

Comparative Federalism Experiences from Germany

Conference

"Constructing Tomorrow's Federalism"

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presented by

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What Kind of Federation is Germany ?

- 16 States/Provinces (*Länder*)
- Federation (*Bund*)



What Kind of Federation is Germany ?

History:

- Patchwork of independent States before 1871
- Three occupation zones in West after World War II united in a federal structure (11 *Länder*)
- Reunification 1990:
5 new *Länder* -> 16 *Länder*

What Kind of Federation is Germany ?

Constitution:

- 16 *Länder* are the constituent units, with all institutions (parliament, government, law courts)
- *Länder* are generally responsible for legislation, with many exceptions for federal legislation

What Kind of Federation is Germany ?

- *Länder* are generally responsible for administration, with few exceptions for federal administration (e.g. customs, federal employment agency)
- *Länder* are less responsible for taxation; Federation often also has legislative power over provincial taxes, but revenues are shared between Federation and *Länder*

What Kind of Federation is Germany ?

Important institutions on the federal level:

- Federal Government
- Federal Parliament (*Bundestag*): 598 MPs (50 % directly elected; 50 % by proportional representation)
- Federal Chamber of *Länder* (*Bundesrat*): 69 members sent by 16 *Länder* governments
- Mediation Committee (*Vermittlungsausschuss*) of *Bundestag* and *Bundesrat*

What Kind of Federation is Germany ?

Important institutions on the *Land* level:

- *Land* government
- *Land* parliament

What Kind of Federation is Germany ?

Intergovernmental relations on the *Länder* level

- Conference of Premiers of *Länder*:
4 meetings on Premiers' level per annum; 8-12 meetings on Under-secretaries' level per annum
- Conferences of Ministers of *Länder* (according to their different fields):
50 - 100 meetings on Ministers' or Under-secretaries' level per annum

What Kind of Federation is Germany ?

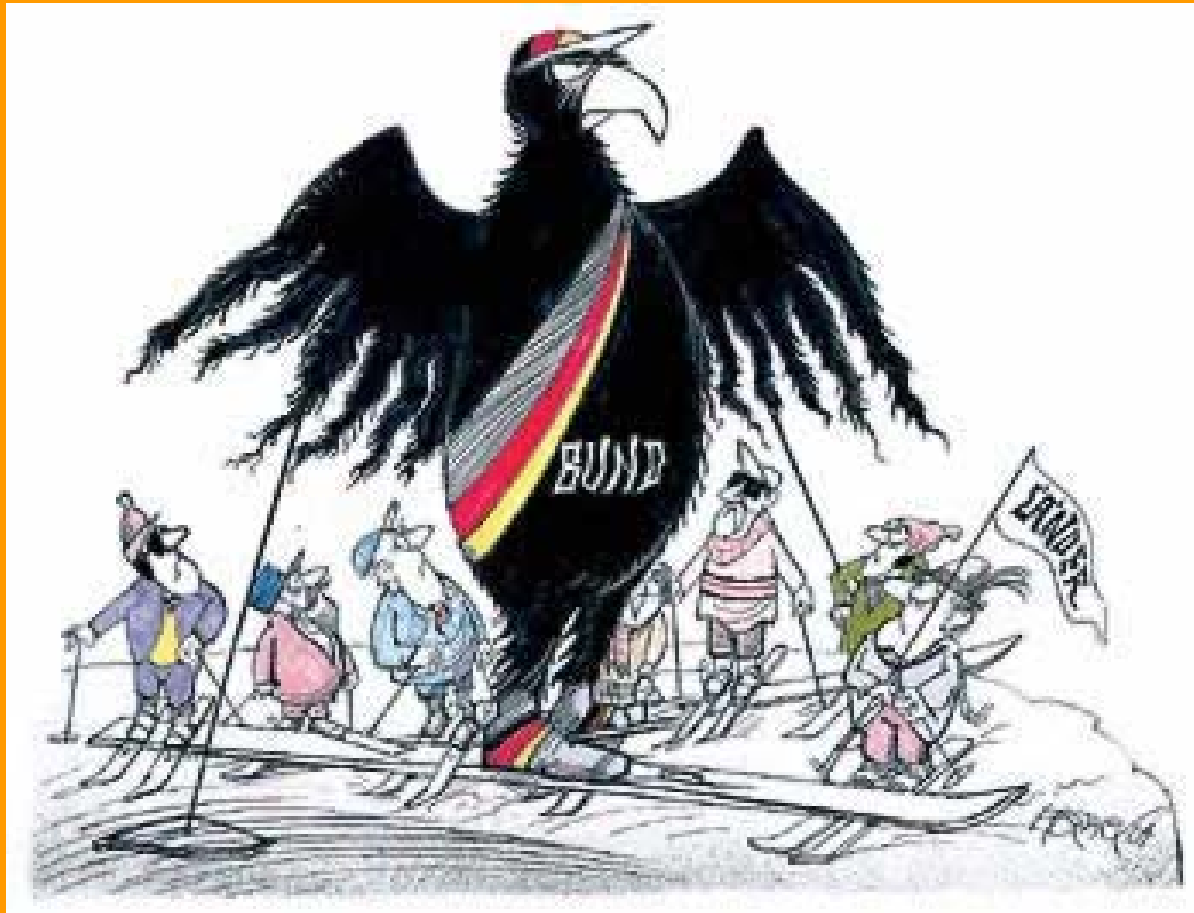
Intergovernmental relations on the level of Federation and *Länder*

- Meetings of Federal Chancellor (*Bundeskanzler*) and Premiers of *Länder* twice a year
- Federal Ministers as guests in conferences of Ministers of *Länder*

Current Challenges in German Federalism

The system has come down to a “participatory federalism”

Current Challenges in German Federalism

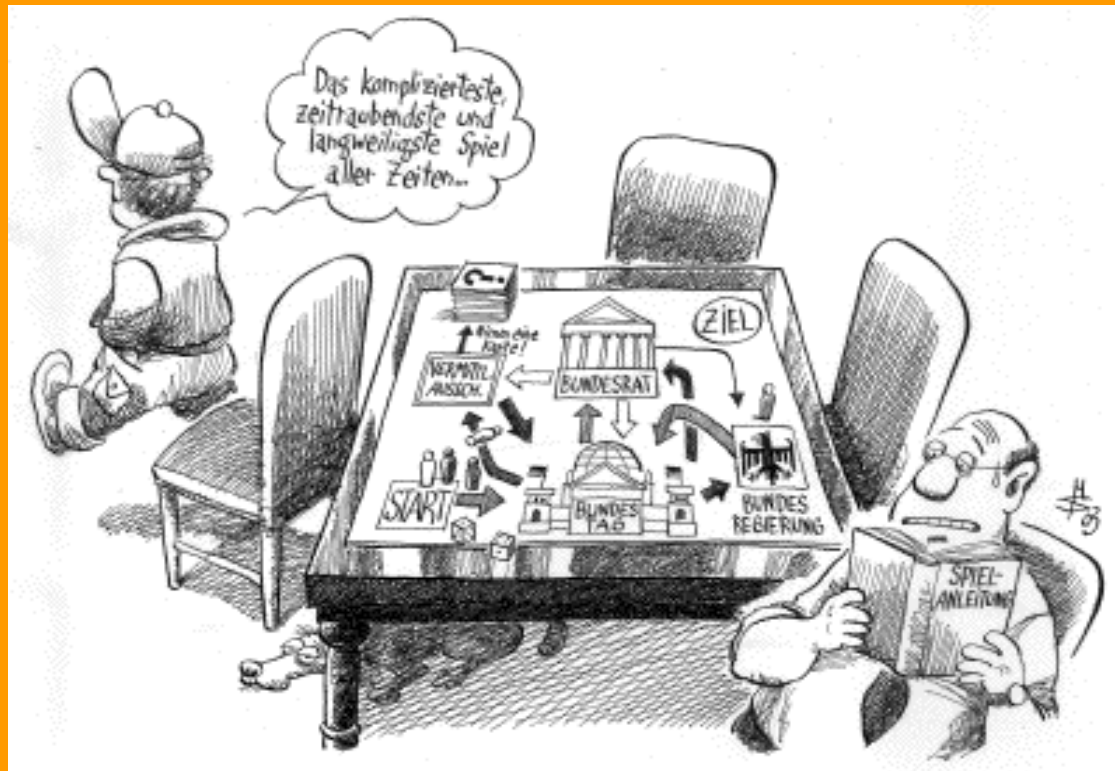


Current Challenges in German Federalism

Problems

- Participation weakens power for necessary reforms
- *Bundestag* and *Bundesrat* can block each other (esp. in case of different political majorities) or the parties have to form "great coalitions"
- Less competition of different policies on the level of *Länder* or on the level of Federation and *Länder*
- Voters cannot distinguish between political responsibilities
-> less political competition of political parties

Current Challenges in German Federalism



Federalism: The most complicated, most time-consuming and most boring game of all times...

Current Challenges in German Federalism

Problems

- The legislative competences of the *Land* parliaments have been effectively hollowed out

Federal Parliament often claims the right of legislation, because it argues: "The creation of equal living conditions throughout the country or the maintenance of legal and economic unity makes federal legislation necessary in the national interest" (Art. 72 II Basic Law)

Current Challenges in German Federalism

Federalism reform commission (*Bundesstaatskommission*)

- 32 members (half *Bundestag*, half *Bundesrat*) and experts
- Tasks:
 - * Decartelization of legislation competences in favor of *Länder*
 - * Reduction of competences of *Bundesrat* (less blockades of federal legislation)
 - * Reform of financial relations between Federation and *Länder*
 - * Participation of *Länder* in EU legislation

Current Challenges in German Federalism

What do we want?

Modern governance

Modern governance is aided by:

- Semi-autonomous units
- Decentralized decision-making
- Regional flexibility and responsiveness
- Local innovation

Out of:
Don Dennison
Intergovernmental
Relations in Canada

Current Challenges in German Federalism

What do we want?

- Subsidiarity
 - * Decisions have to be taken as closely as possible to the citizens
 - * Problems are best solved in the subsystem where they arise
 - * Problems may only be referred to a higher authority if the closer subsystem cannot solve them

Current Challenges in German Federalism

What do we want?

- Decartelization of powers between federal and regional level
- Competition of policies
Plurality of political ideas
- Transparency of political responsibilities

Current Challenges in German Federalism

What do we want? (from the regional view)

Assets of regional legislation

- Sovereignty of organization of *Land* (administration and staff)
- Education and culture
- Security and risk management
- All issues with local and regional references, e.g.:
 - * Social contributions
 - * Environmental issues
 - * Housing
 - * Local economic policy

Contributions to the Canadian Discussion on Federalism

Method of voting

- Proportional system
- Mixed system
 - * 2 votes
 - * 299 MPs elected in 299 constituencies (1 MPs/~250,000 citizens)
 - * Another 299 MPs proportionally supplemented from lists of parties

Anlage 26
Zur § 26 Abs. 3 und § 45 Abs. 1 DRiG

Stimmzettel
– Stimmkreis DBI A.2 –
Stimmzettel
für die Wahl zum Deutschen Bundestag im Wahlkreis 43 Bonn
DBI

Sie haben 2 Stimmen

hier 1 Stimme
für die Wahl
eines der Wahlkreis-
abgeordneten

hier 1 Stimme
für die Wahl
einer Landesliste (Partei)
– ranggeordnete Sitze für die Verteilung der
Sitze insgesamt auf die einzelnen Parteien –

Erststimme

1	Keller, Ulrich	SPD	<input type="radio"/>
2	Hausner, Nils	CDU	<input type="radio"/>
3	Dr. Westerwelle, Guido	F.D.P.	<input type="radio"/>
4	Manemann, Cora	GRÜNE	<input type="radio"/>
5			<input type="radio"/>
6			<input type="radio"/>
7			<input type="radio"/>
8	Müchler, Frank	BüSo	<input type="radio"/>

Zweitstimme

<input type="radio"/>	SPD	1
<input type="radio"/>	CDU	2
<input type="radio"/>	F.D.P.	3
<input type="radio"/>	GRÜNE	4
<input type="radio"/>	PDS	5
<input type="radio"/>	Deutsch-land	6
<input type="radio"/>	APPD	7
<input type="radio"/>	BüSo	8

Contributions to the Canadian Discussion on Federalism

Proportional representation through second vote (*Zweitstimme*)

- Germany's list system reinforces the power of parties, because
 - * the parties have to nominate the lists
 - * the voter cannot make several choices or cross out a name on the list
- Parties have to nominate lists for the election of Bundestag in each *Land*

Contributions to the Canadian Discussion on Federalism

Declining voter turnout

Federal Parliament

- 1980: 88.6 %
- 1983: 89.1 %
- 1987: 84.3 %
- 1990: 77.8 %
- 1994: 79.0 %
- 1998: 82.2 %
- 2002: 79.1 %

Land Parliament of Baden-Württemberg

- 1980: 72.0 %
- 1984: 71.2 %
- 1988: 71.8 %
- 1992: 70.1 %
- 1996: 67.6 %
- 2001: 62.6 %

Key reason: Weariness of political parties

Contributions to the Canadian Discussion on Federalism



Contributions to the Canadian Discussion on Federalism

Revenues of parties

- Membership dues
- Donations (40 % reimbursement through income tax up to 1,600 €)
- Earnings of property
- Grants depending on the sum of dues and donations

Contributions to the Canadian Discussion on Federalism

Appointing judges

- *Land* level:
Judges are elected by government (Ministry of Justice)
- Federal level:
Judges are elected by election committee (Federal Minister of Justice, equal number of members representing Federal Parliament and *Land* governments)

Contributions to the Canadian Discussion on Federalism

Referendums

- No citizen initiatives allowed on federal level
- Citizen initiatives allowed on *Land* level, but high obstacles -> only few referendums
- Citizen initiatives allowed on local level, medium or low obstacles -> multiple referendums occurring

Good experiences at the local level

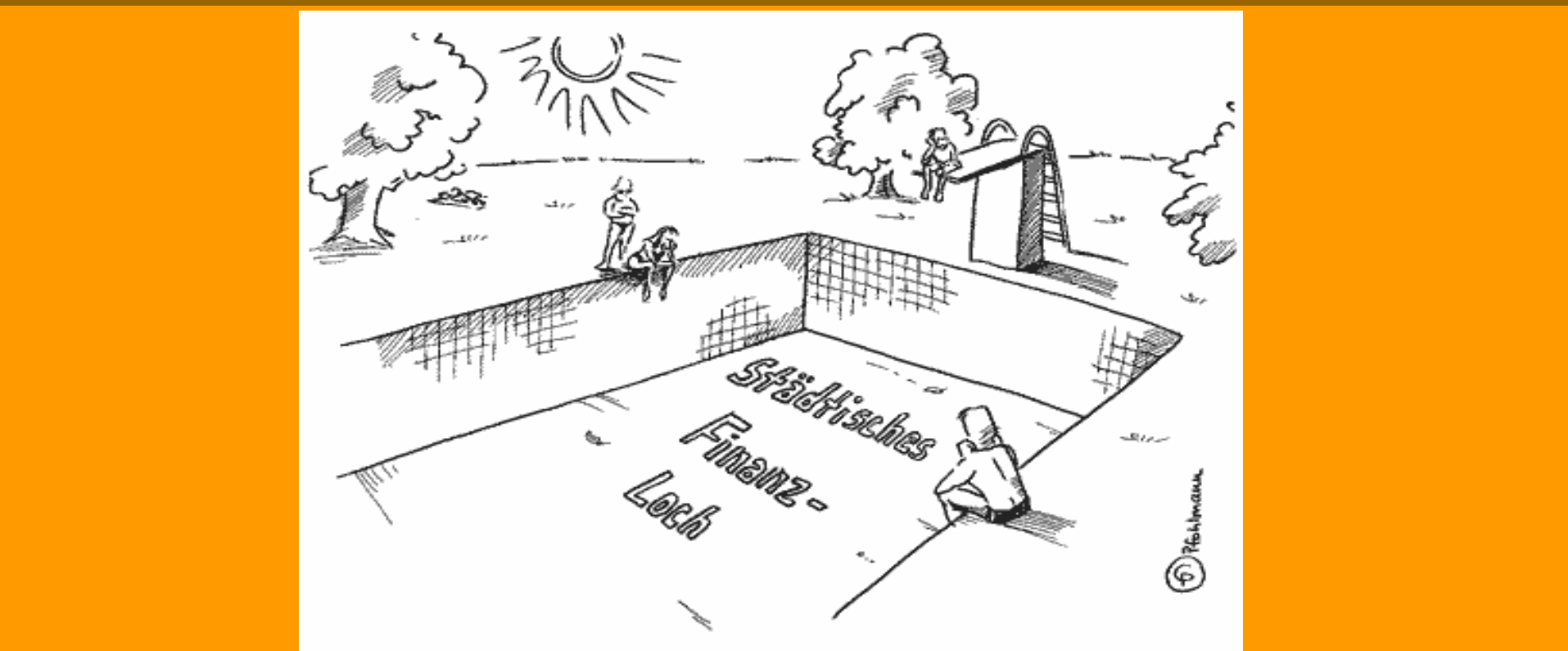
Many proposals to ease the preconditions

Contributions to the Canadian Discussion on Federalism

Revenues of cities

- Charges for services
- City taxes and fees (e.g. dogs, entertainment)
- Local business tax
- Global and appropriated grants of *Land*
- Participating shares of income tax and of sales tax
- Raising of credit (many cities have a big deficit in their budgets, up to 1,000 € and more per head)

Some services (e.g. public swimming pools) have to be reduced because of deficits in city budgets



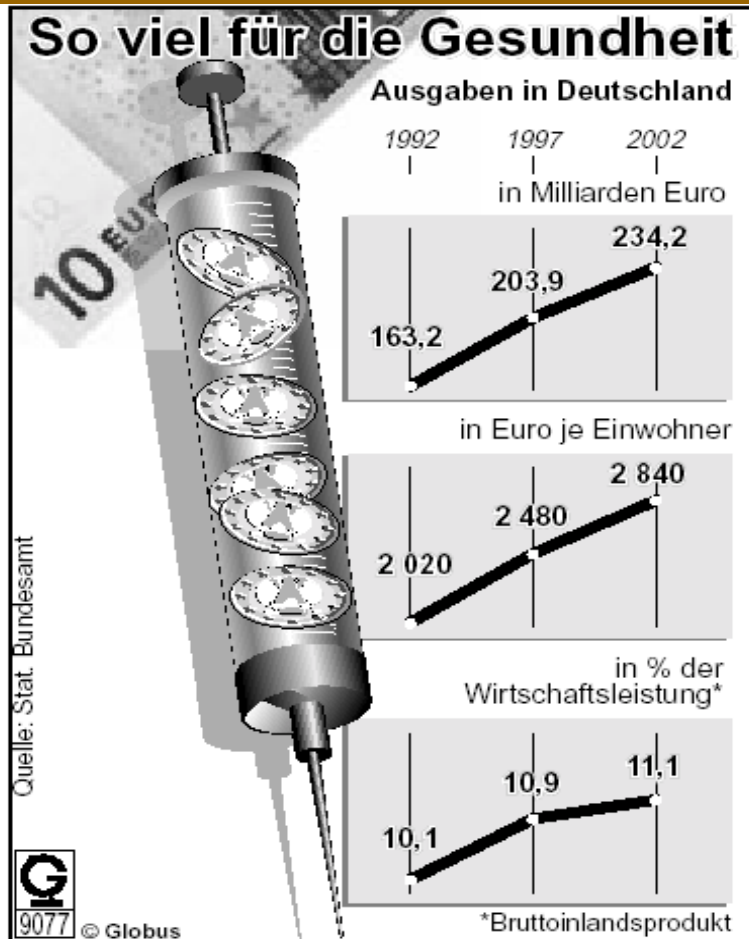
The municipal budget hole

Contributions to the Canadian Discussion on Federalism

Increasing costs of health care

- Federal level responsible for social insurance and health care standards
- *Land* level responsible only for hospital planning and hospital funding
- Every employee or payee of social incomes has to be member of legal health care insurance (exception: people with high incomes and civil servants pay for private insurance)
- Increasing costs will be reduced by exclusions of benefits and higher individual financial participation
- Biggest problem in future: demography

Contributions to the Canadian Discussion on Federalism



Health expenses in Germany

Total expenses (billions €)

Expenses per head (€)

Percentage of gross national product

Contributions to the Canadian Discussion on Federalism

Kyoto Protocol and Global Warming

- Federal (or EU) legislation:
 - * Trading in emission certificates
 - * Emission and immission limits
 - * Taxation
- *Land* and city level:
 - * Regional initiatives (*Agenda 21*)
 - * Grants for investments by private households

Contributions to the Canadian Discussion on Federalism

Sustainable Transportation

- Federal level:
 - * Technical measures for motors
 - * Taxation of fuel and cars, tolls (only for trucks)
 - * Funding of rail and road infrastructure
 - * Funding of public transport
- *Land* and city level:
 - * Avoidance of circulation through housing development and intermodal connections
 - * Benefits for sustainable means of transport
 - * Funding of public transport

Contributions to the Canadian Discussion on Federalism

Post-September 11 and the “War on Terror” measures

- Federal level:
 - * New anti-terror security laws (especially penal law and law on foreigners)
- *Land* level
 - * New police laws
 - * Preparations for emergencies; task forces

In majority, new laws are politically accepted and have hardly been tested in law courts

Contributions to the Canadian Discussion on Federalism



The Federal Constitutional Court restricts listening devices

Contributions to the Canadian Discussion on Federalism

Protection of minorities

- Proportional voting system
- Human rights in constitution and special rights in anti-discrimination laws
- Extra status in some parliaments

Also wanted: Integration, not isolation of minorities and immigrants

See You in Berlin !

Bundesrat

