



Potsdam Center for Policy and Management (PCPM)

Decentralization in Germany

How relevant is Germany's experience for German Development Cooperation?

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Overview

- Decentralization (I):
Basic architecture of German federalism
- Decentralization (II):
Administrative federalism and local self-government
- Federalism and local government reforms

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Basic Architecture of German Federalism

- Basic principles of the federal system in the Federal Republic of Germany
 1. Democracy and the rule of law
 2. Equivalence of living conditions
 3. Cooperation and competition
 4. Executive and cooperative federalism
 5. Fiscal federalism
 6. Federalism reform

Basic Architecture of German Federalism

1. Democracy and the rule of law

- Rules and constraints (democracy/rule of law) for the federal state at all levels
- Participation of subnational territorial units (*Bundesländer*) in national legislation
- Special features of the “second chamber” *Bundesrat* (Federal Council)
- Restrictions due to expertocracy

Transferability/Lessons

1. Democracy and the rule of law

- Broad political participation as a precondition for federalism and decentralization(?)
- Stable intergovernmental institutions and guaranteed (constitutional) rights
- Interesting structure of the second chamber

Basic Architecture of German Federalism

2. Equivalence of living conditions

- Historical context following WW2 (Art 72 Basic Law and Art 2 (1) Federal Regional Planning Act)
- Attractive idea – however great effort required to implement (> fiscal decentralization)
- Possibly restricts innovation and local competition (?)

Transferability/Lessons

2. Equivalence of living conditions

- Very attractive idea – however, in partner countries mostly without historical precedent
- Resource problems (capacity, finance, etc.)
- Not always economically viable

Basic Architecture of German Federalism

3. Cooperation and competition

- *Bundesrat* (Federal Council) represents the *Länder* governments instead of democratic representation (“working chamber”)
- *Bundesrat*: Population size \propto distribution of votes
- Participate in legislative process > plus party competition
- Cooperation via “joint tasks” and mixed financing

Transferability/Lessons

3. Cooperation and competition

- *Bundesrat* - interesting structure (with potential de-politicalizing function)
- Participation in legislative process > requires professional administrations
- Risk: increased bureaucratization instead of increased competition(?)

Basic Architecture of German Federalism

4. Executive and cooperative federalism

- Separation of political processes: *Bund* (Federal government) responsible for policy making, *Länder* and municipalities for policy implementation and administration
- *Bund*: power limited by legislation, *Länder* participate in policy making via the *Bundesrat*
- Many actors > many interactions > many veto players
- Undermining of local autonomy

Transferability/Lessons

4. Executive and cooperative federalism

- Many actors > many veto players > blockades
- Bureaucratization of intra- and intergovernmental cooperation
- Complexity > susceptibility to corruption and lack of transparency (assignment of political accountability too)
- Without rule of law difficult to resolve

Basic Architecture of German Federalism

5. Fiscal federalism

- Fiscal autonomy of the *Bund*, *Länder* and municipalities to finance their tasks
 - Example: role of business tax
- Combination of separate and joint taxes
- Allocation system for joint taxes (historically varied)
- Horizontal and vertical financial equalization
- Joint tasks/ financial assistance
- Debt brake

Transferability/Lessons

5. Fiscal federalism

- Important fiscal principles that require
 - high levels of administrative capacity and
 - regulatory authorities/control measures
- Idea of “sufficient” subnational own revenues important
 - Interesting: local business tax (municipalities)
- More (tax) competition between regional authorities(?)
- Excessive top-down financial assistance problematic
- Fiscal pacts with subnational administrations worthwhile

Basic Architecture of German Federalism

6. Federalism reform

- More competition in the federation and greater intergovernmental flexibility
- Federal Reform Commission I and II (BR, BT, *Länder*; however, municipalities nonvoting)
- Decentralization of responsibilities (civil service law, construction of university buildings, environmental law) and coordinated debt monitoring (“debt brake”)

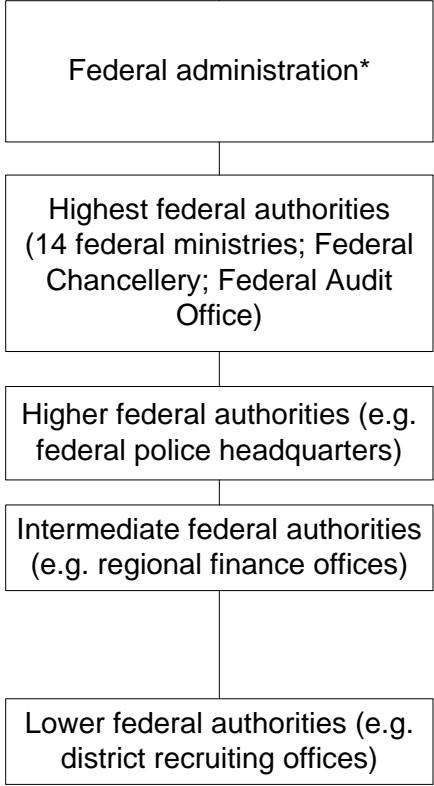
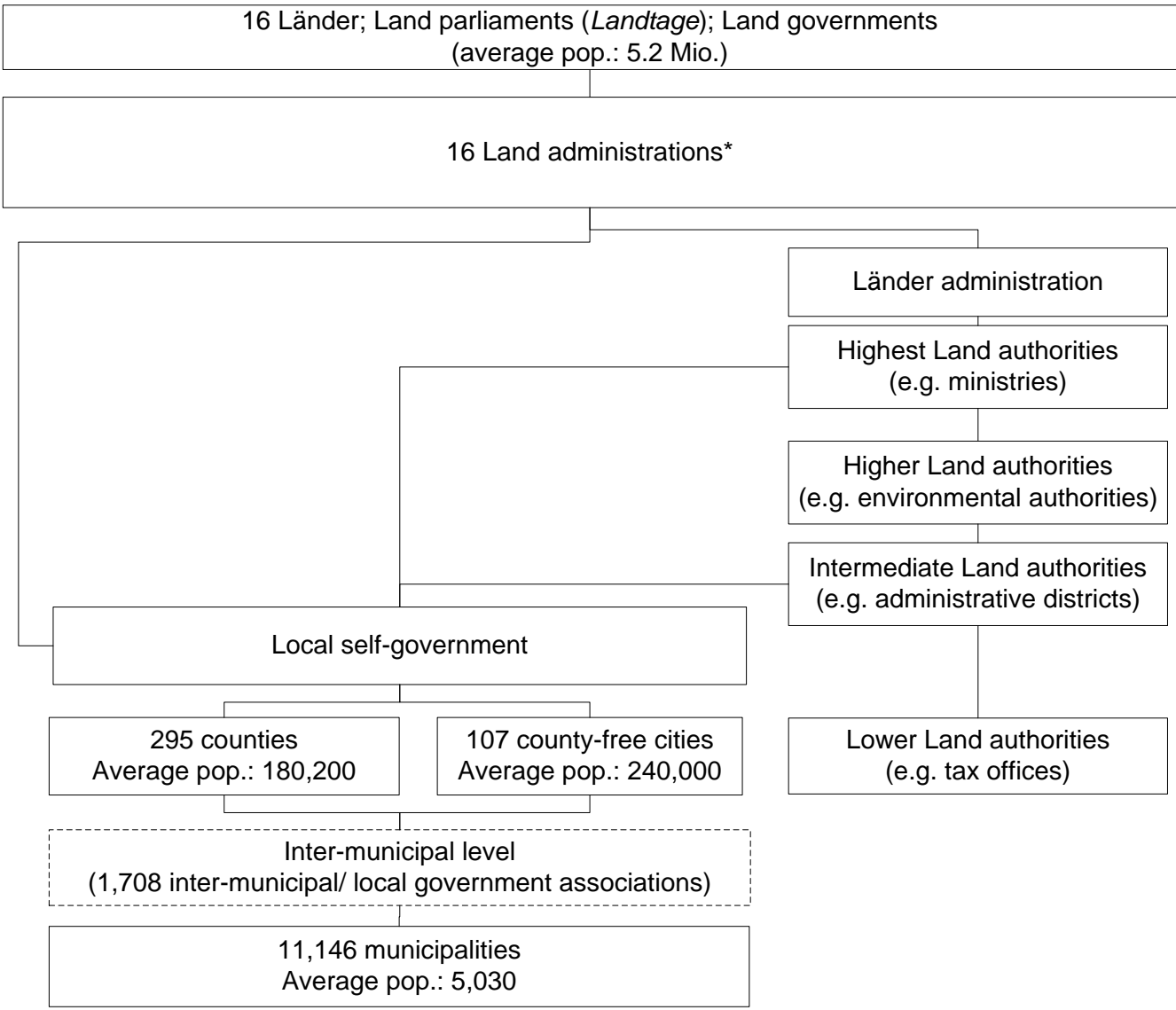
Transferability/Lessons

6. Federalism reform

- Adjustments to the federal system may be necessary; consensual process needed
- Competition in the federation may be beneficial
 - > national government should intervene to address inequality
- Coordinated debt monitoring worthwhile
 - (> moral hazard)

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Principle of Subsidiarity

- Important principle of order for public tasks
- Subnational levels (*Länder*/municipalities) implement federal law; have capacity to implement (even if partly insufficient)
- Important in Germany: tradition of local self-administration
- “Kleinstaaterei” (small state mentality) not always functional

Local Self-Government

- Article 28 (2) of the Basic Law for the Federal Republic of Germany:

“The municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, within the limits prescribed by the laws. Within the limits of their functions (...) associations of municipalities shall also have the right of self-government (...)”

Local Self-Government

Elements and levels of autonomy

- **Staff autonomy:** selection, recruitment, promotion and dismissal of officials and employees
- **Organizational autonomy:** arrangement of internal organization
- **Planning autonomy:** urban planning within the LG territory
- **Statute autonomy** (autonomous statutes): regulating own affairs through statutes
- **Fiscal autonomy:** own income and expenditure, administration of own assets
- **Territorial Autonomy:** exercising of power within the respective territory
- **Jurisdiction in tax matters:** levying own taxes (e.g. business tax and property tax); influence on tax rate

Transferability/Lessons

- Principle of subsidiarity and local self-government
 - Possible principle of order – but historical situation in partner countries(?)
 - Need for sufficient implementation capacity at subnational levels and by all regional authorities
 - System-stabilizing and legitimizing effect
 - Mobilization of local activity (e.g. entrepreneurship) and citizen participation
 - However: requires supervision and auditing

Local Self-Government

Territorial variations

- Local governments: 11,000 municipalities; 107 “county-free” cities; 295 counties
- *Länder* responsible for their LG systems (territorial sizes)
- No powers of the central state/federal level
- **Differences** due to administrative federalism:
 - North Rhine-Westphalia: 396 municipalities with av. pop. of 45,000 (“Northern European type”)
 - Rhineland-Palatinate: 2,300 municipalities with av. pop. of 1,700 (“South European type”)
 - East German states, initially Southern European type; current tendency towards Northern European type

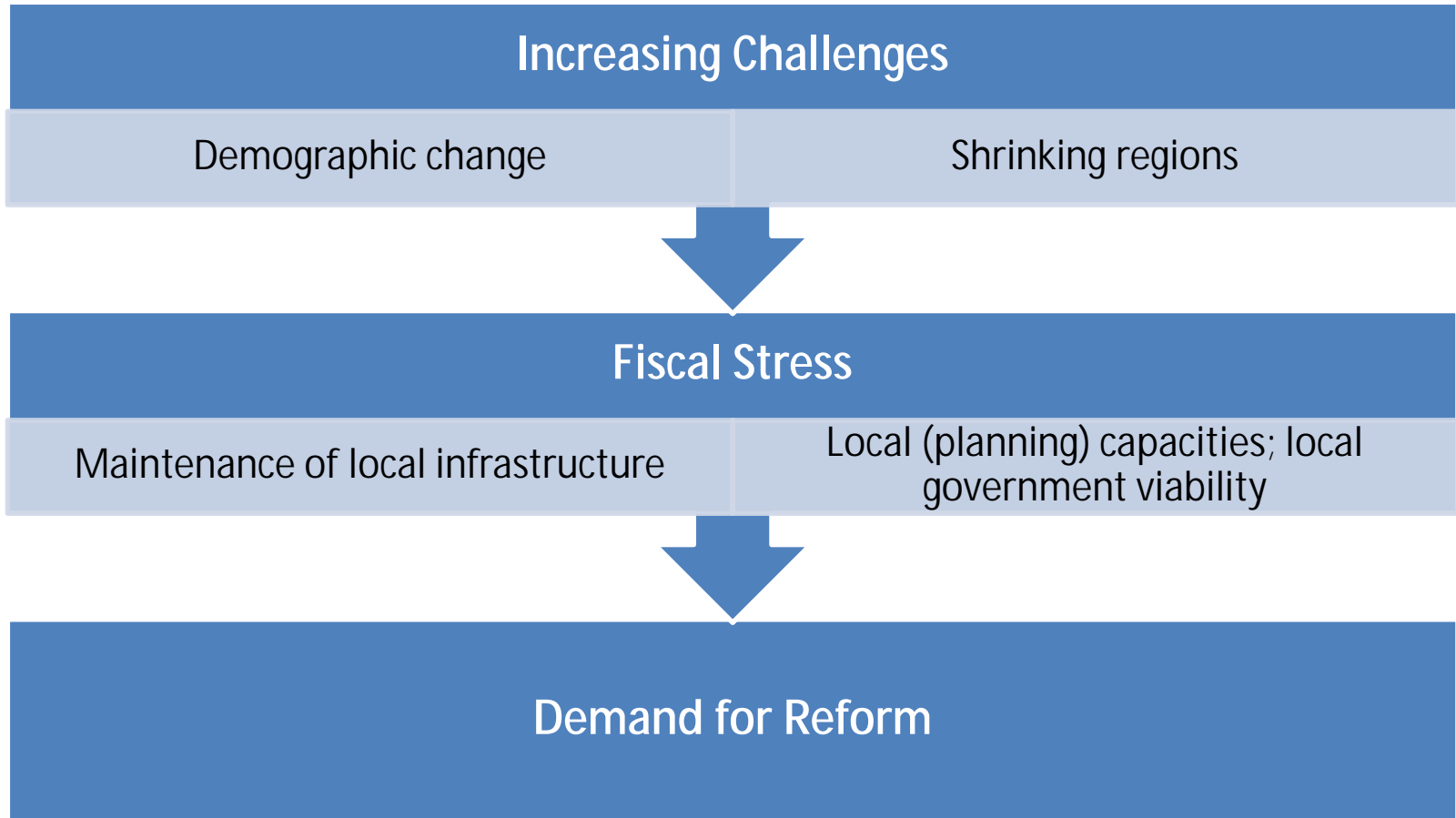
Transferability/Lessons

- Territorial variations
 - Flexible models for local governments
 - ó local traditions
 - Different models allow for piloting, adjustments and learning
 - However, different models can lead to differences in service provision and citizen participation
 - too small ó too big*

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Territorial Reforms



Territorial Reforms

Land	Outcome of municipal-level territorial reform			Outcome of county-level territorial reform		
	Municipalities 1990	Municipalities 2015	Decrease (in %)	Number counties 1990	Number counties 2016	Decrease (in %)
Sax-Anhalt	1349	218	84	37	11	70
Brandenb.	1775	418	76	38	14	63
Saxony	1623	430	74	48	14	70
Thuringia	1707	849	50	35	17	51
	1117	783	30	31	6	80

Decentralization/Functional Reforms

<p>Model 1: Decentralization without territorial mergers (e.g. BW)</p>	<p>Model 2: Decentralization combined with territorial mergers (e.g. MV)</p>	<p>Model 3: Deconcentration of state tasks (e.g. Nds.)</p>
<ul style="list-style-type: none"> § Abolition of single purpose state authorities (-350 in BW) § Transfer of state tasks to the counties § Streamlining of locally operating state administration (regional tier) § Upgrading of county level § No political rights for local councils regarding new tasks ("pseudo-communalization") 	<ul style="list-style-type: none"> § = Model 1 + county mergers 	<ul style="list-style-type: none"> § Abolition of regional tiers of state government (administrative districts) § Transfer of meso-level state tasks to more single-purpose state authorities (+21 in Nds.) § More fragmentation of deconcentrated state administration § No upgrading of local governments

Decentralization/Functional Reforms

- **Bundling of different tasks**; strengthening of LG's multi-functional task profile
- **Accelerated procedures**; integrated decision-making
- Retreat of single-purpose state authorities from local level
- **Staff procedures**: exaggerated professionalism and silo orientation reduced
- **Reduction** of functionally unnecessary state administration; organizational streamlining
- But more **conflicts** between different tasks (e.g. environmental vs. economic development)

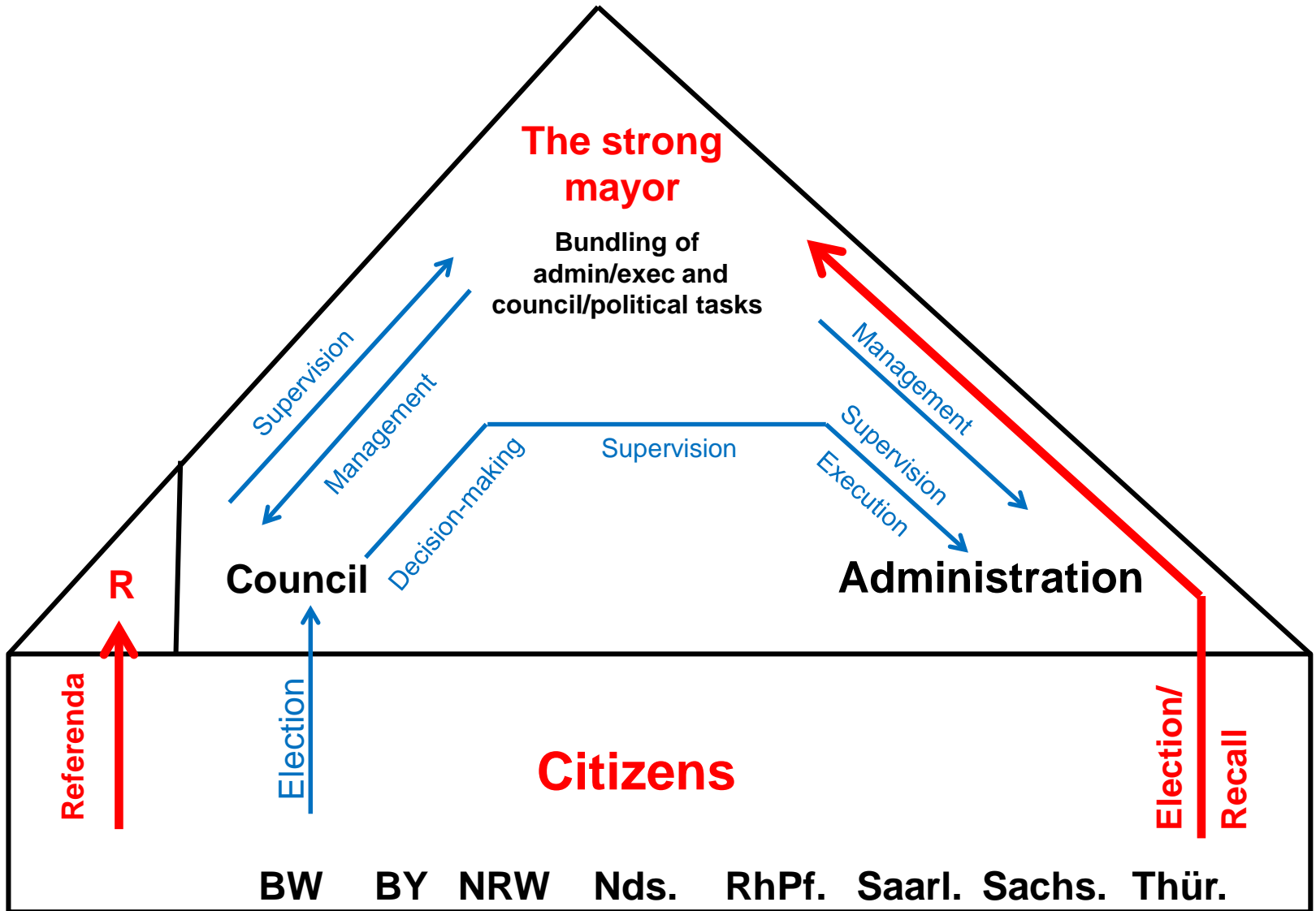
Decentralization/Functional Reforms

- Dispersion of **expert knowledge** (e.g. environmental tasks)
- **Transfer** of state tasks without granting political decision-making rights to local councils regarding the new tasks = “pseudo communalization” (local governments become part of state administration)
- **Territorial limits** of communalization (counties BW)
- **Overburdening** of fiscally weak local authorities

New Public Management

- Local governments as front runners of NPM
- 92% of German LGs active in NPM reforms;
80% of mayors consider NPM efforts
- But implementation gaps, west-east-divide and metropolitan bias
- Most successful: local one-stop-shops for citizens
- Still important: performance management,
selected outsourcing
- New trend: re-municipalization of public utilities;
Neo-Weberian Model

Democratic Reforms: Direct Election of Mayor and Local Referenda



Transferability/Lessons

- Decentralization reform strategies
 - No single model ó mix of models
 - Flexible models ó subnational traditions
 - Reforms due to demographic and fiscal changes
 - Some functional reforms due to unification
 - NPM important tool > but variations
 - General message: continuous monitoring of quality and performance ó continuous reforms

Appendix

Local Self-Government

Structure of local revenues in 2014

Revenue by Source	%
Fees	8.4
Contributions, revenues	3.3
Allocations from State and <i>Länder</i>	37.9
Community tax	16.6
Business tax	16.3
Other taxes and income	17.4
Total revenue	100
Amount of total revenue	€203.8bn.

Quelle: Deutscher Städtetag, Gemeindefinanzberichte

Land	Municipalities 31.03.2015	Population 31.12.2013	Average Population per Municipality 31.03.2015
Baden-Württemberg	1.101	10.631.278	9.656
Bayern	2.056	12.604.244	6.130
Brandenburg	418	2.449.193	5.859
Hessen	426	6.045.425	14.191
Mecklenb.-Vorp.	783	1.596.025	2.038
Niedersachsen	973	7.790.559	8.007
NRW	396	17.571.856	44.373
Rheinland-Pfalz	2.305	3.994.366	1.733
Saarland	52	990.718	19.053
Sachsen	430	4.046.385	9.410
Sachsen-Anhalt	218	2.244.577	10.296
Schleswig-Holstein	1.110	2.815.955	2.537
Thüringen	878	2.160.840	2.461
BRD	11.093	80.767.463	7.281
– <i>West Länder</i>	<i>8.422</i>	<i>62.229.583</i>	<i>7.388</i>
– <i>East Länder</i>	<i>2.670</i>	<i>12.529.895</i>	<i>4.692</i>

German Reunification

- Verwaltungstransformation, Institutionen-, Personal und Finanztransfers an die 5 neuen Bundesländer = singulärer Fall der Systemtransformation (≠ Osteuropa)
- Übernahme der „westlichen“ Institutionen- und Regelungswelt in einer „Schaltsekunde“ (Wiedervereinigung)
- Wiedereinführung der Länder und der kommunalen Selbstverwaltung; Anknüpfen an Vorkriegstraditionen + Orientierung an Partnerländern
- Ersetzung „sozialistischer Kaderverwaltung“ durch klassisch-Weberianisches Verwaltungsmodell
- Nachfolgender langwieriger Einübungs- und Anpassungsprozess der ostdeutschen Akteure; umfassender Elitenaustausch; viele Neu- und Quereinsteiger (≠ juristisch dominiertes Ausbildungsprofil westlicher Verwaltung)
- Überwiegend Imitation des „Westmodells“, teils aber auch Eigenentwicklungen und Innovationen (Referenden, Verzicht auf Mittelinstanzen in 2 Bundesländern)
- Zunächst kein NPM, sondern Blaupause klassischer Bürokratie;
- Umfassendes Neu-/Umbau der Verwaltungsstrukturen, Gebietskulisse und Funktionen
- Inzwischen weitgehende Angleichung der Strukturen und Verwaltungspraxis

Transferability/Lessons

- Reunification

- Top-down Transferleistungen bei ungleichen Gebietskörperschaften sinnvoll > allerdings Bedarf an Regeln und Kontrolle; Überprüfung der Regeln nach gewissen Zeiträumen
- Passfähigkeit übertragener Institutionen in bestehendes System wichtig (Gefahr von „mismatch“; Diskrepanz von Struktur und Kultur)
- Historische legacies und eingeprägte Routinen schwerer zu ändern als formale Institutionen (Akzeptanzprobleme)
- Unerprobte Reformmodelle (z.B. NPM) in fragilen (neuen) Institutionenordnungen problematisch
- Gefahr institutioneller Überforderung und zunehmender Widerstände bei zu hoher Reformfrequenz und -komplexität
- Personelle Erneuerung und Qualifikation (nicht nur Personaltransfers)
- Angleichung der Lebensbedingungen und ökonomischen Verhältnisse langwierig und teils nicht zu erreichen

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- Article 28 (2) of the Basic Law for the Federal Republic of Germany: “The municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, within the limits prescribed by the laws. Within the limits of their functions (...) associations of municipalities shall also have the right of self-government (...)”
- General Competence Clause; universality of the local sphere of influence
- Federal/*Länder* Laws (“within the scope of the law”)
- LG legislation = matter of the *Länder* (Municipal Charters) è intra-federal variance
- Additional regulations regarding LGs (budgets, salaries and urban planning, etc.)
- Municipal statutes as legally binding rules for the LG territory (e.g. planning documents)

Transferability/Lessons

- **Subsidiaritätsprinzip und kommunale Selbstverwaltung**
 - Mögliches Ordnungsprinzip – aber historischer Hintergrund in Partnerländern (?)
 - Notwendigkeit hinreichender Umsetzungs-Kapazitäten auf subnationalen Ebenen und allen Gebietskörperschaften
 - Systemstabilisierende und legitimationsstiftende Wirkung
 - Mobilisierung lokaler Aktivität und bürgerschaftlicher Mitwirkung
 - Aber: bürgerschaftlich-zivilgesellschaftliche Einbettung wichtig
 - Hinreichende lokale Kapazitäten nötig
 - Sicherung von staatlicher Aufsicht/Kontrolle (Korruption?)
 - Mehr lokale (fiskalische) Autonomie (eigene Steuereinnahmen) verlangt hinreichende institutionelle/demokratische Funktionsfähigkeit von Kommunen

New Public Management

- Private sector inspired modernization of PA (performance management, benchmarking, controlling, output budgeting)
- Aims: increase efficiency, effectiveness, customer orientation
- Local governments as front runners of NPM (bottom-up); other levels followed rather slowly
- 92% of German LGs active in NPM reforms; 80% of mayors consider reform efforts worthwhile
- But implementation gap: majority of LGs did not implement key elements of NPM; West-East-divide; metropolitan bias
- Most successful: local one-stop-shops for citizens
- Still important: performance management, part outsourcing
- New trend: re-municipalization of public utilities; Neo-Weberian Model