and environmental protection – has led to calls for the recentralization of govern-

of the twentieth century, because of the hierarchical (top-down) nature of the political system. Specific problems or crises were resolved by the federal government, often via intervention by the corresponding state, on an ad hoc basis. However, as municipalities have gained a measure of power and autonomy since the 1980s, a variety of intergovernmental conflicts related to federal property

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that of its closest follower (CONAPO 1994; INEGI, SIMBAD 2005). Perhaps predictably, central planners had not taken into account the massive influx of new and impoverished residents and their need for housing and urban services. The result is a stark contrast between fully equipped luxury tourist services – airports, hotels, restaurants, shopping centres, discotheques, etc. – along the beachfront



image-building efforts is more complex to characterize. In some areas, especially those previously dominated by federal tourism investment, municipal governments still struggle merely to operate. While these are not the only local governments in Mexico that face severe obstacles to their functioning, it is important to note that federal intervention in their jurisdictions has generally only exacerbated their plight. In others areas, the support of international agencies and state tourism boards have stimulated municipal efforts to define and preserve a unique cultural heritage. In still other parts of the country, municipal government has come to play the key role in defining and promoting a local image chosen by local residents and businesses. This mix is consistent with the overall growth in complexity and variation of federal municipal interactions in Mexico during the past quarter-century.

13 IS THE SYSTEM OF MULTILEVEL GOVERNANCE ADEQUATE IN RELATION TO MUNICIPAL AND URBAN POLICY?

It is difficult to assess the adequacy of an intergovernmental system that is immersed in a context of profound political, economic, and administrative change, as Mexico's has been during the past two decades. Any judgment is influenced by explicit or implicit expectations about the ultimate outcome of these broader changes – for example, democratic consolidation versus a return to authoritarianism. Put another way, the degree of institutionalization of the new types of intergovernmental practice discussed in this text is insufficient to guarantee their continued existence, even in the short run.

On the one hand, the persistence of loopholes and vagueness in the legal framework of intergovernmental affairs makes a return to highly centralized government possible, especially if authoritarian forces retake national power. Even in a less extreme scenario, municipalities could see an erosion in their current space for action, as part of the common pattern in federal systems of shifts in levels of centralization over time (Wright 1990).

On the other hand, it may be significant that the three major political parties in Mexico eventually came to embrace decentralization efforts during the 1980s and 1990s. Local politicians of each party have come to balance, in varying degrees, the parties' inherent centripetal tendencies. In general, the consensus endures among the country's political classes that greater municipal dynamism and autonomy is a key to improved public policy and government effectiveness. Still, in certain circumstances – including compelling social problems, partisan political objectives, and entrenched corruption in all levels of government – these lofty ideals tend to be abandoned, especially by national actors.

In part, the challenge for maintaining the new style of decentralized multilevel governance in Mexico lies in convincing citizens that what is portrayed publicly as greater levels and frequencies of intergovernmental conflict is not necessarily an indicator of government ineffectiveness. However, the persistent reality of government failure – at all levels – in such key issues as poverty reduction, crime



control, and environmental protection, has begun to undermine the optimism and goodwill generated by the peaceful transition to multiparty electoral competition. After decades of struggle to democratize and decentralize Mexico (two goals tightly linked in rhetoric and practice), it is becoming more common to hear calls for a return to centralized rule and a “firm hand” on the part of national authorities. The open question is whether the proliferation of local experiences and local interest groups will be sufficient to resist these proposals.

In sum, the current system of multilevel governance in Mexico is inadequate, but this is a reflection of many other related problems in the rapidly evolving political and governmental system. Not all of the problems in the intergovernmental system can be addressed in the absence of continued progress on other fronts. Perhaps the most pressing challenge for municipalities at present is to take advantage of the current relatively wide space for local initiative to press for the establishment of certain ground rules that would hinder future attempts at recentralization. Such reforms should begin with efforts to sort out some of the

Table A3
Occupied Residences With Dirt
Floors in Municipality, 2000

Table A4
Nonagricultural Municipal Value
Added, 1999

<i>Percent</i>	<i>No.</i>	<i>Million pesos</i>	<i>No.</i>
90.0 or more	42	Less than 10	1,260
50.0–89.9	550	10–99	679
10.0–49.9	1,374	100–999	335
1.5–9.9	477	1,000–9,999	132
		10,000–19,999	23
		20,000–61,000	14

- 5 Data on expenditures are presented in section 3.
- 6 A recent estimate suggests that more than 18 million Mexicans, 17.3 percent of the national population, have incomes below that necessary to afford the “basket” of basic food items (Comité técnico 2005).
- 7 The precise amount and beneficiaries of these programs have not been made available to the public.

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NATIONAL, PROVINCIAL, AND LOCAL RELATIONS: AN UNCOMFORTABLE *MÉNAGE À TROIS*

Professor Nico Steytler

1 INTRODUCTION

In South Africa's recently engineered system of multilevel government, where local government plays a significant role in the governance of the country, a direct and extensive relationship between municipalities and national government has been forged. This relationship parallels, competes with, and ultimately oversignifying a radical departure not only from the pre-1994 apartheid state but also from the constitutional settlement of 1993.

2 CONSTITUTIONAL DIMENSION

2.1 CONSTITUTIONAL DEVELOPMENTS

Given the race-based and authoritarian nature of the apartheid state, the relationship between the centre and local government was dictated by race and central control (see Cloete 1988, ch 8). From the formation of the Union in 1910, white local authorities fell under the jurisdiction of the four provincial governments (which had limited powers of legislation). With the abolition of the provincial legislatures in 1983 and the institution of the tricameral parliamentary system, comprising whites, coloureds, and Indians, local government became the responsibility of the three race-based national departments responsible for local government. In white areas, the four provincial administrations (continuing without legislatures) remained the primary institutions managing local government. The national government directly governed the black townships that fell outside the "independent" homelands and self-governing territories. Despite the race-based

“federation,” the South African state was highly centralized, and the dominant relationship was between the central government and local authorities.

The advent of democratic rule in South Africa in April 1994 saw not only the formal abolition of race-based politics but also the decentralization of the state, with the formation of nine provinces of limited but protected legislative and executive competences. Provincial autonomy was one of the most contested elements of the new dispensation, and the ambivalence about provinces from the governing party, the African National Congress (ANC), still affects the national govern-

provincial governments have regulatory powers over how municipalities exercise their listed competencies (s. 155(7)). Regulation refers to setting frameworks within which local autonomy can be exercised responsibly. It has thus been argued that this does not include control that refers to the prescription of outcomes (De Visser 2005). Regulation, therefore, does not extend to the “core” of Schedules 4B or 5B matters; rather, it provides a framework within which, for example, local government can make bylaws.

There is a hierarchy of powers; the basic rule of paramountcy is that a municipal bylaw in conflict with national or provincial legislation is invalid (s. 156(3)). However, in some instances, a bylaw may trump a provincial or even a national law if the latter “compromises or impedes a municipality’s ability or right to exercise its powers or perform its functions” (s. 151(4)). This may be interpreted to mean that the national and provincial governments may not use their legislative powers in an unduly intrusive or prescriptive manner (De Visser 2005, 125). As far as internal matters are concerned, the appointment and dismissal of staff fall squarely within the competence of municipalities.

In sum, it could be said that municipalities enjoy a measure of autonomy against both the national and the provincial governments. This autonomy must, however, be exercised within the framework of cooperative government and under the supervision of both “superior” spheres of government.

Cooperative Government

Like the provinces, local government is drawn into the national legislative process by being part of the second house of Parliament, the National Council of Provinces (NCOP). Along with ten-member delegations of each of the nine provinces, organized local government also is entitled to a ten-member delegation, which may participate “when necessary” but may not vote (s. 67).

Although the NCOP has limited veto powers over legislation affecting provinces and local government, it has significant supervisory powers over provincial governments when they intervene in municipalities. It may set aside a provincial executive’s decision to intervene in a municipality by assuming any of its executive functions or dissolving a municipal council (s. 139).

Apart from the institutional architecture, hearing the voice of local government is also regarded as vital for the proper exercise of the national legislative function. Whenever the national (or provincial) government drafts legislation that affects the status, institutions, powers, or functions of local government, it must allow organized local government and municipalities to make representations (s. 154(2)).

Supervision

The national government plays an extensive supervisory role over local government. First, the basic institutional architecture of local government must be provided for in national legislation, including the establishment of municipalities, their demarcation, their structures and procedures, and their, financial management. Second, as noted above, the national government may play a

regulatory role over how municipalities exercise their autonomy (s. 155(7)). Third, along with the provinces, the national government must support local government (s. 154(1)). Fourth, while a general monitoring power is implicit, the national government must monitor local government's financial affairs. Fifth, the national government may indirectly intervene in a municipality in cases of maladministration. It may stop the transfer of funds for a limited period of time where a municipality is guilty of a persistent breach of good financial management. Although it is primarily the provinces' responsibility to intervene when a municipality fails to comply with its executive obligations or to adopt a budget or impose revenue-raising measures, the national government may step into the provinces' shoes when they fail to perform this function (s. 139(9)).

The Constitution has thus made it explicit that there is, alongside the provincial-local relationship, a clear national-local relationship. This relationship has been fleshed out in a number of laws. The practice of supervision has, however, been influenced by the constitutional recognition of different categories of municipalities.

Categories of Municipalities and Demarcation

The Constitution entrenches three categories of municipalities: A, B, and C. While category A is a self-standing, metropolitan municipality, "shared" local authority for B and C category municipalities is established for the areas falling outside the metropolitan areas. The basic units are the B category municipalities, termed local municipalities, a number of which combined to form a C category municipality, termed a "district municipality" (see Steytler 2003a).

The first round of demarcation in the democratic era saw the more than 2,000 race-based local authorities being reduced to 842 nonracial municipalities (including three metropolitan municipalities: Johannesburg, Cape Town, and Durban). The demarcation was done by nine provincial demarcation boards that made recommendations to the provincial governments.

In terms of the 1996 Constitution, the nine provincial demarcation boards were replaced by a single national Municipal Demarcation Board (MDB), on the argument that there was a need for a uniform application of policy, allowing also for the better use of the limited demarcation expertise (Cameron 2005). The MDB, whose independence was ensured, makes final binding determinations, without any direct provincial involvement. The task of the MDB was to demarcate the entire country into "wall-to-wall" municipalities. The outcome was a dramatic reduction in municipalities to 284, comprising 6 metropolitan, 46 district, and 232 local municipalities.

Although the three existing metropolitan areas remained the same, the new dispensation saw a radical change in their (and the three additional metros') governing structure. Whereas before there was a two-tier structure (a weak metropolitan council and strong substructures), the new system, much influenced by the Toronto model, created a single unified governing body. The size, land area, and provincial localities of the six metropolitan municipalities are set out in table 1.

Table 1
Metropolitan Cities: Population Size, Land Area, and Provincial Location

<i>City</i>	<i>Population in millions (1996)</i>	<i>Territory in km²</i>	<i>Province</i>
eThekweni (Durban)	2.7	2,291	KwaZulu-Natal
Johannesburg	2.6	1,664	Gauteng
Cape Town	2.5	2,498	Western Cape
Ekurhuleni	2.0	1,923	Gauteng

development (*Constitution*, s. 152). Local government must also participate in national and provincial development programs (*Constitution*, s. 153). To fulfill

4 THE FISCAL POSITION OF MUNICIPALITIES

Unlike the provincial government, which may exercise its constitutionally enshrined revenue-raising powers only within a nationally set regulatory framework, local government has exclusive access to property rates and user charges. The exercise of such powers may, however, be regulated by national legislation. The immediate consequence is that provincial finances show the worst case of vertical fiscal imbalance (provinces raising only 3 percent of their income), while local governments are largely self-sufficient (raising overall 87 percent of their income).

Although local governments can rely directly on the Constitution to levy property rates, most aspects of local finances are now done within a framework set in national legislation, as permitted or required by the Constitution. In this regard, provincial governments play no regulatory role but, as will be discussed below, emerge from the wings with the task of overseeing the implementation of the national regulatory framework.

Local governments' operating income budgets for 2003–4 of R72.9 billion¹ (comprising 82.4 percent of the total budgets) were based on the following revenue sources:

user charges (mainly electricity and water)	42.5%
property rates	19.6%
other (tariffs, fines, subsidies, etc.)	19.6%
intergovernmental grants	11.1%
business payroll and turnover levies	7.1%

With the abolition of the business payroll and turnover levies by the National Treasury in 2006, the lost income will in the short term be compensated by additional national transfers.

For the capital expenditure budgets of R16.7 billion, 45.9 percent of the revenue came from national and provincial transfers. Municipal borrowing has remained at low levels, the bulk (93 percent) being done by the metros.

4.1 REVENUE-RAISING POWERS

The Constitution entitles a municipality to impose rates on property and surcharges on fees for services – and, if authorized by national legislation – other taxes, levies, and duties “appropriate to local government,” but not income tax, value-added tax, general sales tax, or customs duty (s. 229(1)). The power to levy property rates and user surcharges is subject to the general limitation that it may not be exercised “in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour” and may be regulated by national legislation (s. 229(2)).

The regulation is now done via the *Municipal Systems Act* of 2000 (insofar as user charges are concerned) and the *Municipal Property Rates Act* of 2004. Not



only have these Acts provided an extensive regulatory framework, but they make provision for direct intervention by the National Treasury in municipal finances. A few examples will suffice. First, if a rate imposed by a municipality is materially and unreasonably prejudicing any of the matters listed in section 229(2) of the Constitution (listed above), the national minister responsible for local government must set an appropriate rate (*Municipal Property Rates Act, 2004*, s. 16). Second, the national minister of finance may set the upper limit on the percentage by which rates (or rates on a specific category of property) may be increased annually (s. 20). Third, while the Act lists a number of properties that are excluded from property rates (for example, the first R15,000.00 of the market value of any property), a municipality may apply to the national minister of finance to be exempted from any of the limitations if they compromise or impede the municipality's ability to exercise its powers (s. 18).

In a major policy initiative from the national Department of Mineral and Energy Affairs, municipalities are set to lose direct control over the surcharges on electricity. In an effort to rationalize the electricity distribution for the entire country, the national government intends to establish six regional electricity distributors (REDs) that would take over the electricity function from municipalities. Although municipalities will be shareholders in the REDs, they will not be able, individually, to set the rate of the surcharge and thus determine the revenue to be raised for cross-subsidizing other services. Indeed, the scheme is built on the premise that each of the six metropolitan municipalities would anchor one RED in an attempt to effect cross-subsidization of rural municipalities.² To implement this scheme may well require a constitutional amendment deleting "electricity reticulation" as a Schedule 4B municipal competence.

4.2 TRANSFERS

Along with provinces, local government is entitled to an "equitable share of the revenue raised nationally to enable it to provide basic services and perform the functions allocated to it" (*Constitution*, s. 227(1)). The equitable share is largely based on recommendations by the independent Financial and Fiscal Commission and serves as a horizontal equalization device. Municipalities may also receive conditional grants from the national government (s. 227(1)(b)). Table 2 sets out the distribution of revenue raised nationally between the three spheres of government in terms of the Medium Term Expenditure Framework (Wheelan 2004).

Relative to the provinces, local government's share of income raised nationally remains small (4.4 percent compared with the provincial stake of 57 percent). Transfers play a limited role in the budget of the larger municipalities, including all the metros, which collect between 94 and 97 percent of their own revenue. Poorer rural municipalities are much more reliant on transfers, which, in the worst case, amount to 92.1 percent of their revenue.

Transfers to local government have increased rapidly over the past four years, doubling to R8.8 billion in 2002–3 and rising to R12.3 billion in 2003–4. This trend is projected to continue over the next four years. With conditional grants

currently constituting slightly less than half of the transfers, there is a slow movement over a four-year period towards increasing the equitable share and thus local discretion.

Although the primary responsibility for supervising local government lies with the provinces, the primary source of conditional grants is the national government, rendering the role of provinces peripheral in this area. With transfers constituting the bulk of provincial income, and much of their expenditure predetermined by national norms on the payment of pensions, social grants, and salaries, there is precious little provincial largesse left transfer to struggling municipalities. Moreover, the administration of conditional grants for municipal infrastructure that was previously done by provinces has now been centralized at the Department of Provincial and Local Government (DPLG) (see section 11.2 below). Funding for housing is an exception. Housing is a provincial function, but all housing developments are undertaken by municipalities in terms of subsidies provided by provinces. Thus, the bulk of the funds that provinces receive from national transfers for housing is passed on by the provinces to “accredited” mpreA 0.71gov 1e5evial function,via3a Pro]

be prepared by the Municipal Financial Recovery Service, a unit of the National Treasury. The effect of this requirement is that provinces become the implementers of nationally prescribed measures. Moreover, the national government may also intervene instead of the province if the latter fails to discharge its duty or does so inadequately.

While the province has the primary responsibility to monitor and enforce prudent financial management, the National Treasury hovers in the background, performing selected monitoring functions, devising recovery plans, and keeping a close watch on the way provinces execute their supervisory duties.

5 ORGANIZED LOCAL GOVERNMENT

In a rather unusual feature, the Constitution requires the formation of organized local government (Steytler 2005b). This flows from the integral part that local government plays in the overall governance of the country and the needs of the system of intergovernmental relations to hear the national voice of municipalities. The Constitution requires an Act of Parliament for the recognition of national and provincial organizations representing municipalities (s. 163). In terms of the *Organised Local Government Act* of 1997, it is the national minister responsible for local government who recognizes, first, the bodies representing the majority of municipalities in the provinces, and then the body representing the majority of provincial bodies. The South African Local Government Association (Salga) has received this recognition both at the provincial and the national level.

At first Salga was the collective of provincial associations. However, to find a more national voice, the organization's constitution of 2004 provides that membership consists of both individual municipalities and provincial local government associations. The aim is to get a direct mandate from municipalities, and consequently membership dues and fees are payable by municipalities directly to Salga at its head office. It is important to note that Salga is not entirely self-funded – it receives a grant from the national government to cover some of its expenses.

While Salga's constitution does not deal with the relative weight of the large metros compared with that of small rural local municipalities, the dominance of the metros is apparent. The leadership is drawn from the ranks of metropolitan mayors and other large district municipalities. In such a large organization, unity of interest is not always at hand, since large cities move on a different trajectory from that of their poor rural cousins. Already the metros and the four largest local municipalities have joined forces in the Cities Network (referred to as a "learning network").

The performance of Salga has thus far not matched the constitutional recogni-

2003). In terms of its 2004 constitution, the Salga national executive has the power to stipulate which of the elected office bearers should serve Salga full-time. As

reflecting practice, the chairperson of Salga is a member of the PCC, the body at the apex of the IGR system, consisting of the president, the deputy president, four designated cabinet members, and the nine premiers. The PCC is styled “a consultative forum for the President” to discuss matters of national interest with provincial governments and organized local government and to hear their views. It is also a forum of consultation on the implementation of national policy and legislation in provinces and local government, and on the coordination and alignment of priorities.

A similar approach is followed in the various sectoral MinMECs; their composition includes a representative of organized local government where it is appropriate for the functional area (for example, in housing, transport, and health).

6.2 CONSULTATION OBLIGATION

The inclusion of local government in IGR forums flows from the more general constitutional principle that organized local government must be provided with the opportunity to make representations on behalf of its members on national and provincial legislation affecting their interests (s. 154(2) *Constitution*). In addition a number of legislative instruments oblige the national government, before initiating legislation, to consult Salga. For example, section 229(5) of the Constitution requires that national legislation, that regulates the powers of municipalities to impose revenue-raising measures, may be enacted only after organized local government has been consulted.

6.3 NATIONAL PROGRAMS

Through the Department of Provincial and Local Government (which, despite its name, is devoted mainly to local government), the national government has launched, in conjunction with the provinces, several programs aimed at the well-being of municipalities. Its flagship programs have been the Urban Renewal Programme (URP) and the Integrated Sustainable Rural Development Programme (ISRDP). Their main aim has been to provide strategic leadership and coordination across the three spheres of government to ensure development initiatives and

launched in 2003 as a partnership between the department and Salga. After provincial rounds of awards administered by the provinces, the national awards are made (South Africa, DPLG 2004a; Mutobvu 2004).

7 THE NATURE OF THE MUNICIPAL-NATIONAL INTERACTION

The Constitution establishes a clear hierarchy between the three spheres of government, which is clearly reflected in the relationship between the national government and municipalities. The national government determines the broad framework of local government, exercises some financial supervision, and transfers limited but significant funds to the municipalities. Outside these hierarchical relationships, there is arguably scope for a more equal relationship when the two spheres meet in intergovernmental forums. However, both the emerging legal framework and the practice of intergovernmental relations suggest a hierarchical bias towards the centre.

The *Intergovernmental Relations Framework Act* of 2005, in a subtle yet significant way, portrays the relationship between the spheres as a hierarchy. As noted above, the PCC is seen as “a consultative forum *for the President*” to discuss matters of national interest with provincial governments and organized local government and to hear their views (s. 8). It is also a forum of consultation on “the implementation of national policy and legislation” in provinces and local government (s. 9). A similar approach is adopted for MinMECs – they are the consultative forums “for the [national] ministers.” In contrast, the Premier’s Intergovernmental Forum (where a premier meets with district and metropolitan mayors and one representative of organized local government) is described as a forum for the premier *and* local government. The national bias reflects past practices; MinMECs were experienced as discussion forums dominated by the centre, with provinces as passive recipients of national guidance and information.

The same approach is evident in the formulation of municipal policy. The most significant national intervention in municipal policy has been the provision of free basic services. It came to the fore in the ANC’s local government election campaign of 2000 (Wheelan 2004, 6) and soon became national policy. Because of the massive costs involved in implementing free basic services in the area of water, electricity, and sanitation, municipalities had to be assisted. Although the National Treasury increased local government’s equitable share substantially to cover the cost, it did so only partially; municipalities still have to subsidize part of the costs from their own resources, and this places considerable strain on the financial viability of some. Despite their constitutionally protected status, the most significant factor in defining the relationship between the centre and municipalities is probably the overall political climate, in which government in all spheres is dominated by one party, a theme to which we will return later.

In spite of the implicit hierarchy underpinning the relationship, municipalities and Salga are not entirely docile and subservient, and they have sought to protect their limited constitutional space and interests. In the National Assembly Portfolio

Committee on local government, Salga has been very active over the years in commenting on key pieces of legislation on local government (Salga 2003). The push is towards a more equal relationship, as the following interchange between Salga and the minister for local government illustrates.

The minister has the power to make regulations or guidelines on the assignment of functions to local government but may do so only after consultation with Salga (*Municipal Systems Act*, 2000, s. 120(1)). The Minister thus forwarded a set of draft guidelines to Salga for comment within fourteen days (letter from Minister F.S. Mufamadi to the chairperson of Salga, 30 March 2005). The chairperson of Salga (and mayor of the Johannesburg Metropolitan Council) responded as follows: “It is submitted that being given the opportunity to comment unilaterally on a product does not constitute consultation. Consultation by definition requires a level of bilateral engagement and implies an attempt by the consulting parties to reach *consensus* (although such consensus is of course not a necessary outcome)” (letter dated 15 April 2005, emphasis in original). Salga thus proposed that a technical team be composed of Salga and DPLG representatives to commence the “consultation” process. The importance of this exchange is that consultation is seen as a joint decision-making process, a view to which national departments have not been subscribing.

8 THE ROLE OF PROVINCIAL GOVERNMENTS IN MEDIATING MUNICIPAL-NATIONAL RELATIONS

Local government’s relationship with the national government runs parallel to its relationship with the provinces. Formally, in terms of the Constitution, provinces have the power to regulate the municipalities’ exercise of their competences (s. 155(7)). In this they parallel the national government, although the provincial powers of regulation with regard to Schedule 5B matters (exclusive provincial matters) are relatively wider than those of the national government. Provinces are under the constitutional obligation to monitor and support municipalities, a duty they share with the national government. Their only exclusive function is the power of intervention in terms of section 139. As noted above, the primary monitoring role of the provinces has been affirmed in the *Municipal Finance Management Act* of 2003. Accordingly provinces have established departments of local government answerable to a member of the Executive Council (MEC). While these departments are primarily concerned with the institutional arrangements and functioning of municipalities, most other provincial line departments also interact to varying degrees with municipalities.

The two-track relationships do not always mesh; often they exhibit a measure of duplication and sometimes competition and conflict. The provincial treasuries are acutely aware that much of their monitoring efforts are duplicating those of the National Treasury, leaving the impression that they are simply a mailbox for municipal financial reports. Moreover, these parallel relationships are coloured by the fact that the funds lie at the centre, not in the provinces. Provincial departments of local government were much stymied when the municipal infrastructural

grants were removed from their jurisdiction and located centrally in the DPLG (see section 11.2 below).

Because of the parallel relationships, the mediation by provincial government of local concerns to the national government is not a major issue although there are some indications that the province can play a communication role. In terms of the *Intergovernmental Relations Framework Act* of 2005, the Premier's Intergovernmental Forum, consisting of the premier and the mayors of metropolitan and district municipalities, may forward matters of national importance to the PCC. These formal institutional arrangements do not, however, constrain municipalities from dealing directly with national departments. More specifically, metropolitan municipalities are more likely to do business with the national government than with their provincial governments.

Metropolitan councils control budgets that compete with those of their provinces. Not that size necessarily matters, but the disposable income in the hands of the metropolitan councils makes the difference – they have raised over 95 percent of their own revenue. Moreover, they have the same if not better skills than a number of provincial departments. This inevitably has led to the perception that the metropolitan councils do not need provinces for their health and well-being. This is also evident in the difficulties provincial departments experience in performing their usual monitoring and support functions. Not only do some

some municipalities along the border region of South Africa are establishing links with their neighbours, and cooperation agreements are emerging (Steytler et al. 2004).

The flourishing of local government's international forays did not escape the attention of the national government. Already in July 1999 the Ministry for Provincial and Local Government had issued an official policy document, *Municipal International Relations (MIR): A Policy Framework for South Africa*, providing nonbinding guidelines. Although municipal international relations are encouraged as an important developmental and strategic instrument for local government, the policy framework cautioned that international relations and networking do not become "activities in and for themselves" (para. 4.1.2). Rather, international relations should add value to municipal development programs. The policy framework also sought to give political direction to the focus of cooperation. Noting that most international linkages are with the northern hemisphere, it urged local government to develop stronger relationships with developing countries of the South; in particular, links with African countries should be emphasized in support of an African Renaissance. Although there is recognition that it would be inappropriate for national and provincial governments to regulate municipal international relations tightly (or "to approve all international involvement before it can proceed" (para. 5.1), the policy framework asserted that "organized local government in conjunction with national and provincial government needs to set a direction for municipal international relation." (para. 5.2.1). With municipalities giving little credence to the policy framework, the DPLG is currently considering legislation to regulate more closely municipalities' uncoordinated and mostly unprofitable foreign forays.

10 THE POLITICAL DIMENSION OF THE MUNICIPAL-NATIONAL RELATIONSHIP

Local politics are profoundly party-political and in most cases are dominated by national politics. This flows in part from the electoral system. The Constitution provides for a system of ward representation combined with proportional representation. Thus, in all metros and local municipalities with more than seven councillors, the German system of a mixed proportional representation system has been adopted. Fifty percent of councillors are elected in wards, while the other half are elected from compensatory party lists.³ Given that the final result must be proportional to the votes for political parties, parties are an integral part of the system. Moreover, with an imperative mandate, political parties exercise strict control over their members, because loss of party membership also means loss of elected positions. However, constitutional amendments in 2001 allow floor crossing in two window periods during a council's five-year term.

11 POLICY CASE STUDIES

In the two policy areas selected – emergency planning and infrastructure development – a strong municipal-national relationship is clearly evident.

11.1 EMERGENCY PLANNING

In the area of emergency planning – referred to in South Africa as “disaster management” – the national government has taken the lead in developing a comprehensive policy that seeks to integrate and align the efforts of all three spheres

members of the Executive Council must also convene a provincial disaster management advisory forum composed of provincial officials, the heads of each municipal disaster management centre, representatives of organized local government in the province, and role players in the private sector and civil society. Their function is to provide the link between national objectives and provincial and municipal disaster risk management activities and priorities. When a disaster occurs, the advisory forum must provide support and guidance to the provincial disaster management centre (*National Disaster Management Framework, 2005*, para. 1.2.4).

As noted the *Disaster Management Act* prescribes the formation of a disaster



Municipal Infrastructure Programme (CMIP). In addition, national departments such as Water and Forestry, Transport, and Mineral and Energy had specific conditional grants for water, sanitation, roads, and electricity.

In a significant policy shift in 2004, all national infrastructural grants were centralized in the Department of Provincial and Local Government (South Africa, DPLG 2004b). Infrastructural grants are to be administered by the national government, and all existing national infrastructural grants⁴ are to be combined in one consolidated grant, termed the Municipal Infrastructure Grant (MIG) and administered by the DPLG. The consolidation of the grants was said to flow from the uncoordinated and fragmented approach by different departments, often leaving municipalities out of control of infrastructural projects (South Africa, DPLG 2004c).

With the purse strings firmly in hand, the DPLG laid down policy. The MIG program is aimed at providing all South Africans with at least basic levels of services by 2013 through the provision of grant finance to cover the capital costs of basic infrastructure for the poor (ibid.). The DPLG thus describes the MIG as “a mechanism for the coordinated pursuit of national policy priorities with regard to basic municipal infrastructure while avoiding duplication and inefficiency associated with sectorally fragmented grants” (ibid., 12). The MIG may be used for infrastructure for basic household services (water, electricity, sanitation, roads, street lighting), public municipal facilities (transport, fire stations, cemeteries), and other nonmunicipal facilities (schools, clinics).

While the DPLG prescribes the pro-poor focus, the responsibility for prioritization, planning, and implementation lies with the municipalities. The objective of the MIG is to fully subsidize the capital costs of providing basic services to poor households. The MIG thus complements the unconditional “equitable share” allocation to municipalities that should be used to supplement municipal revenue to deliver free basic services of water, electricity, and sanitation to the poor. The third leg of grant support is the Municipal System Improvement Grant, aimed at building in-house capacity.

The allocation of MIG funds between municipalities is determined by the National Treasury. Using a formula, the funds are divided first among the different sectors (water, roads, etc.) and then among all municipalities based on their infrastructural backlogs. Each municipality’s allocation is according to a schedule attached to the annual *Division of Revenue Act*. The conditionalities of the grant come with regard to the purposes for which its may be used (prioritizing residential infrastructure), implementation methods (labour-intensive construction methods), and other procedural requirements (inclusion in an integrated development plan (IDP)). There may also be sectoral conditions in, for example, water and sanitation infrastructure. While there is an automatic transfer of funds annually, the enforcement mechanism is the decrease in size of the grant the following year.

In addition to the basic MIG, there is a Special Municipal Infrastructure Fund to which municipalities may apply for grants for special innovative or regional investment projects. Apart from the MIG Management Unit administering the MIG program, the DPLG established in 1998 the Municipal Infrastructure

Investment Unit (MIU) – a stand-alone company with the task of assisting municipalities with advice on the financing and management of essential municipal services such as water supply, sanitation, waste, energy, and transport.

Infrastructure policy and funding has thus become an entirely nationally driven enterprise. After losing the function to administer the Consolidated Municipal Infrastructure Programme (CMIP), provinces play only a peripheral role in municipal infrastructural development. Their role, described by the DPLG, is confined to their general constitutional role of monitoring and support, ensuring that IDPs are properly prepared, and providing technical advice on infrastructure for which they have responsibility, such as roads. The complaint of provinces is that on losing control over the distribution of funds through the CMIP, they have lost an important regulatory device. Without the sanction of manipulating money flows, provincial monitoring has lost much of its clout.

12 RECENT TRENDS

The recent trends in local-national relations, alluded to in the above text, can be summarized as follows. First, the national government is increasingly setting urban and rural policy. This has been most evident in the case of the policy on free basic services. Second, the national policy setting has resulted in a dramatic increase in the national transfers of funds to municipalities for the provision of free basic services through the “equitable share” allocation and conditional grants for infrastructure. The national restructuring of the electricity distribution through the creation of the regional electricity distributors (REDs) will impact significantly on municipal revenue, which, again, will result in national influence through increased transfers to municipalities.

Third, the increased policy intervention by the national government is followed by much closer national and provincial supervision of local government, aimed at ensuring the delivery of basic services. Project Consolidate is the most recent example of such a nationally driven but provincially implemented initiative. A further example is the nationally appointed and paid-for community development workers (CDWs). Paid by the national government and trained by the provinces, the CDWs have from 2006 been placed in selected municipalities to unblock linkages between municipalities and communities. This has resulted in an uncomfortable situation, where CDWs are working in municipalities and communities but are not finally answerable to the municipal councils concerned.

Fourth, the ever-shrinking realm of local autonomy is not arrested by the conduct of municipalities; they have not shown themselves uniformly to be prudent and successful custodians of local self-rule. Given local government’s constitutionally protected unfettered employment powers, the extravagant salaries paid to



60 percent lived in poverty, and 36 percent had no electricity (Le Roux 2005, 22). High salaries, coupled with appointments of underqualified persons (often as political patronage), have prompted the DPLG to promise legislative intervention, and a unified civil service for all three spheres of government is also in the cards. National legislation will structure the grades and salaries of municipal employees, leaving only the hiring and firing to municipalities.

A frequently articulated complaint is that some municipalities have become inwardly focused – the vehicle for a self-serving elite – rather than being community-centred. Popular perceptions are shaped by the use of municipal funds to support a high life of conferencing and overseas travel for the top management, and the dominance of party political appointments for both high and low municipal positions. The ultimate form of a self-serving municipality is corruption in its various forms. Numerous examples abound. The most dramatic recently was the arrest in August 2005 of the mayor and municipal manager of Mangaung (Bloemfontein) on multimillion-rand corruption charges.

Fifth, despite the negative perceptions of local government's ability to deliver development, its role as a key partner in the governance of the country was affirmed in the *Intergovernmental Relations Framework Act* of 2005. The Act institutionalizes the place of organized local government at the heart of the intergovernmental relations system, the President's Coordinating Council. Through the channels of communication created by the various provincial and district intergovernmental forums, local concerns are set to permeate decision making throughout the entire system of government.

13 THE ADEQUACY OF THE SYSTEM OF MULTILEVEL GOVERNANCE IN RELATION TO MUNICIPAL AND URBAN POLICY

Within the context of the parallel relationship that both the national and the provincial governments have with local government, it is clear that the national relationship dominates. This reality also reflects the uncertainty around the shape and role of the provinces in the future. Are they going to increase in significance with more functions and own-revenue-raising powers, or is there a slow demise in their governance role? Although it is sometimes argued that the growth in status of local government is not a zero-sum game vis-à-vis the provinces, the strengthening of local government's relations with the national government in South Africa has taken place at the expense of the provinces.

The critical point where provinces must still play the leading role is with regard to monitoring and support. Even this relationship is being undercut, because the primary financial relationship is between national and local government. Without independent revenue at their disposal, provinces do not have much of a stick or a carrot for municipalities. In the case of metropolitan municipalities, it is virtually non-existent.

In the municipal-national relationship, the dominance of the national government is clearly evident. Assessing the adequacy of the system of multilevel



governance relating to good public policy affecting municipal and urban policy has, therefore, become an evaluation of the adequacy of national policy. Any assessment is inevitably a comment on the functionality and value of a decentralized system of government in South Africa, seen against the background of the often inept and frequently self-serving performance of local government.

The first critique of the national-municipal policy is that local government is overregulated. Law has been thrown at every conceivable problem. While the Constitution holds out the promise of local democracy, the statutory framework created for municipalities is extremely complex and burdensome. Where the requirements are so onerous and costly, nonobservance becomes the inevitable reality, resulting in a state of lawlessness. Where a municipality has the skill to comply, there is a high compliance cost. Legislation is experienced as a hindrance, an obstacle rather than an empowering tool. Overregulation has led to under-compliance – the exact opposite of the intended outcome. Part to the problem has been the assumption of equal capacity.

The legal framework is premised on a notion of uniform municipalities; the law applies in equal measure to all municipalities, irrespective of their size, skills, or resources. While compliance is not an insurmountable problem for large municipalities, it is for small rural municipalities in impoverished rural areas. For the first time, this reality was recognized in the phrasing in of the *Municipal Finance Management Act*

government as a whole. Often the roles are not clearly defined, and sometimes they overlap with national responsibilities. The enactment of the *Municipal Finance Management Act* is an example of the creation of such overlapping responsibilities. The lack of clarity on roles, overlaps in jurisdiction, and uncer-

government, the national government's dominance of local government matters is not surprising. However, overregulation and overly prescriptive policies may emaciate local democracy, resulting in poor municipal and urban policy.

NOTES

- 1 Exchange rate: R5 equals Can\$1 (date February 2006).
- 2 At the time of writing (February 2006), the establishment of the six REDs is being reconsidered by the national cabinet as a result of concerns raised by the metros regarding the prospective loss of income.
- 3 The councils of district municipalities are composed of 40 percent directly elected members on closed party lists and 60 percent indirectly elected councillors from the local municipalities in the district.
- 4 The grants were CMIP, Water Services Projects, Community-based Public Works Programme, Local Economic Development Fund, Urban Transport Fund, Building for Sport and Recreation Programme, and National Electrification Programme.

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2 CONSTITUTIONAL DESIGN

The U.S. Constitution has no provisions concerning the place of cities in the federal order. American federalism is predicated on a constitutional division of power between the national government and state governments. At the nation's onset, the national government was weak and the states were strong. Indeed, the national government under the Articles of Confederation lacked its own authority to raise revenue or armies without the approval of the states. The Constitution adopted in 1789 was designed to overcome these limitations by creating a strong national government with a single chief executive charged with specific responsibilities for conducting foreign policy, ensuring national defence, and promoting commerce – albeit subject to checks and balances – while leaving the states largely responsible for domestic policy.

Although the United States is characterized as a federal system, this characterization refers to the national and state governments. The states are not organized as federal systems internally. Rather, they are unitary entities, and their authority over municipalities is limited only by their own constitutions and laws. This authority is embraced in a judicial doctrine known as Dillon's Rule, which is followed by the courts in the United States. The rule emerged out of an 1865 court case of Judge John F. Dillon, chief justice of the Iowa Supreme Court. Dillon, an expert on municipal law, later wrote a legal treatise, *Commentaries on the Law of Municipal Corporations*, expounding his views, which were widely accepted by state and federal courts (Richardson, Gough, and Puentes 2003). Dillon's Rule, which has been in effect for more than a century, states:

It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation, not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of the power is resolved by the courts against the corporation, and the power is denied.

Dillon's Rule supplanted the prior "inherent right of local self-government" view that led state legislatures to interfere freely in municipal affairs (Lang 1991). Of course, it was not until the mid-to-late 1800s that cities began rapid expansion in public services and infrastructure, often under the direction of political machines (DiGaetano 1991). Dillon's Rule was partially an effort to reduce political corruption and provide greater oversight of municipal administration (Richardson, Gough, and Puentes 2003). Dillon's Rule did not so much lead to good governance as replace local corruption with state corruption.

In the twentieth century, the Home Rule movement sought to reduce state intrusion and reassert local authority to address growing urban problems (Krane, Rigos, and Hill 2001). Home Rule was intended to restore the inherent right of local self-governance. State legislatures passed state statutes or constitutional amendments providing for municipalities to have greater control over local affairs

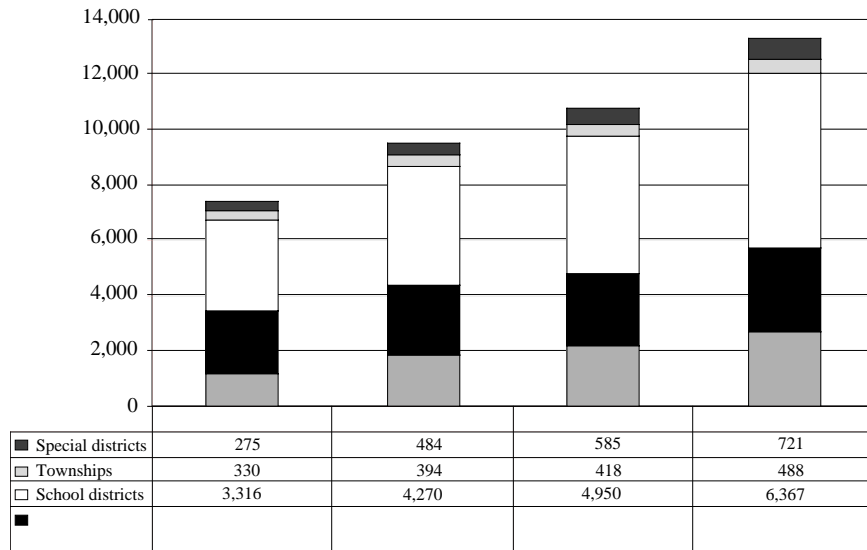
and to avoid undue state interference. In some instances, states may have been trying to provide municipalities with sovereignty akin to that of federal systems. In other instances, the states may have been seeking to provide a greater delegation of authority. However, in practice, Home Rule has had limited impact, for

and disposal, waste water and storm water drainage, public works such as roads and highways, street cleaning, and public safety. The exact services supplied by municipalities are determined by the states, as provided for in their state constitutions and legislation. Thus, there is wide variation in the specific responsibilities assigned to municipalities and the degree of discretion in carrying out those assignments.

Historically, education was provided as a municipal service in many large cities in the Northeast and Midwest. In the reform era, education services were often insulated from municipal authorities, including from the mayor. However, education continued to be included in municipal budgets. In the

Figure 1
Local, State, and Federal Government Employment, 1970–2002

Figure 2
Local Government Employment, 1970, 1980, 1990, 2002



4 THE FISCAL POSITION OF MUNICIPALITIES

U.S. municipalities generate a significant share of their revenue – well over 65 percent of their budgets –

Table 2
Local Government Associations

<i>Group</i>	<i>Year created</i>	<i>Represents</i>	<i>Mission</i>	<i>Policy agenda</i>
United States Conference of Mayors	1932	Mayors in cities of over 30,000 (1,183 members)	Development of effective national urban/suburban policy Strengthen federal-city relationships Ensure that federal policy meets urban needs Provide mayors with leadership and management tools Create a forum in which mayors can share ideas and information	Metro agenda: "Keeping America Strong," acknowledging prime role of city-regions as "engines that drive this nation's economy." Jobs Infrastructure Transportation investment Public safety Brownfields redevelopment
National League of Cities	1924	Municipal governments (18,000 cities, villages, towns; 1,600 paid members)	Advocates for cities and towns in Washington, DC Promotes cities and towns in media Trains local leaders Keeps leaders informed Provides opportunities for involvement and networking	Enact a transportation bill Support municipal economic development (CDBG and Section 8 housing vouchers) Homeland Security funding (money for training) Protect local tax authority and revenue in tax reform (deduction of state and local income and property taxes, tax-exempt bond financing) Preserve local government's authority to regulate and tax communications services

... continued

Table 2
(Continued)

<i>Group</i>	<i>Year created</i>	<i>Represents</i>	<i>Mission</i>	<i>Policy agenda</i>
National Association of Counties	1935	Counties (3,066; 2,000 members)	Advocacy in Washington Membership Communications to present good image for counties Products, resources, and services for members	Assuring necessary federal funding for critical county programs, the protection of county authorities, and opposition to unfunded mandates Support health-care financing Support remote sales tax collection legislation Support surface transportation reauthorization Support social services and workforce programs reauthorization Support an extension of deadlines for Help America Vote Act Support reauthorization of Forest Counties Safety Net Oppose preemption of local authorities and unfunded mandates
International City/County Management Association	1914	City and county managers	Create excellence in local governance by developing and fostering professional local government management worldwide. [Activities engaged in include advocacy, professional development, and research.]	

Excerpted from the following sources:

- United States Conference of Mayors, *Keeping America Strong: Mayors '04 Metro Agenda for America's Cities*, www.usmayors.org/usem/news/press_releases/documents/chicagoagenda_081004.pdf
- National League of Cities, "NLC Leaders Set 2005 Advocacy Agenda," *Nation's Cities Weekly*, 17 January 2005. Online at www.nlc.org/Newsroom/nation_s_cities_weekly/weekly_new/2005_01_17/1746.cfm
- National Association of Counties, "2004 Legislative Priorities," *County News Online*, 22 December 2003. Online at www.naco.org/CountyNewsTemplate.cfm?template=/ContentManagement/ContentDisplay.cfm&ContentID=10715
- International City/county Management Association, *ICMA's Strategic Plan 2000*, www.icma.org/main/bc.asp?ssid=17&ssid2=2752&ssid3=2752&from=search&hsid=1&bcid=32

bypassing normal grant and bureaucratic review processes (Streeter 2004, 1). Not

states and local governments often sought federal aid for their own purposes leading federal officials to complain of poor implementation, while state and local officials complain of overly rigid rules and little discretion.

Changes in the grants-in-aid system and federalism are related to the political interests of presidents and their re-election fortunes. The extension of the categorical grant programs under Lyndon Johnson's presidency rewarded Democratic mayors in the big cities of the Northeast and Midwest, the base of the Democratic Party. The federal government was able to ensure that money went directly to the mayors and groups in the cities rather than being redirected by state governments, which are less responsive to city interests. Two signs of the new place of cities on the national agenda were the creation of the Office of Economic Opportunity (OEO), directly in the Executive Office of the President, and the newly created Department of Housing and Urban Development (Vogel and Harrigan 2007).

The place of cities on the national agenda was short-lived however Republican Presidents Nixon, Ford, Reagan, Bush I, and Bush II had little regard for the mayors and were uninterested in or hostile to the interests of large cities. The cities are not central to the Republican strategy to gain and hold the White House. Republicans have secured the presidency by appealing to the growing suburbs, especially in the South and West. Moreover, the Republican presidents have favoured a more limited federal role in domestic affairs.

Under Richard Nixon (1968–74), there was concern that the federal government was growing too large and eclipsing state and local initiative with the growth of federal grants. Under New Federalism I, also known as fiscal federalism, the federal government provided revenue sharing to states and local governments with no strings attached. Categorical grants, which were primarily aimed at large cities, were targeted for consolidation into block grants. This marked a shift away from the grant policies that bolstered big-city mayors in the Northeast and Midwest, the Democratic strongholds. The *New York Daily Post's* headline, "Ford to New York, Drop Dead," during the New York City bankruptcy crisis of 1975, highlighted the declining position of cities on the national agenda.

Under Ronald Reagan (1980–88), New Federalism II took a sharp turn to the right. Citizens' Basis of (Northern mast ae.7-k)13(e[(Under Ronald Dk920.5(Tunt Tj/F6)TJ/F6(Tunt T)(,31

government brought a small amount of money to the table, about \$3.5 billion, and hoped to leverage this with other federal, state, and non-governmental support. The thrust was to fuse liberal intervention policies that focused on places with more neoconservative policies that emphasized reliance on markets. Thus, HUD helped finance the destruction of large-scale public-housing complexes alongside local efforts to build more mixed-income neighbourhoods. The federal government helped initiate local community development banks that would help jumpstart more entrepreneurialism in inner city minority communities to create jobs and stabilize neighborhoods. At the same time, the federal government would help finance the hiring of 100,000 new police in the cities (and suburbs) to fight the rising rates of violent crime.

In 2000 George W. Bush ran on a platform of “compassionate conservatism” but whether this was a coherent policy approach or rhetoric was never clear. The terrorist attacks on 9/11 and later the Iraq War moved urban policies and the cities entirely off the national agenda. The costs of the Iraq War, estimated at \$1.2 tril-



Although there has been a *de facto* devolution in American cities with mixed effects, the national government continues to play a strong role in domestic policy. The entitlement programs that aid people instead of places account for a large share of the national budget. This includes programs such as social security and Medicare. Overall, the evidence indicates that in spite of the language of devolution and decentralization, the national government has actually centralized policy, even in areas which the Constitution traditionally reserves to the states (Bowman and Krause 2003).

Increasingly, national policymaking is made without reference to the problems of cities and with little direct input from city officials. Local officials lament that the federal government no longer accepts responsibility for urban problems. According to the National League of Cities, “the intergovernmental partnership ... is slowly deteriorating.” The NLC points to the increasing deficits as a factor in “the smaller federal role in assisting municipal governments with domestic priorities.” Local governments are left shouldering the costs of infrastructure and services without federal assistance. Further, the federal government adds insult to injury by increasing unfunded federal mandates and pre-empting local authority (NLC 2005, 5). Close observers of the federal system decry the current state of intergovernmental relations in the United States. William Barnes (2005), the research director of the NLC, bluntly states, “The era of federal urban policy is, like, way over” (*ibid.*, 575). John Kincaid, former executive director of the Advisory Commission on Intergovernmental Relations refers to the current state of federalism as “coercive federalism” (1996, 29). Others call it “fend-for-yourself-federalism” (Hoene and Pagano 2003).

Robert Waste (1998, 21) attributes the “political invisibility of American cities” to the U.S. Constitution’s provision for there to be two Senators for each state resulting in a “structural bias” against cities and towards rural areas. In the 1990s a coalition of the twenty-six smallest states with 16.5 percent of the population could block urban policy in the Senate (Waste 1998, 23). This bias against cities is reinforced by the Electoral College system used for presidential elections since a state’s electoral vote is tied to the number of seats held in the U.S. House of Representatives and Senate. Hence, the anomaly of George W. Bush’s failure to capture the popular vote in 2000 while gaining a majority of the Electoral College.

7 THE STATES AND THE CITIES

George W. Bush and the Republican Congress through 2006 preferred to work through state governments rather than directly with municipal officials. There are few ties between big-city mayors and the national government today. Most federal aid to local government now flows through the state governments. This has led to significant problems for mayors, who have difficulty being heard. Although cities, especially the larger cities, are more likely to be targets of terrorism (Savitch 2003), most aid to municipalities to protect against terrorism flows through state governments (Eisinger 2004). The states have been reluctant to give the largest cities their share of the resources. Even in an area such as Homeland Security,

especially the National League of Cities and the U.S. Conference of Mayors. What cities really want from state government is more autonomy, especially to raise revenues and to be free from state mandates that raise costs. Cities also seek greater aid and investment from the state (*ibid.*, 747–8).

At the substate level, regional governments are almost non-existent, with the exception of the Metropolitan Planning Organizations (MPOs) and voluntary associations such as a Council of Governments (COGs). In the 1990s there appeared to be some promise of greater regionalism in U.S. metropolitan areas (Savitch and Vogel 1996). Two factors were promoting greater regionalism. First, the federal government, through its transportation policies, required an MPO to be established for every metropolitan area in order to develop short and long-term transportation plans. Further, significant transportation projects required MPOs to undertake major investment studies to consider costs and benefits and to ensure that transportation projects were consistent with regional transportation and land-

(*ibid.*, 861). Under NAFTA, municipal policies promoting local industries are regarded as trade barriers. The effect of this kind of agreement is to centralize greater authority in the federal executive branch over domestic policies that are otherwise under the authority of state and local officials.

In practice, NAFTA has led to greater federal centralization in the executive branch. Warner and Gerbasi highlight that NAFTA has redefined property rights that otherwise are determined by the fifty states following state laws and constitutions. NAFTA provides for “foreign investors to bring nations into international arbitration to defend government measures that affect their private investments (property) negatively, and redefining property to include future profits, market access and market share” (*ibid.*, 862). State and local governments no longer set the boundaries for balancing the public good with property rights. The U.S. Government will represent state and local interests in arbitration. “In effect, this system replaces domestic processes with international courts and law, shifting disputes regarding domestic state matters to an international venue” (*ibid.*, 863). The US government is likely to trade off state and local government interests and prerogatives on behalf of broader national goals. Of course, the same holds true for Canada and Mexico, which also are parties to NAFTA.

Warner and Gerbasi examine the case of Methanex in California to explore the consequences of NAFTA for subnational governments. In 1999 the California legislature imposed a ban on the chemical methyl tributyl ethanol (MTBE), a chemical gas additive, after evidence was found that public drinking water was contaminated. A study for the California State Senate reported that \$160 million to \$300 million was required for remediation and that residents had suffered property value loss due to contaminated wells. Some California cities had also been awarded about \$40 million from U.S. courts after suing refineries for groundwater pollution. The Canadian company Methanex challenged “the United States over the California ban in a NAFTA arbitration and is claiming US\$970 million in damages including good will, reputation and future profits” (*ibid.*, 864). Methanex produces methane, which is an ingredient of MTBE. Among the claims made by Methanex is that the additive ethanol, manufactured by U.S. companies, is used, thus favouring U.S. companies over Canadian ones. According to Warner and Gerbasi,

These claims would not be successful within the US legal system. First, the damage claim would not survive. Methanex is asking for a partial takings ruling based on the loss of 6% of their production. In the US system, property must lose nearly all of its value to require compensation for damages due to regulations. Second, most

Although the Methanex claim was rejected by the NAFTA tribunal in 2005 (Corsi 2006), many believe that it is just a matter of time before some actions of state or local government are deemed to have violated NAFTA provisions. Warner and Gerbasi point out that once this occurs, “the federal preference for free trade is substituted for democratic legislative and judicial action at the subnational (state and local) levels” (2004, 864).

Clearly, cities are engaged in the international arena. Yet there remains little systematic study of the scope and scale of their involvement. This is an area ripe for further investigation. Certainly, the Seattle WTO riots reveal increased awareness by cities and citizens of the possible effects of international trade agreements on urban life. Many states and cities maintain permanent overseas trade offices. Many cities have created international offices to coordinate “sister cities” programs. Cities appear to be taking a strategic approach to this kind of partnership

congressional races, and it maintained a substantial hold over important state governorships. Both would later furnish George W. Bush with a powerful base.

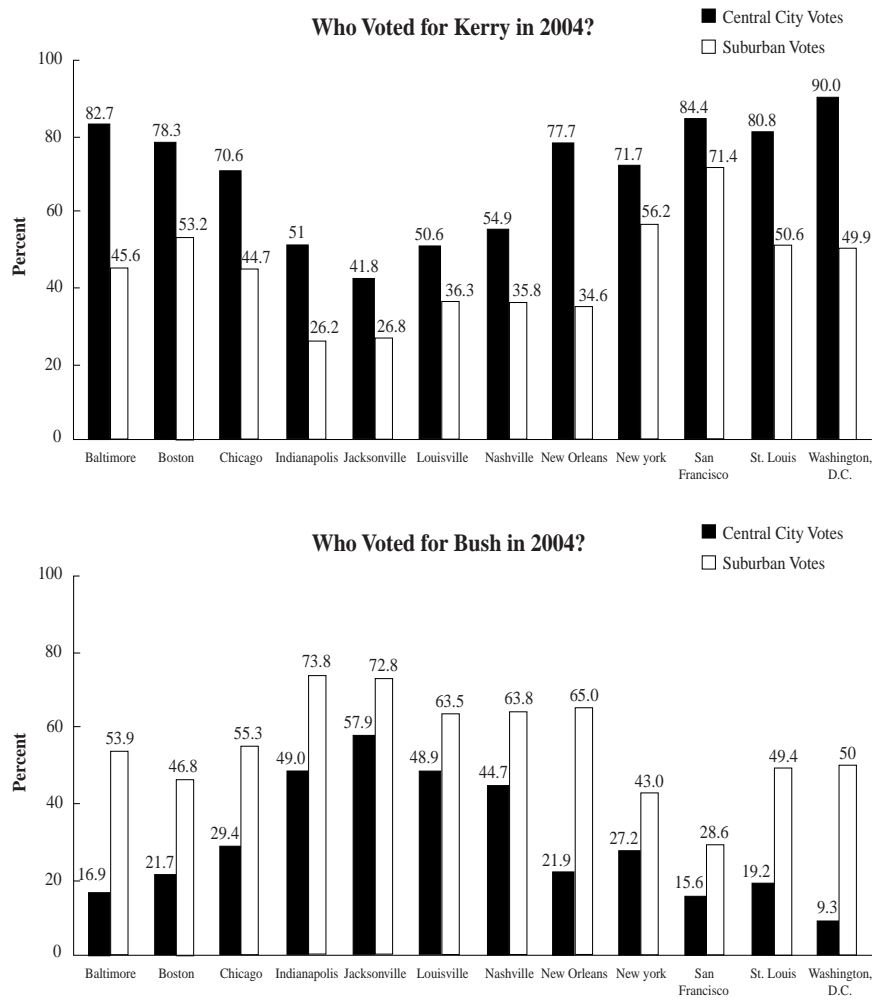
National elections in 2000 (Bush v Gore) and 2004 (Bush v Kerry) were the crucible over whether the new right or centrist Democrats would prevail. After a controversial defeat in 2000, hopeful Democrats pointed out that while Bush had captured the Electoral College, Gore held the real American mandate by having won the popular vote. By 2004, the nation had a clear answer. Relying on the suburban-southern coalition, Bush and his strongly conservative allies were swept into office. Clearly, the political outcome rested on a sharply divided geographic landscape whose contours would shape domestic policy for years to come.

Figure 4 shows the extent of this political split. It uses twelve central cities and their surrounding suburbs to illustrate the sharply different voting patterns between Democrat John Kerry and Republican George Bush in the presidential election of 2004.

Figure 4 depicts a bifurcation of political behaviour. Cities are moving decisively towards the left and suburbs are moving just as decisively towards the right. Kerry won almost all the core cities, while Bush carried almost all the suburbs. These differences were not only very clear but also overwhelming. Kerry won upwards of 70 percent in eight out of twelve cities. Although Bush's victory in the suburbs was less substantial, he carried the suburban electorate by a comfortable margin. Moreover, cities that voted most heavily for Kerry were more densely populated, contained greater mixed uses, or held larger minority populations (Baltimore, New Orleans, New York, San Francisco, St Louis and Washington, DC) than those where Kerry's margins were slimmer (Indianapolis, Louisville, Nashville). In sum the more "urbane" the city, the more heavily it voted Democrat, while sprawled metropolitan areas outside the central city voted Republican in greater numbers. These observations are confirmed by exit polls and other studies that found a distinct relationship between the size of a jurisdiction and its political disposition. Cities, especially large cities, vote for candidates on the left (or in the American context, that are more "liberal") while smaller, less dense jurisdictions elect more "conservative" candidates on the right (Sauerzopf and Swanstrom 1999; Wolman and Marckini 2000).

Clear and polar social attitudes underlined these differences in voting behaviour. Core cities voted for the "liberal" candidate who favoured a greater degree of income redistribution, social welfare programs, and a separation between religion and state. By contrast, suburbs opted for the "conservative" candidate who favoured fewer restrictions on private enterprise, a less progressive tax system, fewer social programs, and a closer relationship with religion. By the year 2000, the highly polarized politics that once characterized the body politic of core cities was transferred into sharp distinction between jurisdictions.

Figure 4
Selected Central Cities and Suburbs 2004: Votes for President



Source: H.V. Savitch, and R.K. Vogel, "L'hyperpluralisme des Villes aux Etats-Unis," 2006

in national elections. This encourages "forced majorities" that are channelled into one or two major parties, and this reduces the chances of minority candidates winning office. Constricted political choices often depress voting turnout among the least affluent sectors of the population. It is no coincidence that on average less than 60 percent of the population votes in national elections and about 30 percent of citizens vote in local elections.⁷ Moreover, core cities hold only 30 percent of America's population, and opportunities for establishing coalitions outside these areas are limited.

Clinton was unable to pass the mantle in 2000 in a contested election, weakened by impeachment. Clinton's success was due in large measure to his own charismatic personality, his southern roots, and his ability to blend liberal ideology with market-based policies. Democratic coalitions cannot win in the cities alone. Few Democrats can garner votes in the suburbs and the South while retaining the central cities and minorities in the Midwest and Northeast. Even Clinton was unable to translate this into policies that were greatly beneficial to large cities. The locus of American national politics has shifted to the more conservative and Republican suburbs and exurbs.

10 MULTILEVEL GOVERNANCE AND THE FLOODING OF NEW ORLEANS

The 2005 disaster in New Orleans raises questions about the way the multilevel governance system actually operates and the effectiveness of current arrangements. Political scientist Brian Jones (1980) reminds us: "Delivering services is the primary function of municipal government. It occupies the vast bulk of the time and effort of most city employees, is the source of most contacts that citizens have with local government, occasionally becomes the subject of heated contro-

were to implement these programs. This partially explains the small size of federal employment when compared with that of state and local governments (see figure 1). Under categorical grants, the federal government typically picks up 80 percent of the costs of a program, and the state and local share is 20 percent. The initiative for applying for the grant remains with the local government as well as

American Society of Civil Engineers' 2005 infrastructure report card, which found transit infrastructure went from a C-



The course of the hurricane seemed to spare New Orleans from the worst of the storm. However, initial relief turned to horror as officials realized that dam levees were failing, leading to the flooding of 80 percent of the city (Federal Response to Hurricane Katrina: Lessons Learned 2005). Although most citizens evacuated, some 100,000 people were left behind, most of them poor and black. The city was ill prepared to evacuate so many people, and insufficient shelters or provisions were in place. About 25,000 people were trapped in the Superdome without enough water or food and with poor sanitary conditions. Another 20,000 people went to the Convention Center, which was never intended as a shelter (Comfort 2006, 501, 506).

Americans watched images on their televisions of survivors having to fend for themselves with no sign of local, state, or federal officials coming to the rescue. Many tried to leave on foot, crossing the Crescent City Convention Bridge, only to be turned back at gunpoint by sheriffs of Gretna, Louisiana, who apparently feared invasion by mobs of black looters (Comfort 2006, 506). Viewers had trouble believing that this was a disaster in a modern American city rather than in a Third World country. The hurricane was a natural disaster, but it appears that the flooding was the result of human disaster – an incomplete, poorly designed, poorly constructed and poorly maintained levee and flood-control system (ibid., 503). The costs of the disaster are estimated at between \$100 billion and \$150 billion, with 1,293 dead in New Orleans and southern Louisiana, and 306 dead in southern Mississippi (University of California, Berkeley 2006, 15–1).

A number of national commissions and studies have been undertaken to try to account for the disaster (see table 3). The Hurricane Pam exercise in the summer of 2004 warned that a category 3 hurricane would lead to the flooding of New Orleans with some 300,000 people “trapped” in the city (van Heerden 2004). The report highlighted the vulnerability of the city sitting below sea level. The exercise pointed to the need to develop “a long-term coastal restoration plan to ensure New Orleans’ survival.” Unfortunately, the city, state and federal government failed to act to address the issues that the Hurricane Pam exercise foreshadowed.

Following 9/11, the framework for emergency planning had been changed. The Office of Homeland Security was created, and FEMA and other agencies were brought under the new cabinet department’s auspices. The emphasis of Homeland Security was on planning and responding to terrorism. Although FEMA has a role to play in this, as evidenced in the response to the destruction of the Twin Towers, FEMA lost its direct access to the president and Congress, since it was no longer an independent agency. As initial assessments are made regarding the disaster in New Orleans, the national reorganization certainly appears to have significance (Stehr 2006, 21). The testimony of Michael Brown, former FEMA head, before a congressional committee pointed out that FEMA was down one-fourth of its workforce and that Secretary Michael Chernoff of Homeland Security did not support FEMA budget requests for equipment and personnel. The testimony also highlighted the Republican view of the president and Congress that the federal government take a secondary role in emergency planning and response. Of course, this explanation does not match the expectations of citizens and emergency-planning laws that the federal government respond when the scale of the disaster overwhelms state and local capacity or resources.

Table 3
Studies Analysing the New Orleans Flood

	<i>Findings</i>
U.S. Army Corps of Engineers	<p>Most of the flooding should not have occurred and was due to “breaches in floodwalls and levees.”</p> <p>Flood protections system “did not perform as a system.”</p> <p>No redundancy in the system; pumps not operating.</p> <p>“Incompleteness of the system.”</p> <p>“Inconsistent levels of protection” and problems with materials, design, and construction.</p>
U.C. Berkeley-led Levee Investigation Team (NSF Study)	<p>“The resulting catastrophe had its roots in three main causes: (1) a major natural disaster (the Hurricane itself), (2) the poor performance of the flood protection system due to localized engineering failures, questionable judgments, errors, etc. involved in the detailed design, construction, operation, and maintenance of the system, and (3) more global ‘organizational’ and institutional problems associated with the governmental and local organizations responsible for the design, construction, operation, maintenance and funding of the overall flood protection system.”</p> <p>Among the failures related to governance were (1) “failures of foresight” to prepare for hurricanes, (2) “failures of organization” which “lacked centralized and focused responsibility and authority for providing adequate flood protection,” (3) “failures of resource allocation” with state and federal governments failing to fund many Army Corps of Engineers projects and pursuing less expensive solutions, (4) “failures of diligence” in completing the flood protection system set up following Hurricane Betsy in 1965, “failures of decision making” emphasizing “efficiency” over “effectiveness” to save costs, (5) “failures of management” with the Corps reducing its focus on flood control and “engineering quality” as it responded to other agendas pushed on it, (6) “failures of synthesis” in failing to recognize that the parts did not equal a whole, and (7) “failures of risk assessment and management” in underestimating the “risks (likelihoods and consequences) associated with hurricane surge and wave induced flooding.”</p>
Senate Homeland Security and Governmental Affairs Committee	<p>The report pointed to “the failure of government at all levels to plan, prepare for and respond aggressively to the storm ... Among the many factors that contributed to these failures were four overarching ones: (1) long-term warnings went unheeded and government officials neglected their duties to prepare for a forewarned catastrophe; (2) government officials took insufficient actions or made poor decisions in the days immediately before and after landfall; (3) systems on which officials relied on to support their response effort failed; and (4) government officials at all levels failed to provide effective leadership. These individual failures, moreover, occurred against a backdrop of failure, over time, to develop the capacity for a coordinated, national response to a truly catastrophic event, whether caused by nature or man-made.”</p>

Sources:

- U.S. Army Corps of Engineers, *Performance Evaluation of the New Orleans and Southeast Louisiana Hurricane Protection System, Draft Final Report of the Interagency Performance Evaluation Task Force, Volume I—Executive Summary and Overview*, 1 June 2006
- University of California, Berkeley, *Investigation of the Performance of the New Orleans Flood Protection Systems in Hurricane Katrina on August 29, 2005 (Draft Final Report Version 1.2 June 1, 2006) Volume I: Main Text and Executive Summary*
- Committee on Homeland Security and Governmental Affairs, United States Senate, “Hurricane Katrina: A Nation Still Unprepared,” May 2006

In the case of New Orleans, the flood destroyed the local communication and transportation infrastructure. This raises certain questions: Why did some first responders abandon their posts? Why did others lack the resources or ability to assess the situation and intervene? The state also was ill-prepared to deal with the storm. Some amount of blame for the disaster rests with local officials. Researchers Peter Burns and Matthew Thomas (2006) consider that the failure to evacuate the city and deal with the immediate crisis facing the citizens can be traced to a poorly developed local governing coalition or regime. The mayor had few networks or established patterns of relations to draw upon to help evacuate the city, to relate to state and federal officials, or to call in the aid and resources of private and non-governmental agencies that could assist him. The lack of trust and bonds was an obstacle. Mayor Ray Nagin waited until Sunday morning, 28 August 2005, to order a mandatory evacuation of New Orleans. He wanted to consult the city's

help formulate alternative plans to those developed by business and political elites.
(Dreier 2006, 528)

Dreier denounces the Bush administration for its “crony capitalism” and its reli-

to plan or mitigate for likely flooding in New Orleans. Observers had warned of the consequences of the decline in the coastal wetlands as a brake on a hurricane, as well as the migration of the population to coastal regions. Local, state, and national officials were unprepared to deal with the disaster. While the specific failures of various officials, agencies, and systems is likely to be studied in detail over the next several years, the intergovernmental system and lack of coordination are undoubtedly a major part of the story.

Local, state, and federal officials have been hard pressed to develop effective multilevel governance. State and local officials have had fiscal difficulties related to declining federal support and a sluggish economy. Citizens are reluctant to raise taxes although they desire increased public services. The challenge for modern government is to improve coordination across (horizontal) and between (vertical) levels of government. The federal government has not developed a coherent urban policy for municipalities. Agencies of the federal government and the operation of Congress lead to a fragmented approach to policymaking. State and local governments respond to the myriad of regulations and grants provided by the federal government rather than forming their own policies. The United

project and not a rational transportation policy emerging from a coordinated intergovernmental system (Altshuler and Luberoff 2003, chs. 4 and 9).

The system of multilevel governance is not producing good public policy at the municipal or urban level. Municipal officials say the federal government provides too few resources and continues to scale back its commitment. The municipal officials view state officials – the beneficiaries of national New Federalism policies – as obstacles to improved urban governance. State officials often divert money, which the federal officials had intended to benefit cities (e.g., Homeland Security), and mayors often have strained relations with governors. Federal and state officials tend to view local and municipal officials as corrupt and incompetent, and in need of close monitoring.

Municipal officials have generally adjusted to the unlikelihood of national

New Orleans flooding partly reflects a shift in national policy orientation – that Washington plays a supporting rather than leading role in national-disaster relief.

Nonetheless, mayors will likely accept the challenge to try. It is instructive to American politics to notice that the mayor of New Orleans is not reticent to lecture the president or the governor. Moreover, in 2005 the mayor defied reluctant federal and state officials to bring the citizens of New Orleans back even before the levees and the infrastructure or housing are rebuilt. The mayor knew that he had the media's attention and that the window for action was short. A mayor without a people is quickly relegated to irrelevancy. The mayor is keeping pressure on the national government to follow through on its commitment to rebuild New Orleans. This is a lesson that American mayors may teach to municipal officials in other countries. Political authority may derive less from formal grants than from political entrepreneurship and politics. In this regard, American mayors excel. The national government may or may not keep its commitment to fund the rebuilding. On the one hand, the Republican dominated 109th Congress (2005–2006) wanted to fulfill the president's promise. On the other hand, it said that tax cuts must not be undone and that funds for rebuilding New Orleans will have to come at the expense of Medicare and Medicaid.

12 CONCLUSION

Multilevel governance has been proposed as a new framework for understanding intergovernmental relations in nations and the place of cities in the federal order. However, this analytical perspective implies a cooperative system of intergovern-

Although disasters may precipitate change, the incipient problems of cities have been exposed before – in the Miami Riot of 1980 and the Los Angeles Riot of 1992. In these instances, the federal, state, and local (county and cities) governments vowed in the short term to tackle severe inner-city problems but failed to take concrete action. Few expect New Orleans to change this.

Finally, although the focus of this paper is on multilevel governance and obstacles to good public policy in the cities, the disaster in New Orleans reveals that incompetent political leaders and politicization of the bureaucracy at all three levels of government may be equally important in understanding the failure to prepare for and respond to the hurricane and flooding. The president, the governor, and the mayor failed to demonstrate strong or effective leadership. Heads of critical federal, state, and local agencies had little professional qualifications or experience, and the bureaucracy of all three were highly politicized, thus undermining the coordination necessary to make a federal system work (Koven and Brennan, forthcoming).

NOTES

- 1 Dillon's Rule is followed in thirty-nine of the fifty states, with thirty-one always applying Dillon's Rule and eight applying it to some municipalities (Richardson, Gough, and Puentes, 2003, 17–18). The states that do not follow Dillon's Rule are Alaska, Iowa, Massachusetts, New Jersey, New Mexico, Ohio, Oregon, South Carolina, and Utah (*ibid.*, appendix A).
- 2 By examining city budgets, we can get a rough indication of the responsibilities of

or the creation of metropolitan governments is unlikely in the United States (Savitch and Vogel 2006a).

6 This section is drawn from Savitch and Vogel (2006b).

7 Voting turnout in the 2004 election was relatively high, reaching 60.7 percent (McDonald, 2005).

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