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Patterns of Local Autonomy in Europe

Andreas Ladner · Nicolas Keuffer
Harald Baldersheim · Nikos Hlepas
Pawel Swianiewicz · Kristof Steyvers
Carmen Navarro

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PART I

Assessing and Measuring Local
Autonomy



CHAPTER 1

What Is Local Autonomy?

1.1 INTRODUCTION

The balance between local autonomy and central control is a perennial issue in the territorial organisation of states. Central domination and local submission have been defining features of some states while in others cities and provinces enjoyed extensive freedom from central interference. The history of nation-building in Europe since the Treaty of Westphalia (1648) is largely a story of gradual integration of diverse cities and provinces into larger territorial units (Rokkan and Urwin 1978). The process varied from country to country with markedly different outcomes in terms of the degree and characteristic patterns of local autonomy. The purpose of this book is to chart this variation as it exists today and to assess its drivers and consequences.

With the emergence of the modern nation state, the virtues and shortcomings of the competing ideals about how to organise the relations between central power and territorial subunits became an intensively debated topic. For some, a powerful nation state had to be “one and indivisible” (see Art. 1 of the French Constitution of 1791), and they favoured a strong centre with subordinate state units, whereas others insisted on the principle of power-sharing (see James Madison in the Federalist Papers No. 51) between the different layers of the state as a safeguard to the rights of the people. To this can be added the ideas of Plato (see The Dialogues of Plato Vol. II: V, 738, 742; VI 771) and other political think-

ers who claim that democratic decision-making depends on citizens who know and trust each other and that the creation of homogeneous subunits is a means to contain conflicts in ethnically, linguistically or confessionally divided societies.

Renowned writers such as Alexis de Tocqueville, John Stuart Mill or Toulmin Smith presented autonomy as a highly valued feature of local government. For them, autonomy provided the ground for genuine democracy where decisions could meet the demands and needs of the citizens. Based on these ideas, international and European organisations such as the European Union (EU) (through the establishment of the Committee of Regions in the wake of the Maastricht Treaty 1992 and the Lisbon Treaty of 2009), the World Bank (WB), the Organisation for Economic Co-operation and Development (OECD), the International Monetary Fund (IMF) and the UN-Habitat support and foster decentralisation reforms devolving political power and responsibilities towards lower levels of government and closer to the citizens. In 1985, the Council of Europe adopted “The European Charter of Local Self-Government” to maintain and promote local autonomy in its member states. The European Charter has become an important instrument for protecting and promoting local self-government.

Despite the importance of the concept, there is little theoretical convergence regarding the core elements of local autonomy. The reports on the countries having signed the European Charter regarding its implementation provide helpful insight into the situation in these countries and issue a large number of recommendations for improvement. They often fail to produce comparable data. There is also a considerable amount of data on decentralisation produced by the OECD and the WB. These sources, however, mainly deal with local expenditures, tax-raising powers and transfers and do not capture to what extent local authorities have a say in how these funds are spent. And finally, there is a limited number of scientific studies trying to measure local autonomy comparatively. All these studies focus on some aspects of autonomy only or treat a rather limited number of countries and subnational tiers (Vetter 2007; Sellers and Lidström 2007; Wolman et al. 2010; Hooghe et al. 2016; Do Vale 2015; Ivanyna and Shah 2014). What is lacking are comprehensive studies addressing the different components of local autonomy across a large number of countries and across time. This book attempts to fill this gap.

Our study proposes a theoretically rooted measure of local autonomy drawing on different theoretical paradigms (institutional theories, comparative local and multilevel governance, theories of decentralisation). The measure is applied to 39 countries over a time period of 25 years (1990–2014).¹ The 39 countries covered include all 28 EU member states together with Albania, Georgia, Iceland, Liechtenstein, Macedonia, Moldova, Norway, Serbia, Switzerland Turkey and Ukraine. The study identifies the position of the respective countries on component dimensions of local autonomy, including changes over time, develops an overall measure of local autonomy and reveals different patterns of local autonomy. Furthermore, we have sought to supplement existing typologies of local government (e.g. Hesse and Sharpe 1991; Kuhlmann and Wollmann 2014; Loughlin et al. 2011; Swianiewicz 2014; Goldsmith and Page 2010) by grouping countries according to how they score on the various dimensions of our local autonomy index. And finally, we address possible causes for varying degrees of autonomy, and, since local autonomy is not an end in itself, we have also sought to identify consequences of local autonomy for local democracy and service delivery.

Thus, the overarching research intentions and the main questions of this volume are:

- (a) How can local autonomy be measured taking a larger number of its different aspects into account?
- (b) Are there characteristic patterns of local autonomy, and how did local autonomy change in the last quarter of a century?²
- (c) What explains cross-country variations in local autonomy and what are the effects of these differences?

In this first chapter, we start with the question why local autonomy is considered to be important, followed by a theoretical section outlining the theoretical justifications of local autonomy and the ways the concept is used. Then, we look at the different disciplinary approaches

¹The study was initiated by the Directorate-General for Regional and Urban Policy of the European Commission (Tender No 2014.CE.16.BAT.031: “Self-rule Index for Local Authorities”).

²The second part of this question appears particularly interesting in the age of globalisation and Europeanisation or with respect to the financial and economic crisis.

and suggest a theory-based multidimensional concept of local autonomy which sets the grounds for our measurement of local autonomy presented in the second chapter.

1.2 WHY IS LOCAL AUTONOMY IMPORTANT?

In the past few decades, local autonomy has become one of the key issues of reforms of local government systems. Decentralisation reforms devolving political power and responsibilities towards levels of government closer to the citizens have been sweeping the globe since the 1980s. Both local autonomy and decentralisations³ have been advocated by many important European and international institutions as a cornerstone of “good governance” guaranteeing and enhancing democracy (UN-Habitat 2009; UCLG 2008; OECD 2004).⁴

From such a perspective, local autonomy is more than just a topic of scientific interest. It has become something to be achieved, an aim responsible political leaders should crave for. The justification of this point of view is found in many of the prerequisites for well-functioning municipalities. Most of them are positively related to local autonomy or—as it is assumed—are direct products of local autonomy. It is argued that local autonomy leads to more involvement of citizens in the political process, an increase of accountability, more economic efficiency, healthy local competition, cross-functional coordination, policy experimentation, and the protection of macroeconomic and political stability (Hankla 2009; Treisman 2007; Andrews and De Vries 2007). To what extent these expectations are justified will be addressed later in this book (see Chap. 13). At this stage, it seems, however, important to mention that there may also be negative impacts of decentralisation, such as decreasing stabilisation (Musgrave and Musgrave 1976), inequality, corruption and pork-barrel policies (Prud’homme 1994) or decreasing (resource allocation) economic efficiency and growth (Rodriguez-Pose and Ezcurra 2011).

³Important to note: Decentralisation and local autonomy are not synonyms (Fleurke and Willemse 2004). There can be a strong decentralisation without local autonomy. Only in the case of political or real decentralisation the municipalities enjoy a high degree of autonomy. This is not the case in when it comes to administrative decentralisation or to deconcentration (see Kuhlmann and Bogumil 2010; Wollmann 2004).

⁴Within the World Bank operational experience, over one-quarter of development policy operations approved in fiscal years 1995–2005 listed at least one condition with a decentralisation theme (Kaiser 2006).

The European Charter of Local Self-Government, adopted by the Council of Europe in 1985, probably represents the most prominent contemporary endeavour to promote decentralisation and local autonomy. Based in the normative assumption that a territorial organisation with autonomous municipalities is better than any unitary form of state with no real decentralisation at all the European Charter of Local Self-Government is an international legal instrument to ensure the protection, evaluation and promotion of decentralisation and local autonomy in the member states of the Council of Europe. It “entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfilment” (Council of Europe 1985: preamble).

The European Charter of Local Self-Government lays out the conditions necessary for the existence of local autonomy and the rights of local authorities. The 18 articles set the standards for national legislation on local government on issues such as the constitutional and legal foundation for local self-government, the scope of local self-government, changes of local authority boundaries, the appropriate administrative structures and resources for the tasks of local authorities, the conditions under which responsibilities at local level are exercised, administrative supervision of local authorities’ activities, financial resources of local authorities, local authorities’ right to associate and the legal protection of local self-government.

By 2016, 47 member states of the Council of Europe have signed and ratified the European Charter of Local Self-Government. The countries signing the Charter were, however, allowed to make some reservations on some of the articles. Ratifying states had to consider themselves bound by at least 20 paragraphs of Part I of the Charter, including at least 10 from a more restrictive and demanding selection of 14 articles/paragraphs. About half the countries signed the Charter without any reservations (see Table 1.1 in the Appendix).

Subsequently, the European Charter has become the yardstick to assess levels of local autonomy in European countries. Visits and reports by independent experts are the key instruments to enforce the European Charter of Local Self-Government. Since 1995, the Congress of Local and Regional Authorities of the Council of Europe monitors approximately every five years the situation of local and regional democracy in its member states. As a result, a large number of recommendations for a better

implementation of the European Charter have been issued. The explanatory reports provide helpful insight into the situation in these countries and show which elements are only partly or not at all implemented.⁵

The European Charter has, furthermore, served as a model for the development of a draft text of a World Charter for Local Self-Government by the United Nations Centre for Human Settlements (UNCHS Habitat) and the World Associations of Cities and Local Authorities Coordination (WACLAC). The United Cities and Local Governments (UCLG) declared in 2004 that the adoption of a World Charter for Local Self-Government remains one of its key objectives. And the European Union recognised local autonomy and local self-government legally through the Lisbon Treaty of 2009 (cp. art. 5 § 2 TEU). Be it the Council of Europe, the European Union or the United Nations local autonomy is seen as something positive, something countries should grant their municipalities. Local autonomy is thus more than a mere analytical concept; it has become a normative goal. Behind this lays the idea that local autonomy has positive societal effects, be it on democracy, political stability or economic growth and development.

Doubtless, municipalities play an important role in many states and societies. The roughly 91'000 municipalities in the European Union make up for a significant portion of the GDP and the total public expenditures. In 2011, these figures amounted to 12% of the GDP and 24.3% of the expenditures in the EU-27 countries (CEMR 2012). Local action has also gained a noteworthy place in the mainstream of policies: 40% of EU funds are invested in local government and 60% of items on local council agendas are affected by the EU. The outstanding role of municipalities is reinforced by the fact that the level of trust in local authorities is higher than the trust in national governments or parliaments (see e.g. the Eurobarometer 307).

⁵It appears from the monitoring reports that out of the different parts of the European Charter of Local Self-Government, the art. 9 on financial resources of local authorities is the one facing most problems, the first two paragraphs being the least complied with. This is not only due to the recent financial crisis affecting many European countries but also to the clear principles and criteria these two paragraphs entail. The second most violated part of the European Charter of Local Self-Government is the art. 4, which enshrined the scope of local self-government, and especially the paragraph 6 about timely and appropriate consultation of local authorities when planning and decision-making processes directly concerning them. Finally, elements not implemented are also often related to the art. 3 par. 2 (democratic principle), the art. 8 par. 1 (adequate legislative basis for supervision), and the art. 11 (legal protection) (Council of Europe 2016).

The importance of autonomous local government is also underlined by the policy of the European Union. Big parts of the public investment in the EU, in the form of the cohesion policy funding (21% in 2010–2012), aim at improving institutional capacity and public administration, particularly on local level. Since the absorption rate of cohesion policy funding for the 2007–2013 has shown to be very low in some cases (European Commission 2014) and the expected goals could not be reached, it has become a key objective for the period 2014–2020 to strengthen local authorities. Strong and autonomous municipalities able to invest the money to be received for the benefit to the citizens and the local economy becomes thus a goal to be achieved and a prerequisite for further support.

1.3 CONCEPTUALISING LOCAL AUTONOMY THEORETICALLY

1.3.1 The Normative and Theoretical Justifications of Local Autonomy and Local Government

There is a wide field of literature dedicated to highlight and justify the importance of local autonomy. Some of the writings go back to the early days of the modern nation states.

For Chandler (2008), the normative rationale of local government is based on two different grounds, the classical liberal theory and the ideal of individual freedom. He calls them ethics and expedience. According to the first, it is a value in its own right, regardless of its value for higher levels of government, and fulfils a morally desirable purpose in itself. According to the second, it justifies local government to the extent that it serves the purposes of higher levels of government.

Alexis de Tocqueville (1994 [1835]) argues that local government can be seen as a means of guaranteeing collective freedom by enabling citizens to determine freely what matches their own needs and that these diverse demands can be reconciled and met by the government which stands closest to them. This idea is also reflected in the European notion of subsidiarity.

Toulmin Smith (1951), advocate of decentralisation in Britain, claims that if every individual has the right and duty to manage his or her own affairs, for which he or she knows best how to do it, this applies also to

associated groups of individuals as well as to the large panoply of issues which concern them as individual groups. As a consequence, no individual or group of individuals, be it near or far away, has the right to dictate anything to the individual or the group since they are less able to discern what is in their best interest. Related to local government, Smith views an independent and strong community as a way to secure individual freedom in putting restrictions upon the arbitrary intervention of higher levels of government.

Smith's thoughts on individual and community liberty are not substantially different from those of John Stuart Mill (1975 [1859]) who argues that the individual liberty to follow one's own beliefs implies that communities with self-regarding interests have to be free to make decisions that affect the community in question, provided these do not harm others outside: "the liberty of the individual, in things wherein the individual is alone concerned, implies a corresponding liberty in any number of individuals to regulate by mutual agreement such things as regard them jointly, and regard no persons but themselves" (Mill 1975 [1859]: 125, cited in Chandler 2008: 358).

The normative principles derived from the arguments outlined above justify that local government has to be free to make regulatory decisions and to provide common policies affecting its residents and those with a substantial interest in its area. This implies firstly that local government must adopt a democratic structure so that each individual has the possibility to determine the policies of the group, secondly that it must find the resources to undertake any service collectively wished to be provided for itself, and thirdly that it ought to represent the views of its inhabitants to other agencies where its policies affect others, and finally that higher levels of government must respect its integrity and morally legitimate activities (Chandler 2010).

However, Chandler (2008) argues that the major theorists of liberal democracy throughout the twentieth century justified local government mostly on utilitarian rather than on ethical grounds. Local government has to serve the state as a whole. The "traditional" normative values of local government, however, focus on efficiency and the democratic advantages compared to other levels of government. This brings us to the well-known "efficiency-democracy dilemma" (Goldsmith and Newton 1983) between the two central functions of local government (Sharpe 1970).

Economic efficiency is the dominant virtue of local government. Local government becomes a functionally efficient service-delivery agency which

accurately translates public preferences into public policies. For economists from the “public choice” school, the role of local government is legitimised by the solution it offers to provide local public goods:

For a public good—the consumption of which is defined over geographical subsets of the total population, and for which the costs of providing each level of output of the good in each jurisdiction are the same for the central or the respective local government—it will always be more efficient (or at least as efficient) for local governments to provide the Pareto-efficient levels of output for their respective jurisdictions than for the central government to provide any specified and uniform level of output across all jurisdictions. (Oates, 1972: 35)

Aside from normatively legitimising local government as an appropriate services provider, able to promote innovative policy choices (Vetter 2007), local government can also be justified as a democratic institution, since it provides for a healthy territorial division of political power promoting stability. It enhances local participation, brings forward representative, responsible and accountable local authorities, gives opportunities for political skills to be developed, leads to a diffusion of power and promotes inclusion within society (Mill 1975 [1859]; Tocqueville 1994 [1835]; King and Stoker 1996). Therefore, if local government enables administratively efficient service provision for the nation state, acts as a countervailing power against tyranny and assures democratic legitimacy for the nation as a whole, then it is only legitimate for the central government to control and arrange local government to serve most efficiently these expeditious goals (Chandler 2008).

Local autonomy, defined as a policy space for local democracy, can be considered as a necessary prerequisite for a local government to cope with competing values, preferences and priorities, to resolve conflicts within local democratic institutions and to provide local public services that are in line with the prevailing tastes and demands. As a consequence, local autonomy, not being synonymous to either local democracy or local efficiency, does not have to be apprehended as a positive notion in itself, not as a “hurrah word” (Page 1982: 39) viewed “through romantic eyes” as it has been to a great extent the case in the dedicated literature (King and Stoker 1996: 24; Goldsmith 1990). There are also ways of reasoning where local autonomy is not entirely seen as a positive feature within a nation state. That some of the tasks cannot be fulfilled successfully by the lowest units autonomously is rather trivial when we think of defence and international relations. Doubtlessly, there are also “economies of scales”

which ask for a more centralised and uniform provision of services for the sake of lower costs. One might also favour more centrally regulated tasks and procedures for organisational reasons. It is, for example, difficult to maintain that the school starts in spring in some municipalities and in autumn in others. And claims for social justice and equality might prohibit unlimited autonomy for subnational units. Following this line of thinking, local autonomy, and the effectiveness of the opportunities it offers can thus be theoretically and empirically questioned and tested (Pierre 1990). Only on such grounds we will be able to tell, whether it represents a feature of modern states to be aspired to.

To sum it up, from normative points of view, autonomous municipalities are justified as a value in itself with their own policy sphere but also as appropriate units to fulfil tasks designed by higher levels because they are closer to the needs and preferences of their inhabitants. They are meant to do so efficiently and democratically. To what extent they actually do it successfully, however, has to be tested.

1.3.2 Local Autonomy as the “Freedom from”, “Freedom to” and “Reflection of Local Identity”

Developing a definition of local autonomy that it is distinct from the definition of local democracy, Pratchett (2004) points out three theoretical perspectives. First, local autonomy is understood as a relative concept and is defined as local government’s independence from constraints existing in its environment (Wolman and Goldsmith 1990). Thus, the degree of autonomy depends on the “freedom from” such constraints, which can be vertical when it is a matter of intergovernmental relations and horizontal when local factors are concerned.

To Pratchett (2004) the “freedom from” approaches to local autonomy based on a constitutional or legal understanding of central-local relations analyse to what extent higher levels of government delegate tasks and concede competences without paying much attention to the capacities of local government to act. They represent the classical political science perspective best illustrated by Clark (1984). In a well-known article, he puts local powers in relation to higher levels of government. Translating the principles of legal power from Jeremy Bentham (1970) from individual to institutional powers, he defines local autonomy through initiation and immunity. Initiation is the competence of local authorities to carry out tasks in their own interest. The power of immunity means the possibility

of a local authority to act without being under the control of higher tiers of government. Successively, autonomy “defines the extent of local discretion in terms of local government functions, actions, and legitimate behavior. (...) Discretion, or the ability of local governments to carry out in their own manner their own particular objectives in accordance with their own standards of implementation, depends on the prior specification of local autonomy” (Clark 1984: 198–199, emphasis added).

Clark’s approach consists of conditions that have to be fulfilled to reach the highest degree of autonomy: the powers of initiation and the power of immunity. The extent of the two respective powers indicates the configuration of local autonomy. This determines local discretion, namely, the freedom to decide about the range of functions to be responsible for and the manner to do so effectively. With respect to the sources of initiation and immunity, Clark remains explicitly unclear. He notes, however, that there are crucial implications with respect to democracy:

- Initiation and immunity are high: Locality “is totally autonomous from other local and higher tiers of the state (if they exist)” (Clark 1984: 200). The power of initiation and the power of immunity draw their legitimacy directly from the citizens.
- Initiation is high, immunity is low: Even if the action of local government can be constrained, its legitimacy is created bottom-up. It is the local citizens that decide on the realm of local affairs, the agendas and the functions according to their needs.
- Initiation is low, immunity is high: Local authorities have no fear of the review of their decisions by higher tiers of government, but they enjoy no power of local initiation. This model holds less autonomy than the previous one since the initiation power is assigned by state legislation. On the one hand, this means an intrusion of the central state in the definition of tasks that have to be carried out by the local government.
- Initiation and immunity are low: This configuration qualifies local government being “creatures” of the state in the sense that they hold no power of initiative and are subject to strict control.

This raises a number of questions: First, the source of legitimacy is not necessarily granted “from above” but can be assigned by local citizens. Even though Pratchett’s arguments on this issue need to be qualified, the logic underlying the distinction between the various theoretical insights

into the concept of local autonomy remains useful. The argument of the source of legitimacy for the action requires to be related to the long-term state-development process. It marks the difference between states where power has been decentralised towards local governments and states where the local governments pre-existed central government (Elazar 1976). Secondly, the responsibility for the action, which is not in the hand of the bureaucratic apparatus in the configurations with low initiation, refers to the difference between local administration and local autonomy mentioned above. Thirdly, Clark's perspective is based on a constitutional understanding of the vertical distribution of tasks and competences between the central and local governments, and therefore it is about the issue of sovereignty rather than about questioning the normative positive value of local autonomy.

Attempting to integrate various theoretical perspectives (especially the neo-Marxist analyses in the late 1970 and 1980s), Gurr and King (1987: 28) concentrated not only on the limits imposed by higher levels of government but also on a multitude of local factors: "the autonomy of the local state (...) is a function first of its relationship with local economic and social groups, and second of its relationship with the national or central state" (1987: 56). It not only has a vertical (Type II autonomy) but also a horizontal (Type I autonomy) dimension. Type I autonomy is more concretely circumscribed by the extent of the effective revenues which can be extracted from local economy, the capacity of economic actors to control the local political agenda, and the presence of local political organisations and social movements able to resist or reshape the local policies implemented (Gurr and King 1987). Type II autonomy describes the extent to which a local government can pursue its interests without being limited by constitutionally specified constraints, strict objectives accompanying subventions, and national political pressures on policies (Gurr and King 1987). It thus partly matches Clark's immunity power. King and Pierre (1990: 3–10) take up this distinction by the use of the terms "local autonomy" with reference to Type I autonomy (local community, including local government as a local organisation) and "local government autonomy" with reference to Type II autonomy (local authorities as regards to other authorities of the state).

The second theoretical insight into the concept of local autonomy identified by Pratchett (2004: 364 f.) is the so-called freedom to approach and refers to the distinction also made by Wolman and Goldsmith (1992: 45): "Conventionally, local autonomy is defined as