

Comparative Reflections on Local Government and Metropolitan Regions in Federal Systems

NICO STEYTLER

Three orders of government – federal, state and local government – are common to all federal systems. However, the place and role of local government in those systems vary markedly. In some, local government is a constitutionally recognized order of government; in others it is a competence of state government. Nevertheless, local government in general and metropolitan regions in particular are increasingly playing a significant role in the governance of federal countries.

Institutions of local government

Local government is the collective term referring to those institutions with no other government between them and the people. Despite this commonality, local authorities vary in number, size, purpose and composition. In India a further distinction is drawn between rural and urban local government.

In most of the twelve countries considered in this booklet, there are large numbers of local authorities running into thousands, the majority of which are comprised of very small populations. The extremes are presented by Spain and South Africa: both countries have a population of 44 million, yet Spain has 8,108 municipalities and South Africa only 284. Apart from South Africa, only in Australia and Nigeria is the number of municipalities less than a thousand. Given the large number of small municipalities which are often not financially viable, amalgamation is on most national agendas, with only occasional success. Small may, however, be politically beautiful; in Austria the value of a small municipality is now politically safeguarded with the prospect of constitutional protection as well. The large numbers of municipalities most often hide the vast differences between them in any given country – vast metropolitan municipalities of several million people and small rural institutions with barely a thousand souls.

The size of the municipality often matters; the large urban municipalities, usually financially self-reliant, knock at the door of the federal government to be heard, as in Canada, while small municipalities in Switzerland are encouraged to cooperate with one another for financial survival.

The most common form of local government is the general-purpose municipality performing a variety of functions and providing a number of services. Operating alongside them, one finds, particularly in the U.S., single purpose institutions such as school districts, water authorities and transport authorities.

Common to the majority of countries in the booklet is multi-tier municipalities – a number of primary municipalities falling in the jurisdiction of a district or county which has general coordination functions and provides bulk services. The management of shared jurisdiction can, however, be problematic as is evident in South Africa.

A further form of local governance that has become prevalent, particularly but not exclusively in the U.S., is the so-called gated communities – residential areas enclosed by walls and fences where many services are provided that duplicate municipal or county services such as street cleaning, safety, refuse removal and parks. These private localized governments present challenges to the stability and effectiveness of local governments.

The legal regime of local government is also characterized by a high level of variation from state to state in most countries where local authorities fall directly under the jurisdiction of state governments. In the older federations local authorities are creations of state laws and their autonomy is thus defined by such laws. However, the basic elements of local government – its status and role – are increasingly being captured in federal constitutions.

Constitutional recognition

With the exception of Austria and later Mexico, the early federal constitutions (United States, Switzerland, Canada, Australia) did not refer to local government and if they did, then merely as a competence of state government. It was only after the Second World War that local self-government became part of federal constitutions, often as an important element of the return to democratic rule. The first was the constitution of Germany of 1949. Although the Spanish Constitution of 1978 was focused on the creation of Autonomous Communities, local autonomy was nevertheless mentioned as well. Brazil's return to civilian rule was also marked by extensive protection accorded to local self-government in the Constitution of 1988. While the entrenchment of local government in the Indian Constitution in 1992 was prompted by developmental concerns, the extensive protection of local self-government in the South African Constitution of 1996 was the result of both democratic and developmental objectives. Similar sentiments informed the entrenchment of local government as an order of government in the Nigerian Constitution of 1999. In contrast to these develop-

ments, the recognition of local government in the Swiss constitution of 1999 merely reflected the practice on the ground.

The absence of recognition in federal constitutions has often been compensated by the entrenchment of local self-government in state constitutions, ranging from extensive protection of home rule in the United States to mere symbolic recognition in Australia.

Extensive constitutional recognition, such as in the Indian Constitution, did not remove the dominant role of the states over local government. It has been only in Brazil and South Africa that the controlling and regulating function of state-level government has been effectively curtailed.

Role and responsibilities

In most countries, despite variations in the size of municipalities, uniform powers and functions are allocated to local government. However, special provisions are increasingly made for more big-city autonomy. In theory, the allocation of responsibilities is based on the principle of subsidiarity. In practice, basic municipal services include water and sanitation, roads, public spaces, safety, and in some countries, schooling.

Apart from their own autonomous functions, local authorities have been saddled with additional tasks delegated by the federal and state governments. In Germany municipalities have a distinct hybrid character – they serve as self-governing units but are also the lowest order of the state administration. In most of the countries in this volume, the complaint is heard of the continual shifting of more and more responsibilities on local government without matching funds. In Spain, it has led to conflict when the Autonomous Communities assign costly services to local bodies while only contributing modestly to their general expenses. The significance of this problem has even led to a constitutional amendment in Germany, allowing the Lander governments to only delegate administrative tasks to local governments when accompanied by adequate financial reimbursement for the performance of such tasks.

Municipal finances

The financing of local government ranges from self-sufficiency to reliance on either state or federal transfers. For example, in Australia, Canada, and South Africa, local government raises more than 80 percent of income from own sources, while rural local government in India is entirely dependent on Union and state transfers, most of which are tied to government programs and guidelines. Transfers often come directly from the federal government which allows the latter to assume the initiative in urban development, as in Brazil. The complaint voiced in Nigeria, among others, is that when most income is derived from federal transfers, the lack of own revenue undermines the autonomy implicit in the idea of three-tier government. Even in those countries with overall self-sufficiency, there is

usually unequal distribution of resources among municipalities where most rural municipalities are dependent on transfers while the urban centers are able to rely on their own revenue.

The main sources of own revenue are property taxes, commercial taxes (in Germany) and user fees for services. The common complaint has been that municipalities are too dependent on property taxes, which do not enable them to meet the ever increasing needs for service and infrastructure. In the U.S., reliance on property rates has waned, placing more emphasis on taxes on retail sales and income. User charges have also become the fastest growing and most important type of own-income revenue in that country.

Supervision

The extent of the supervisory powers of the senior orders of government reflects the level of autonomy of local government. In most countries in this volume, the states exercise monitoring and intervention powers. In the latter case, there is a wide variety of measures that may be taken, ranging from judicial review only to the dissolution of democratically elected councils. In South Africa, the intensification of financial oversight points toward the diminishing autonomy of local government. In contrast, the Spanish local government system provides for very limited central and regional government supervision, placing more reliance on effective intergovernmental relations.

Intergovernmental relations

While in theory and practice local government interacts primarily with the next level of government – the states – increasingly there are direct relations with the federal government, not only in the form of federal grants that leapfrog the states, but also participation in federal governance structures. Although local government has no constitutional standing in the Australian federation, organized local government is nevertheless a full member of the Council of Australian Governments, a federal intergovernmental relations forum. On the other hand, despite pressure from organized local government in Canada for “a seat at the table of government,” the federal government is disinclined to interfere in fields of provincial jurisdiction. In Germany, local government is also seeking an official role in federal legislation and a voice in the impact assessment of such legislation. South Africa stands out as the country where the formal intergovernmental relations structures have cemented local government as a key partner in national governance, including having speaking rights in the National Council of Provinces, Parliament’s second chamber.

Intergovernmental relations are also extensive on a horizontal plane. While resisting amalgamation pressures, municipalities cooperate with each other often in voluntary contractual agreements, as evidenced in the U.S. and Switzerland.

Political culture

Given the nature and organization of local government, ranging from mega cities to small rural municipalities, the political culture varies considerably between countries and often within countries as well. Municipal politics are generally non-partisan, which also means that, for example in Canada, party channels cannot be used for communication with other orders of government. Where party politics take place, it is to a lesser extent than at state and federal level, as is the case in Germany. At the other extreme, municipal governments are fully organized along party lines in Austria and South Africa. Unique is the Indian use of quotas to increase the representation of women and disadvantaged groups; a third of councilors and mayors must be women. Popular participation in local elections also show considerable variation, from higher voter turnout than in state and federal elections in India, to lower levels which is the more common trend.

Metropolitan regions

Common to most countries in this volume are massive conglomerations of people in metropolitan regions. In these regions of developing countries, such as Brazil, Mexico, Nigeria and South Africa, intra-urban inequality is the greatest – home to economic prosperity and the poor. Even in Canada, cities worry about concentrations of poverty and the social exclusion of immigrants and urban Aboriginals. The governance of metropolitan regions is thus of considerable import and five distinct models of governance are evident in the countries under review.

First, in Australia, where large cities are divided into numerous small municipalities, the metropolitan regions are managed principally by the state governments. The second model joins a number of local authorities in a metropolitan area in a formal overarching coordinating structure, without sacrificing the existence of the constituent members. The 1993 amendments to the Indian Constitution, for example, provides for such a governance structure. Third, the informal version of the former model is where a number of municipalities work collectively on specific issues. This model is being applied in Brazil without much success. The cooperative model of Switzerland appears to be more successful, with constitutionally recognized “agglomerations” of inner city municipalities and their surrounding municipalities. The fourth model is single-purpose local government structures. Prevalent in the U.S., special districts are ad hoc institutions dealing with specific aspects of metropolitan life such as public transport, pollution control, water and sewage systems, and fire protection. The least popular model has been the consolidation of metropolitan areas into unified multi-purpose political structures. There has, however, never been a comprehensive inclusion of the entire region into one municipal structure.

Given the growth of metropolitan regions, the effective governance of these areas is one of the key issues facing local government. In Germany the debate is how metropolitan regions should be governed: jointly by the cities involved or by forming a new and separate level of administration with its own directly elected councils? Likewise, in Mexico there is an increased interest in establishing new metropolitan coordinating bodies and reinforcing old ones.

Conclusion

The increasing recognition of local government as a full partner in government reflects a broader shift in the conceptualization of federalism. It signified a movement from dual federalism, where governmental functions are divided among two orders of government only (federal and state) to multi-level government where governmental powers are divided and shared among three orders of government. This has meant, however, that the interrelationship between three orders of government has produced an inherently more complex system of federal governance, placing new demands on the theory and practice of federalism.