

## Decentralization in Guatemala: The Search for Participatory Democracy

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In Guatemala today, as in so much of Latin America over the past two decades, decentralization is viewed as an integral state reform that has the potential to strengthen democracy and the capacity of the state to attend to the needs of the public. Guatemalans are looking to redesign their system of inter-governmental relations with the aim of breaking up the power of a traditionally authoritarian state, improving the delivery of public services, particularly health and education, and promoting economic development and poverty reduction. Guatemalans are in the midst of a debate over the shape of future decentralization efforts, and it is clear that much remains to be done to advance toward these objectives.

What makes the Guatemalan case intriguing is the extraordinary degree to which decentralization is associated with the incorporation of civil society generally, and long-marginalized indigenous populations in particular, into the decision making processes of government. Rarely does the discussion stray far from the point of seeking to ensure that the average Guatemalan plays a larger role in setting the policy and spending priorities of municipalities. These are the sole level of elected subnational governments and form the prime locus of state-citizen interaction. In Guatemala, the emphasis on participatory democracy is the logical result of hundreds of years of an oligarchic government, repressive centralism, state neglect, decades of civil war, and a peace process that naturally makes the empowerment of civil society a leading priority. Interestingly, the concept that decentralization brings government closer to the people and more easily allows the community to engage in the practice of democracy is a central part of the liberal democratic tradition.

The decentralization experience in Latin America demonstrates that creating more

participatory and effective local government is a difficult, long-term task, under the best of circumstances. Many Guatemalans, however, clearly agree that their country must make the effort. On July 26, 2001,

as part of the

continuing national debate, the Latin American Program, in conjunction with the Social Studies and Research Association (ASIES) of Guatemala City and Guatemala's Presidential Commission for State Modernization and Decentralization, sponsored the "Forum on Reform of the Legal Framework for Decentralization in Guatemala: The Law on Decentralization, the Municipal Code, and Citizen Participation." Convened in Guatemala City, the forum was part of the Latin American Program's ongoing research project on comparative decentralization in Mexico, Brazil, Argentina, Venezuela, and Guatemala. The objective of the event was to contribute to the debate and facilitate the search for a consensus on the process of decentralization, especially, given the commitments of the peace accords, with respect to the creation of a well-functioning, participatory democracy.

Jesús Puente and Luis Linares began by presenting for discussion their paper on decentralization, civil society, and democratic governance in Guatemala. Rokaël Cardona of COMODES subsequently provided his assessment of the Guatemalan decentralization



Luis Linares of ASIES during the decentralization meeting in Guatemala.



process to date. The two presentations were followed by group workshops aimed at addressing four key issues. The conclusions of the forum were summarized in a final presentation by Carlos René Vega of ASIES.

Puentes and Linares opened their presentation with a theoretical discussion of various approaches to decentralization and a historical overview of the roots of centralism in Guatemala. For the authors, there were two central hypotheses emerging from this discussion. First, a societal consensus on a model for decentralization will be impossible in the continuing absence of policy proposals that view the structure and function of the state as an integrated whole. Second, proposing formal schemes for citizen participation without first addressing the political and administrative organization of the state only impedes the process of ensuring citizen participation.

### DESCRIBING THE LEGAL FRAMEWORK

The authors addressed in detail the key constitutional norms and laws dealing with decentralization and municipal development in Guatemala. A number of the important reforms under consideration are a result of the peace accords reached between the Guatemalan government and the armed opposition, Guatemalan National Revolutionary Unity (UNRG). In the peace agreement dealing with the identity and rights of indigenous people, the government agreed to promote reform of the municipal code in accordance with the Parity Commission on Reform and Participation, which is comprised of government representatives and indigenous organizations. Another agreement on socioeconomic issues produced a government commitment to reestablish local development councils, which are viewed as an important means of ensuring participa-

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The Woodrow Wilson Center's Decentralization Project is supported by a generous grant from the Tinker Foundation.

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Design & Editing: Craig M. Fagan

tion of community groups – representative of indigenous associations, campesino organizations, and women's groups, as well as micro, small and medium-sized enterprises – in the development of local investment priorities.

Puentes and Linares also emphasized the emergence of proposals for a new decentralization framework law, particularly the version presented by the Portillo government. One of the three proposals before the Congress, the authors point out, calls for the creation of a system of popularly elected departmental governments in Guatemala.

### PROBLEMS IN MUNICIPAL FINANCE

The authors were also explicit in their treatment of the Guatemalan subnational financial system and the problems associated with it. The system is exceedingly rigid, they concluded, and municipal authorities do not have the necessary autonomy to effectively serve as public service providers. As called for in the peace accords, at the beginning of 1999, civil society and the public sector have joined in an unprecedented national discussion on tax reform aimed at completing key social reforms – the so-called Fiscal Pact. This was an excellent – but unsuccessful – opportunity to simplify the municipal tax system and provide increased fiscal autonomy, according to Puentes and Linares.

Another important source of finance for municipalities is the Solidarity Fund for Community Development (FSDC), Puentes and Linares explained. The Fund is a source of project finance for infrastructure and public service improvements. The Fund is highly politicized, however, and mayors are subject to political conditions – political party ties are often determinant – before being awarded project funds. The failure to pre-establish clear, viable, and transparent distribution procedures for the FSDC has proven to be a major limitation on its success in assisting municipal development.

### DECENTRALIZATION AND CITIZEN PARTICIPATION

Both Puentes and Linares emphasized that the ethnic diversity of Guatemala and its long tradition of excluding indigenous peoples from the centers of decision making make the emergence of avenues for participatory government fundamentally important. The system of development councils continues to be seen – as recognized in the peace accords – as a means to change past practices. The local development councils, as established in the existing laws, have been declared unconstitutional for encroaching on municipal autonomy. The councils generally have been criticized as complex, difficult to imple-

### The Process of Decentralization in Guatemala Rokael Cardona, COMODES

In his presentation at the forum, Rokael Cardona emphasized that decentralization is a complex political process in which real empowerment of the actors—civil society, the private sector, municipal authorities, among others—is essential. The provision of autonomy is critical. Decentralization should not be confused, Cardona argued, with either privatization or centralized deconcentration. Decentralization is a matter of devolving decision making authority to subnational government entities, and deconcentration simply reserves power for the central government to intervene in local affairs at the expense of municipal authorities. Nonetheless, Guatemala is characterized by centralized deconcentration. Moreover, after thirty-six years of war, the capacity of communities to participate in local affairs has been greatly undermined. Despite this, there has been some interesting progress in the area of education, for example, through the development of a program for the self-management of educational development.

Cardona noted that the Parity Commission on Reform and Participation, which was created by the peace accords, has proposed a reform of the municipal code and the Law on Development Councils. Yet Guatemala still needs to define its new subnational system. The failure to clearly define functions among the central, regional, and municipal levels threatens to create a wasteful and inefficient dispersion of scarce resources. In Guatemala, municipalities do not have exclusive responsibilities. Cardona advocated for the local development councils to be included in the municipal code reform. It is also critical, he noted, that the central state develop a strategy for strengthening municipal institutional capacity while simultaneously transferring responsibilities to municipal authorities as their capacity improves. A core element of a decentralization strategy must be the modernization of municipal governments, Cardona argued. He advocated the development of strong, multi-ethnic local leadership and the more systematic use of local political pacts for ensuring governability. Progress toward these ends, Cardona concluded, can act as an escape valve for the potential crisis of governability constantly facing Guatemala.

ment, and based on a centralized vision of development. The authors also reiterated that departmental governors exercise great political discretion over the use of municipal development funds.

The municipal code provides for the *cabildo abierto* – the Guatemalan equivalent of the town meeting – to ensure local input into local decision making. According to Puentes and Linares, however, mayors are reluctant to convene them because they become vehicles for political attacks by the opposition. In addition, during the *cabildo* the community provides its recommendations, but the mayor is in no way bound to make use of them. Municipal technical and planning units can also serve to establish a dialogue with local organizations and communities and fashion a participatory diagnostic of municipal concerns. Such efforts can then serve as a basis for prioritizing projects and reaching consensus on investments, the authors added, though progress in this regard has been limited. Municipal multi-sectoral offices are also viewed as channels for interaction between municipal authorities and civil society, and some municipalities have used them to improve coordination with local actors.

#### CONCLUSIONS

Puentes and Linares provided a series of conclusions that demonstrate the difficult challenges facing decentralization in Guatemala. First, they point out

that decentralization has hardly begun: Guatemala still has a long way to go. Second, the legal framework for state reform and decentralization is fragmented. A clear policy that could orient the whole of the administration and move it in a single direction has not been defined or articulated. As noted above, a number of fundamental reforms remain to be considered.

Third, coupled with a lack of understanding about the potential of decentralization is an absence of consensus on state reform among the various sectors of civil society. A weak political party system and civil society help explain this situation, the authors argued. Fourth, municipalities constantly find that they have limited freedom to act in local affairs. They see themselves competing with other public entities or unable or discouraged from coordinating with ministries acting within their territorial jurisdiction. The failure here, Puentes and Linares explained, is the lack of defining the assignment of functions among the various levels of government.

Finally, the authors emphasized that the legal reforms that have formally opened space for citizen participation in municipal affairs have not had, in practice, the desired impact. It is urgent, the authors concluded, that mechanisms for ensuring participation are not only established, but also institutionalized.



### CONCLUSIONS OF THE FORUM WORKSHOP GROUPS

Group #1 - Is a decentralization law necessary?

- o Despite considerable debate, the group could not agree on whether or not a decentralization law is needed. Those in favor argued for such a law to be as integrated with all other areas it effects. Those against it argued that existing laws and the Constitution, with some legal reforms, are sufficient.
- o The law currently under discussion contradicted other existing laws and risks being declared unconstitutional. The proposal is also not explicit on citizen participation and would transfer functions to municipalities without adequate new sources of finance.

Group #2 – What elements should be included in the reform of the Municipal Code to accommodate the Peace Accords?

- o The reform should provide for the establishment of local development councils, despite what is provided in the Law on Development Councils.
- o It should also provide a legal framework for all municipalities, but be sufficiently flexible to reflect the diversity of municipal characteristics and allow the adoption of electoral systems that reflect local traditions.
- o Any new law should contemplate the use of municipal resources for training of the population in organizational development and institutional strengthening.

Group #3 – Is civil society being allowed to participate in decision making with respect to the reform of the Municipal Code and Decentralization Law?

- o The group agreed that with respect to the Municipal Code, civil society was participating by offering proposals as opposed to being involved in decisions.
- o With respect to the Decentralization Law, three proposals exist, the third of which has not taken into account the various sectors of civil society.

Group #4 – Are more legislative initiatives necessary to improve the present legal framework for reform and decentralization?

- o All pertinent legislation should be reviewed for legal issues that could be resolved.
- o Five laws in particular should be reformed with a view toward ten changes, including the election of municipal councilors in submunicipal districts, separation of municipal and national elections, and the establishment of a municipal career civil service regime.

### GENERAL CONCLUSIONS - Carlos René Vegas, ASIES

- o The number of participants and the exchange of ideas indicates continuing strong interest in the topic by Guatemalans and provides a positive signal for reform efforts. There is strong consensus that decentralization reforms should be carried out within the framework of the peace accords.
- o Guatemala's representative democracy should directed so as to evolve into a participatory democracy.
- o Decentralization is not an end but, rather, an instrument for citizen participation on the road toward state modernization, and a strengthening of the intermediate-level structure of the state.
- o The event promises to promote further discussion and eventual decisions on several of fundamental issues.

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