

Local Special Requirements

Regulatory inconsistencies and a potential conflict between
the municipalities and the national government

Abstract

The environmental agenda is constantly relevant in the political science of today and the amount of research being done follows there of. This thesis explores the topic of environmental policy between governmental levels with special focus on the construction industry. Through a case study of the joint environmental building program of the cities Lund and Malmö, the author examines the relationship between the municipal government and the national government. With the guiding question of why there are regulatory inconsistencies in this field the author lands at the conclusion that they exist because the municipalities has a different agenda than the national government and simply because they have the possibility to. This is done through qualitative interviews with people involved and affected by this program and scholars in the field. Theory wise the author links three different governance theories, namely multi-level governance, polycentrism and two-level game theory to the issue. These all aids in understanding why this program exists and came to be.

Key words: environment, construction, governance, municipality, Sweden

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1 Introduction

The Swedish government has set up a frame of 16 national environmental goals to be directory on all levels and areas in society. The central government deals with the national implementation, on the regional level the county administrations has the coordinative responsibility and the municipalities takes care of the local implementation. However, the municipal level, generally, has more ambitious environmental goals than the national (Bartholdsson 2009: 124). As stated in a recent article there is an ongoing competition between municipalities to set the highest environmental demands on new construction leading the central government to consider implementing a national maximum on demand for new construction¹. This conflict of interest might not be a new phenomenon but it is indeed highly relevant in the discussion on how to tackle the environmental problems we are facing. It also highlights the governance structure of the modern society in that it poses the question of which level is of greatest importance in the environmental field. In addition, this trend is not restricted to the Swedish context, which can be illustrated by the covenant of mayors, an organization that coordinate local and regional initiatives in environmental work within Europe, often stricter than respective national government². This general issue of special local requirements is what this thesis is about with focus on the Swedish context and more specifically the local policies applied in the construction industry.

1.1 Guiding questions

The research question and sub question guiding this thesis are presented below:

- *Why are there inconsistencies in environmental demands between levels in the construction industry?*
 - *Does the local special requirements of Miljöbyggprogram SYD cause a conflict with the national agenda and if so, how?*

These questions should be treated as help for the reader and function as a handrail throughout the thesis leading the research forward and in the end of course be answered with support of the empirical data acquired. Both of the questions are

¹ <http://www.nyteknik.se/nyheter/bygg/byggartiklar/article3536614.ece>

² www.eumayors.eu

being handled in the empirical part but are then also further discussed in the concluding analysis.

1.2 Conceptual definitions

1.2.1 Regulatory inconsistency

Inconsistency in regulations, as mentioned in the main research question, regarding environmental building is the main focus of this thesis. In short it means that there are numerous norms and regulations on different governmental levels. Sometimes they overlap each other, sometimes they contradict each other, and sometimes they align. The inconsistency of it refers to the fact that there are numerous frameworks rather than one that is all embracing.

1.2.2 Local special requirements and programs there of

Construction companies have to relate to and adapt to a number of environmental policies. These are often part of an environmental program with parameters such as energy efficiency and air quality. Generally these programs work as a certifying instance that the construction companies can choose to take part of and if they meet the requirements they have the right to use the certification as a label of quality. There are a number of these programs. LEED and BREEAM are two of the leading international certifications³⁴. In the Swedish context Boverkets Byggregler or BBR is the one framework issued by the government that sets the lowest necessary requirements. Miljöbyggnad is another one that is available for all construction companies to apply⁵. In addition to all these open certification programs many of the construction companies have their own internal certifications they apply to their own practice. The one program that will be of focus in this thesis is Miljöbyggprogram SYD or MBP SYD that will be further explained later on.

1.3 Material

The material used can be divided into three categories. Firstly there are the official texts and documents of the environmental agendas coming from the

³ <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>

⁴ <http://www.breeam.org/>

⁵ <http://www.sgbc.se/certifiseringssystem/miljoebyggnad>

corresponding political or organizational entity. The second are press releases and media articles related to the issue and lastly and most importantly the first-hand information acquired from the interviews and attended conference. The official documents are accessible for anyone through the Internet and the corresponding web sites. It is necessary to point out that the documents in themselves are not of the greatest importance in the analysis of the issue. The reason for this is firstly that some of them are very technical in their nature in regards to juridical and environmental specifications. This is especially the case for the environmental building programs. Secondly, the comparative element of the elements is not the focus of this thesis. More important is how they came to be and the implications of the different programs making the interviews all the more important. This is also the case for media and press releases since they reflect opinions and statements. The material and data attained from the interviews will constitute the basis for the analysis. In addition to these three sources of information relevant literature regarding governance and municipal sovereignty are also being used. This literature is composed of articles and books found through tips from supervisors and self search.

1.4 Limitations and boundaries

As for the limitations and boundaries of the research it is important to remember that the case being presented is only concerning two municipalities in Sweden. There are many other municipalities with similar practices and programs concerning the built environment meaning that the case of focus of this thesis is not necessarily generalizable. The reason for choosing this case is because it has proximity built in it, proximity in space and very much proximity in time. Also, the focus is on one specific sector – the building industry. It is not certain that local special requirements, which exists in countless businesses and fields, within this sector has the same characteristics as other sectors.

Regarding material some measures have been taken to limit the amount of input. For example the non-governmental sector is not being represented in the interview material. An environmental NGO or other publicly participatory organisation could potentially provide another dimension on the issue. Furthermore, it is always possible to include other sets of theories. As for this thesis, it could be fruitful to focus more on the power structures behind the decisions rather than the interests. This however would call for another type of methodology and would call for a far more extensive study.

In searching for reasons of why the program exists and even more so if there is a conflict between levels there is the possibility that party politics has an impact. Just from overviewing news articles this is something that indeed matters or at least is perceived by some to matter. However, this is not something that will be explicitly examined in this thesis simply because it would demand another type of research which there is not room nor time for.

2 Theoretical framework and methodological approach

Since the subject of focus is very much current the study is largely descriptive in its nature, descriptive in that it aims at describing a situation in the first place and secondly aims at explaining the same situation. In addition to the descriptive element, explanations are being sought after regarding why these local requirements exist and how they are perceived. As Teorell & Svensson (2007: 23-24) puts it, explanatory studies sometimes fall short if not done correctly and can basically not be done if not preceded by a well done description. They also emphasize the fact that a strictly descriptive study by no means is an easy task and indeed has an intrinsic value in the sense that, if well done, it can be a relevant scientific addition. Having said this, a thesis with this research question as basis benefits from having an explanatory ambition. The reason for not grasping too much after explanations is mainly because of the changing nature of the topic. It is in fact happening a lot right now, as we speak, meaning that just explaining the situation as it is right now has a value for understanding the future of the issue.

2.1 Theory and previous research

The theories being presented below are there to help get an understanding of the issue, to relate this local event to a larger context and possibly to explain why things are unfolding themselves as they do. This meaning that the theories are strictly and solemnly being used to gain greater understanding without any ambition of testing or developing the theories used.

Three main frameworks are presented in no particular order. In the later analysis they are used in parallel, intertwined, separately and at times put against each other.

2.1.1 Multilevel governance

The theory of multi-level governance stems from the idea that the dispersion of governance across a number of jurisdictions is not only a general global trend it is also more efficient than the traditional national state monopoly (Bache & Flinders 2004: 16). The basic idea is that the scale of governance must reflect the wide variety of input and the lateral scale of which they are coming from. To internalize an externality on the local scale, local governance is needed. This core

argument is accepted among the scholars discussing the concept. What is not agreed upon is the organization of the multi-level governance. Bache & Flinders highlights two main types that are contradictory in their nature. Type 1, sees an organization where there is a set number of levels with a given jurisdiction. These levels do not intersect each other and are general in their aim, meaning that the governance is not divided between functions. All levels of governance being designed in the same way makes for a system-wide architecture. A good illustration is given by Bache & Flinders saying that every citizen is located in a Russian Doll set of nested jurisdictions, where there is one and only one relevant jurisdiction at any given territorial scale. Be it local, regional or national. The type 2-approach on the other hand argues for governance divided by functionality. There is no set number or maximum regarding the number of jurisdictional systems in this view. The scale and width of each jurisdiction may vary enormously making for a very flexible system with high adaptability. Related to the Swedish system it is of course much more alike the Russian doll analogy in that there is a strictly vertical jurisdictional system. However, the case portrayed in this thesis could very well be related to the type II- approach.

As stated in the article *Cities, Climate Change and Multilevel Governance* (Corfee-Morlot et al, 2009: 24), “ a multilevel governance framework provides a starting point for understanding how central governments and other public and private actors interface to design policies from international to national and local levels of action”. This statement together with “multilevel governance also provides a flexible conceptual framework to understand the relationship between cities, regions and national governments across mitigation and adaptation policy issues as well as across a widening range of non-state and non-governmental actors”, from the same document makes for a good introduction to the theoretical approach for this thesis. The primary research question of the Corfee-Morlot report is “what makes good practice?” and to measure this they use a number of parameters. Three of these are cost effectiveness/economic efficiency, policy coherence both vertically and horizontally and experimental and innovative encouragement, namely how the national government encourages the local and regional levels. These parameters are used throughout as explanatory variables. While not used exactly in the same way here they are all good to have in the back of the mind and very much relevant for understanding the current events.

2.1.2 Polycentrism

It has proven to be easier said than done to make international, binding agreements in the field of environmental protection and development. It is easy to get beaten down by the lack of multilateral agreements, which to many is the only way to go about the problems of today. What is then important to remember is that there is much to be done (and being done) even without the big international agreements. Ostrom (2010) identifies what she calls polycentrism in her article *Polycentric system for coping with collective action and global environmental challenge*. The key message in the concept is that there are and should be a

number of actors working with an environmental agenda. Giving examples from previous studies she makes it clear that multiple and overlapping actors within a given area makes for a better outcome.

Polycentric systems tend to enhance innovation, learning, adaptation, trustworthiness, levels of cooperation of participants, and the achievement of more effective equitable and sustainable outcomes at multiple scales even though no institutional arrangement can totally eliminate opportunism with respect to the provision and production of collective goods (Toonen 2010, in Ostrom 2010).

This quote, even though referring to an international arena and that it brings in the collective goods problem, is saying something crucial. It is telling us that what she calls polycentrism does indeed enhance the environmental development. Examples of environmental initiatives in the US and in Europe that can be related to polycentrism are presented in the before mentioned article. These range from regional emission trading schemes in Europe to environmental agreements between mayors in different American cities. The case studied in this thesis definitely falls under the definition of polycentrism given by Ostrom. In using polycentrism as a framework for understanding and analysing environmental initiatives it is important to understand the possible and often referred to downsides. Ostrom lists six potential problems with having a system where a multitude of actors are present. The most interesting of these in relation to this thesis is that of inconsistent policies. Inconsistent policies are described as a nuisance for industry actors trying to develop and implement technologies since rules and regulations differ between locations. New products or technologies may be in line with policies in one area while being subpar in another resulting in costly expenditures for research and development. In relation to this problem is one called leaking, which means that an environmental issue that is being handled in location X by local jurisdiction or by other means just moves to a location Y outside of this jurisdiction's borders to another geographical entity with more forgiving or even non-existent jurisdiction in that specific area. The same phenomenon can also be translated to markets or business. These two parameters that Ostrom highlights as potential problems is something that will be discussed further in the analysis.

2.1.3 Two-level game theory

Putnam's two-level game theory is originally an international relations theory that describes the political arena in two levels. The usual actors illustrated in this theory are the domestic cluster of actors and the international actors, most commonly states. The two levels can be described and illustrated in terms of international relations as a process where the first level takes place on the international arena where representative negotiators meet and come to an agreement between them knowing that the agreement will be up for debate on the

domestic arena. The domestic arena is then the second level where the agreement need to be ratified before implemented (Putnam 1998).

The chances for a policy to be ratified in the end can be measured in what Putnam calls win-sets. In this measurement a number of parameters are included. These parameters or determinants can be summarized into three groups: quality, strategy and persuasiveness of the negotiator, the institutions of the level II arena, and the preferences and coalitions of the level II arena (Putnam 1998).

In relating two-level game theory to this thesis slight moderation is needed. The two different levels of government are not domestic and international but rather the local level, represented by the municipal government and other actors working locally, and the national level represented by the national government.

2.2 Structure and approach

As probably already perceived this thesis is a qualitative case study. The course of action to finalize this is as follows. Firstly the environmental programs are described and analyzed, briefly taking the differences and similarities into account. More precisely focus will be on the part of built environment. The goals and demands in these texts will be highlighted and the deviant local special requirements will be identified. This is a necessary introduction but as previously stated, the comparison and actual text is not of greatest importance for the later analysis. With this done, firsthand information from practitioners is needed to obtain a deeper understanding. This information will be coming from interviews with local politicians and agenda setters giving their view on the meaning and possible complications with the different goals.

2.2.1 Interview design

The purpose of the interviews is to gather the views of a multitude of actors that in some way have been or are affected by local special requirements and more specifically MBP SYD. The interview design is intentionally made for the interviewee to get as much space as possible for reflection and self-expression. A few predetermined questions run through all of the interviews varying slightly to suit the occasion. With this design the goal is to get the different views of the same issue from a wide range of actors. The predetermined questions are stated below:

- What is the purpose of having a local environmental building program?
- What is your view on the demands given in the local environmental building program in comparison of them given by the national government?

- How do you perceive that the national government view upon local special requirements in environmental policy?

The first aims at getting an understanding of why the program actually exists and how the different actors look upon it. The second focus on the level of ambition expressed by the different levels of government and which of them actually sets the bar correctly. The last one explores the general relationship between the national government and the municipal government.

The method used during the interviews is what Esaiasson and Oscarsson (2007: 284-289) describes as a semi-structured interview, in which they propose a number of uses. One of them is to describe how the interviewee perceives their situation, which is the case for this thesis. Another purpose described is to use interviews as a complement to other analysis, which also is the case here.

The interviews are, if possible, done face-to-face to get as much of a flow as possible. The ones that can not be done in this way because of geographical distances or lack of time are being done over the telephone. In these cases the predetermined questions are being sent to the interviewee in advance giving them the chance to prepare themselves. Other than this the intention is to execute the interviews as much in the same way as possible. In the face-to-face interviews there are of course chance for more elaboration. To instill some kind of fairness all interviewees from the same cluster, i.e. all the representatives of construction companies, are interviewed in the same way. Time wise the interviews differ between 25 to 45 minutes depending on mode of interview and willingness to elaborate.

The result that comes out of the interviews can be analyzed and categorized in a number of ways. As a good example Esaiasson and Oscarsson (2007: 303-306) describes how the Danish social scientist Jensen analyzes his interview survey of Danish politicians. He uses three steps where the first one is to generally interpret each interview giving an overall impression. Secondly he goes through the interviews again more thoroughly writing down all relevant opinions and statements. Finally he categorizes the extracts systematically using a suitable theoretical framework. Applying this methodology on the interviews in this thesis would be fruitful. Not only for it being a method proven to work but also because it provides the structural and systematical approach necessary. In essence, this is what is being done, however not as straight forward as described by Jensen. First off the interviews are summarized and distilled into distinct arguments. These are then compared to other interviews, finding out if the arguments are valid and relevant. The

2.2.2 Interviewees

The single most important thing in choosing and getting hold of interviewees is to get input from a wide variety of actors to give the issue justice and give a fair

description of this current issue. The strategy for choosing the subjects is two fold. First off a number of focus groups are identified as needed, as must have. These are local politicians responsible for the decision to create the program, politicians representing the national government, construction companies being subjected to the program and officials working with the program. Secondly, the so-called snow ball-selection described by Esaiasson & Oscarsson (2007: 291), meaning that central informants refer to other potential persons of interest will be used to get to key informants. Starting with the core of decision makers and people known to work with the environmental program can lead to them mentioning others that are relevant for the cause.

The actual interviewees are the two leading chairmen in the political board of construction from Lund and Malmö, representatives of four of the biggest construction companies affected by Miljöbyggprogram SYD, a representative of the minister of housing representing the national government, the project leader of MBP SYD, and a number of academics in the field of environmental politics and governance.

2.2.3 Presenting the interviews

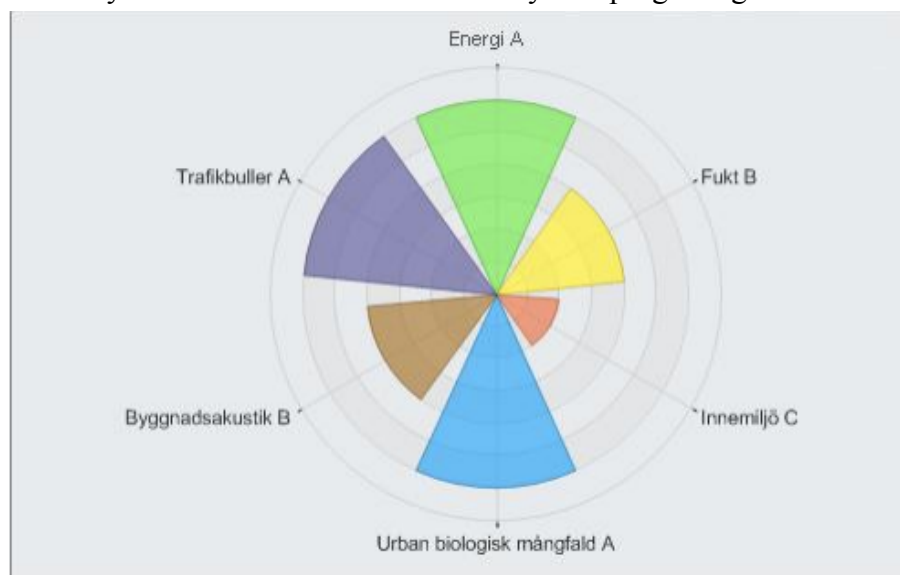
The interviews are being presented in a way so that the interviewees are anonymous in the running text but presented by title in case it is needed for clarity. This is because the arguments are more important than the actors. The goal is to identify the most recurring arguments and to then analyse the actual meaning of them in relation to the theoretical framework. Analytically they are also put against each other in some cases since they are conflicting at times.

3 Case description

In this section the empirical observations and some facts about the Swedish governance system are being presented.

3.1 Miljöbyggprogram SYD

The central case of this thesis is that of Miljöbyggprogram SYD, which is an environmental building program developed and implemented by Lund and Malmö municipality in 2009⁶. It has just recently gone through a reassessment and update into a second version. In the light of the project of Hammarby sjöstad⁷ in Stockholm and Västra hamnen⁸ in Malmö the people involved realized that there was a lack of a proper evaluation tool coordinating all the demands being put on new construction, which sparked the initiation of MBP SYD (Wiklund 2012-11-28). The program itself is constructed in a way so that it has three levels of environmental quality where A is the highest and C the lowest. To achieve a certain quality, a number of parameters have to meet certain standards. The parameters range from energy efficiency to moisture control, and noise level. In the end every new construction embraced by the program get what is called a



Picture1: Example of certification rose

⁶ <http://www.miljobyggprogramsyd.se/>

⁷ <http://www.hammarbysjostad.se/>

⁸ <http://www.malmo.se/Medborgare/Stadsplanering--trafik/Stadsplanering--visioner/Utbyggnadsomraden/Vastra-Hammen.html>

rose, illustrating the environmental quality of the building. The basic explanation of the levels is that C, which is the minimum demanded, is on a level slightly more demanding than them of the national program BBR in terms of energy efficiency. Getting an A on the other hand far exceeds the minimum demands set by BBR. In Malmö the practice is that the construction companies get to decide for which level they want to aim with the condition that the requirements of level C are met. Lund however, have decided to demand that a certain proportion of the new construction has to meet the requirements of level A (Wallin, 2012-11-29).

The program concerns all of the land owned by the municipalities of Lund and Malmö up for construction meaning that all the companies wanting to take on these projects have to conform themselves to the rules. This is done during the process of selling the land. To exemplify the degree of demands in the program in comparison to those of BBR, a chart showing the requirements for the different levels in terms of energy efficiency is presented below.

	Requirement in terms of energy efficiency related to the demands of BBR where BBR has 90 kWh per m2 and year ⁹
Class A	50 % of BBR
Class B	75 % of BBR
Class C	90 % of BBR

Table1: Energy efficiency demands of MBP SYD in relation to BBR

The basic argument for choosing this case for this study is that it is highly relevant. It is relevant in time since it is recently implemented, it is relevant in its content since it highlights and really puts local special requirements on its head. It is also relevant in regards to political science as a field of research since it concerns the governance system of today. It has the potential to give wider answers as the how the relationship between the municipality and the national government works. All of these criterions are part of what Teorell and Svensson (2007: 222-223) mention as important in choosing a good case. Other criterions they deem important are the possibility for experimentation and manipulation. This however might be more difficult in this case, much because of the lack of previous material. But it is of course an important part in the discussion of the result.

Being so newly implemented the program goes through constant evaluation and analysis, both from political and business actors. There was a recent convention with people from the construction industry meeting with politicians and experts sharing their experiences with the program so far. The immediate reaction from just attending this was that there are both negative positive outcomes of it and that it truly is a topic for debate. A lot of people have a lot to

⁹ Specification for climate zone III, <http://www.boverket.se/Om-Boverket/Nyhetsbrev/Boverket-informerar/Ar-2011/20113/>

say about it. Data collected from this seminar will be added to the general input and presented as part of the recurring arguments.

3.2 Boverkets Byggregler

Boverket is the governmental agency for urban development, construction and housing issues. Their rules and regulations regarding construction are expressed in a document with the acronym BBR. This is a comprehensive document regarding construction that all actors within the construction industry have to relate to in their work. However, much of it is not ruling and legally binding but rather norm setting. Following BBR will ensure that the minimum demands in building are met. This means that BBR represent the general agenda of the Swedish government and sets the standard in building (BBR 18: 2011).

3.3 The Swedish governance system

The Swedish democratic system is divided into three levels: the national government, the regional government, and the municipal government. The democratically elected national government has the legislative responsibility that is applied and governed by the regional and municipal level. The regional level is directly subordinate to the national government as are the municipalities. However, they are both democratically elected and has the executive responsibilities specific to their own geographical entity. One of the main tasks for the regional government is to manage the health care. The municipal government basically has the main responsibility for all the societal functions and the economy of the given municipality. Since 1974 the municipal autonomy is part of the Swedish constitution and an important part at that. The municipality has the right and obligation to make autonomous decisions and set the tax amount to meet the budget along with many other things¹⁰. In 1998 Sweden ratified the European council's convention on municipal autonomy, which include the subsidiarity principle. This principle, put simply, means that each and every decision made should be taken at the vertically lowest possible democratic entity¹¹.

¹⁰ http://www.skf.se/kommuner_och_landsting/om_kommuner/sa_styrs_en_kommun

¹¹ http://www.skf.se/kommuner_och_landsting/darfor_ar_sjalvstyrelse_bra/vad_ar_kommunal_sjalvstyrelse

4 Empirical findings

In this section the empirical material is presented starting with the interviews followed by the recently published national investigation on the issue.

4.1 Recurring arguments from interviews

In this section the main empirical data, that of the interviews, is being presented. It is presented in the form of arguments, arguments that are recurring and therefore deemed relevant. As previously stated, arguments might also have been raised on the attended seminar.

4.1.1 A unifying platform

The argument that Miljöbyggprogram SYD was needed and therefore created because of the lack of a qualitative and unifying platform where construction companies easily can gather, coordinate and evaluate the work they do. This was needed in a time of conflicting agendas and programmes, which cause confusion as to what kind of documents are needed where, how they are to be presented, and to whom. Even though criticism has been raised towards the increased amount of documentation needed with yet another program, MBP SYD has actually made it easier for the construction companies active in the area to go about with their documentation and evaluation. It has also made it easier for technical officials and politicians to understand how and what is going on both before, during and after a project is finished.

The above opinions have been expressed in interviews with the manager of MBP SYD, by construction companies themselves, by politicians on the local level, and also in a seminar featuring all the above mentioned.

In the same time some construction companies also expressed that yet another program actually means added work and double documentation at times. So it is a double-edged sword in that sense but all in all it seems that the good execution and coordination of MBP SYD has made it a generally good experience.

4.1.2 Pushing the building industry forward

The argument that MBP SYD is an engine pushing the limits for environmentally friendly construction is frequently occurring. An example often referred to is the

project of Västra hamnen in Malmö, which in fact started before the implementation of MBP SYD but acted as the starting point and a realisation that the program was needed. Much of what the program consists of today can be related to the processes used in Västra hamnen. This can be illustrated with a quote from the project leader of MBP SYD:

Where would the construction industry be today in terms of environmental awareness and execution if it weren't for Västra hamnen and it's strict demands on environmental building?

This is an argument expressed not only by the promoters of the actual program but also by construction companies wanting incentives to push their own policies and practice. While most say they are already aware of the issue and actively work for green construction they also acknowledge what MBP SYD has actually done and the influence it has had.

4.1.3 Market and pricing implications

The argument that local special requirements generally make it more expensive is one that building companies across the board expresses. Often referred to is the national investigation that concludes that the aggregate of local requirements raises the costs by 10-15 %. This is also an argument that was expressed by Ludvig Lundgren, secretary of the department dealing with these issues and also the representatives of the construction companies.

4.1.4 The municipal identity

The argument that municipalities push the limits in regard of environmental policies to distinguish themselves as pioneers is one that frequently appears. This is especially prominent in the case of Malmö since they have been going through a transformation the last decade or so. A big part of this change is to bring forth the green values, which was something that was identified in the interview with the head of the political board of construction in Malmö and others as well.

4.1.5 Environment and availability

One of the realisations given by the interviews is that local special requirements within construction concerning environmental issues such as energy efficiency are often bundled together with local special requirements concerning availability issues. Availability issues meaning constructing housing readily available for physically disabled people.

This was shown not least by the head of the political board of construction in Lund. The project leader of MBP SYD also mentioned it as a known problem.

4.2 The national investigation on local special requirements within construction

In November 2011 the Swedish minister of construction and housing, Stefan Attefall, issued an investigation on how the municipal governments apply the technical advices given by the national government on new construction. From the very start the intention of the investigation was to analyse what happens to the pricing and production of new construction when municipalities apply different frameworks between themselves (SOU, 2012:86). There was also another part of the investigation focused on other issues, which are irrelevant for this case and will therefor be left out. The investigation was finalized and published in December 2012.

The actual investigation was largely made through surveys going out to municipal governments and construction companies with questions regarding local special requirements. The results coming from the surveys were that the most common special requirement was that of energy efficiency. Regarding pricing the investigation arrived at the conclusion that local special requirements generally make it 10-15 % more expensive for new construction. Other possible consequences are said to be that local requirements decrease the competitiveness in the building industry because of an increased regulatory complexity, indirect expenses because of decreased overall construction, increased administrative expenses for the municipalities, decreased effectiveness of industrial conceptual construction, and that the long term ambitions of sustainable development is thwarted (SOU, 2012:86).

A number of suggestions for legislative changes are being put forth by the investigation with the general message to decrease the possibilities for municipalities to create and apply their own local framework for environmental building. A number of organisations have already criticized these suggestions. The national organization for the municipal and regional governments, SKL, says that the whole investigation missed the point¹². In contrast to the investigators and the conclusions they arrive at, SKL do not think that forbidding the municipalities possibilities to set their own standards will make new construction cheaper. They actually reject the way the investigation has been made and argue that the conclusions are misleading. In addition to this they also say that the suggestions being put forth by the investigation actually infringes on the autonomous rights of the municipality making it a democratic false step. Another organization

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http://www.mynewsdesk.com/se/pressroom/sveriges_kommuner_och_landsting/news/view/byggkravsutredningens-foerslag-missar-maalet-51009

criticising the investigation is Klimatkommunerna, which coordinates municipalities and advocates for environmental progressiveness on the municipal level¹³. The president, Lars Bergwall, argues that the suggestions put forth by the investigation actually works against the general environmental work and hinders the possibility for municipalities to take the leading role that they often want to¹⁴.

¹³ <http://www.klimatkommunerna.se/>

¹⁴ <http://www.mynewsdesk.com/se/view/pressrelease/byggkravsutredningens-foerslag-stoppar-kommuner-som-vill-gaa-foere-821350>

5 Analysis and discussion

5.1 The view from below

Malmö and Lund are two Swedish municipalities much like any other in that they are facing the same problems. They need to market themselves as an attractive place to live. Between equal jurisdictional entities, such as municipalities, there is competition. Competition that earlier might have been restricted to the international level, meaning between countries, is now very much present on the local scale. Not only between corresponding geographical and governmental entities close by but also on the global scale. In the European context it can be exemplified with the rotating cultural capital and the process of becoming it. It is a competition, which takes a decade of preparation with the prize of a full year of international recognition putting the city in the cultural spotlight. The environmental field, while not as explicitly competitive, also has this comparative aspect to it. People are not only aware of the environmental issues they also want to be part of and live in a town or city where it is possible to be as environmentally friendly as possible. One could say that MBP SYD is part of a more general marketing strategy of Lund and Malmö to make them out to be “good” places to live. This is shown by the interviews, especially in Malmö that is actively pushing the city to change its identity. The last decade or two Malmö has gone through a process of rebranding, from an industrial city with a low level of education to an innovative city with high environmental ambitions. Much of this has been possible to do thanks to the municipal autonomy and its drive. The results are in a way remarkable. Looking at the area of Västra hamnen, which is frequently mentioned as the prime Swedish example of a successful project in terms of a sustainable environment, both socially and ecologically. Progressive projects like this is not only beneficial for the city in itself; it is also good for the country as a whole.

Putnam begins his article *Diplomacy and Domestic Politics: The Logic of Two-Level Games* (1988) with the statement that it is unnecessary to discuss whether it is the domestic politics or the international politics that determine the international relations since the answer is obviously “both, sometimes”. Translated to the local versus the national debate, relevant to this thesis, one could come to the same conclusion since it of course is true that both of them are determinants. However, there is another dimension to take into consideration, namely not who actually determines the politics but who has the *possibility* to. This is highly relevant in the case of local special requirements and the recent conclusions and suggestions given in the newly published investigation on the issue. As of now, the municipalities have been able to express their ambitions and

ideology through locally produced programs, MBP SYD being one such program. It is within their democratic right to set the agenda for construction within the geographical entity they govern. This might be about to change given that the national government heeds the suggestions put forth by the investigation. It might be a stretch to say that this is a dangerous development but it is actually something that would change the democratic arena significantly. Given that the municipalities are imposed with the task to execute the 16 environmental goals dictated by the national government and very much does so through these programs it is a confusing development.

To further relate to Putnam's two-level game theory there are similarities to be highlighted regarding how the two levels actually work. In international relations Putnam describes it as a game between interests group from the domestic arena and other states. It is possible to translate this to the local-national nexus where the local would be the level of a more diverse interest group structure. Interest groups involved in the issue range from business actors wanting to market themselves as part of the environmental agenda, NGOs with environmental ambitions pushing for high demands and of course local politicians and the debate between parties. Together all of this input need to be taken into consideration and in the end MBP SYD comes out. This whole process is then of course subject to the opinion of the national government that through legislation acts upon it. Not saying that the interest group is less disperse on the national level but it is another game to it and it is possible to think that they are bound more strictly by the overarching goals.

5.2 Putting the environment first

A recurring argument coming from a wide spectrum of actors involved in the process of new construction is that requirements in energy efficiency expressed in BBR are too low. 90 kWh/m² as it is as of 2012 is not demanding enough by the construction companies¹⁵. Advocates of MBP SYD but also construction companies themselves, that have been interviewed in this research, argue that the minimum demands need to be stricter which is one of the reasons why local programs such as MBP SYD exists. This is a general critique towards BBR and in extension also to the national government. The response from the government, seen in media and also expressed in the investigation (which to be clear seem to be supported by the current government) is that one unifying program should be applied to all, restricting local programs. This is relatable to the multi-level governance literature where the type II- approach recognises the need for multiple jurisdictions on many levels. Multiple jurisdictions divided by functionality encourages a more flexible system that is more susceptible to the constant changes

¹⁵ <http://www.boverket.se/Om-Boverket/Nyhetsbrev/Boverket-informerar/Ar-2011/20113/>

of today. Local programs can be said to be an example of exactly this where the gap between politicians and practitioners is decreased resulting in a more efficient process of change if needed.

An interesting connection to the argument that MBP SYD is a driver for environmental work is what Ostrom mentions in her theory of polycentrism. She argues that a polycentric system advocates for innovation and development, which in large is what many of the people involved in MBP SYD mentions. In an environment where a multitude of actors on any scale are allowed and encouraged to set their own bar there is much room for development. The risks she describes are also mentioned in the debate of local special requirements. Looking at the inconsistency for example. Having parallel programs and regulations and the complications that it brings is one of the main arguments for restricting programs such as MBP SYD. What needs to be kept in consideration when hearing this is that the Swedish government has adopted the goal of decreasing energy use in the construction industry by 20 % until 2020 and 50 % until 2050 and that the current prognosis is to have a decrease of 1 % by 2030¹⁶. The leakage problem is also something that comes up. Construction companies that make large investments in designing a rough model of a construction to mass-produce and implement in a large number of places complains on the local special requirements saying that it is impossible to please all. Using this strategy they can cut costs and keep the production rate at a high level. This national government backs up this argument saying that the country first and foremost need housing and the companies must be allowed to cut the costs as much as possible.

5.3 Discussion

In the end I think the debate lands in balancing between how to value environmental innovation and the need for new construction. If it is an accurate analysis, I am not sure of on the other hand. Does it really have to be one or the other? The local drivers basically want to make things happen and why would they not be allowed to? One suggestion as to why they would not be allowed could be that the national government basically feels that they do not have the control they want. Struggling with lack of housing and construction companies looking to get cheap deals country wide the national government can simply not trust the municipalities to be as helpful as needed. This brings up the question of where we are heading? Cities are becoming more and more of important actors with their own agenda and this is happening basically by itself. The one actor that has to adapt is rather the national government. Instead of being afraid of this change it might be better to simply embrace it and give the cities the leeway they want and need.

¹⁶ <http://www.dn.se/debatt/lat-ambitiosa-kommuner-krava-energisnalare-hus>

6 Conclusion

Much of what comes out of this study has to be related to the very recent investigation on the issue of local special requirements. Much of the data and arguments coming from the interviews made during this research is also what is being put forth in the investigation and trailing debate. This, in itself, is interesting but in addition to the factual arguments that much coincides there is also the more qualitative perspective in this study that adds something. Just connecting arguments with actual live persons that has the chance to elaborate as much as they want on the issue makes for an added value. What's more is that with these deeper interviews it is possible to distil different layers of argument. For instance that local special requirements regarding environmental aspects more than often gets mixed up with those of availability.

Using the case of MBP SYD function as a good practical illustration of the abstract theme of local special requirements. The data collected from the people involved and affected by this program does indeed add something to this ongoing debate. The fact that MBP SYD seem to be a successful example, not only in terms of environmental ambitiousness but also in the execution makes it even more interesting given how the development seem to be heading. This also adds to the fact that a conflict between the horizontal level of government. Because it is indeed clear that a conflict of interest exists between the national government and many of the municipalities. The central government seem to be concerned mainly about the rate of production of new housing while the municipal representatives being addressed in the interviews seem to be prioritizing a different agenda.

So, why are there inconsistencies in environmental demands between levels of governance? The simple answer is - because it is possible. The municipalities have the ability to create a custom fit regulatory framework where they see that the current is lacking and therefor they do it. The outcome is that the municipalities have taken the environmental politics in their own hands, which leads to the question of *why* they do this, what is the reason for it? The one answer presented that might answer this is that of creating a municipal identity. While this is probably a big part of the truth it is also a bit cynical. What is probably the most interesting realisation of this thesis is that the municipality truly has a different agenda than the national government and seeing as the municipality, at least in this case, is more progressive and gets met with restriction it poses the question of who it is that is supposed to take on and be the driver in the environmental issues.

The results coming out of this thesis could be used as the basis for further research, further research in the field of environmental policy making on the local scale as well as going deeper into the governance structure and the relationship between levels in society. Since the rules of the game are in a process of change it

is also important to remember to reflect on what the state is now to be able to look back correctly on this when performing future studies.

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7.1 Interviewees and seminars

7.1.1 Interviewees

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Ludvig Lundgren, 2012-11-29, department secretary of Socialdepartementet
Helen Wiklund, 2012-11-28, coordinator of environmental construction, city council, Lund municipality
Nora Smedby, 2012-12-04, PhD candidate of The International Institute for Industrial Environmental Economics
Peter Ovenlund, 2012-11-30, head of construction, Lunds Kommunala Fastigheter

7.1.2 Seminar

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7.2 Litterature

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7.4 Pictures and tables

Table 1: *Miljöbyggprogram SYD version 2*, 2012-07-12, Malmö Stad, Lunds kommun and Lunds universitet

Picture 1: *Miljöbyggprogram SYD version 2*, 2012-07-12, Malmö Stad, Lunds kommun and Lunds universitet