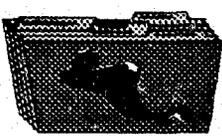
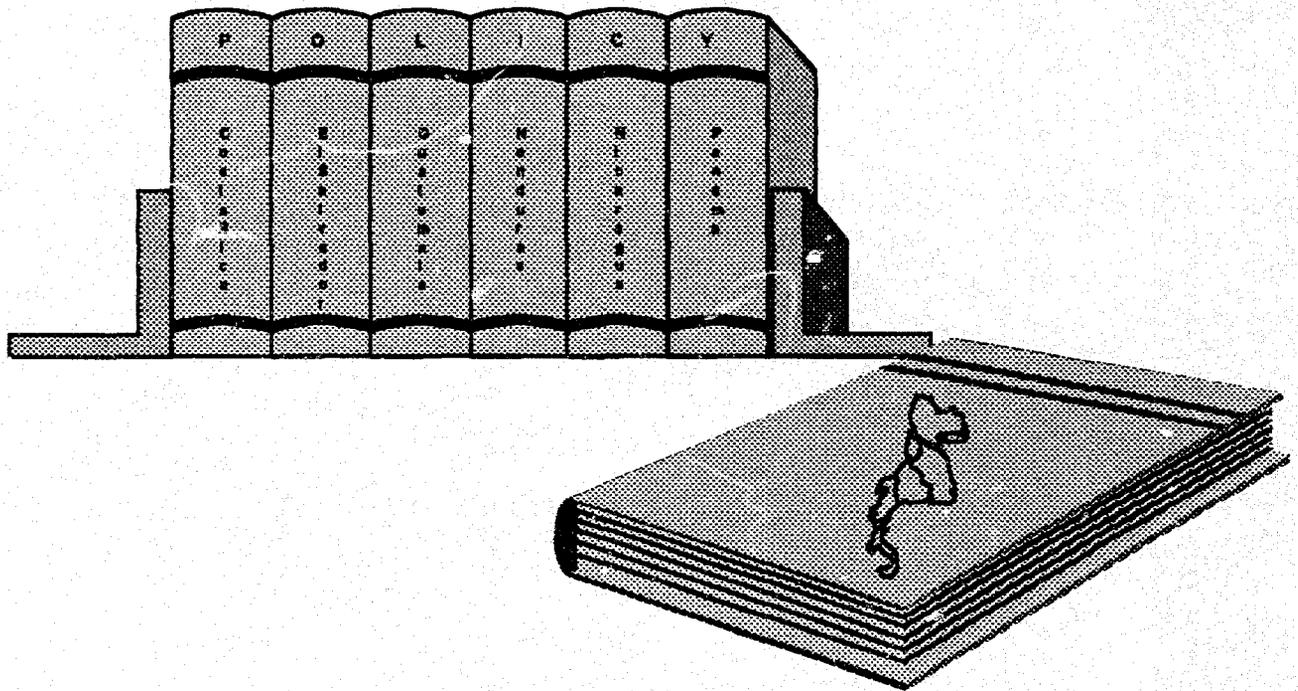


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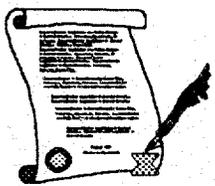
Decentralization in Central America: A Policy Overview



Prepared by:

Sharon Van Pelt
Municipal Development/Democratization Consultant

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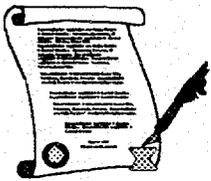
AUTHOR'S NOTE & ACKNOWLEDGEMENTS

This Special Report of the Regional Information Clearinghouse (RIC) focuses on decentralization legislation and policy reform in Central America, and is designed to provide the reader with a general overview of the status of legislation related to decentralization and municipal development in each of the Central American countries. It is not an in-depth, analytical report, nor is it geared toward providing a lengthy historical perspective. Rather, it reviews the most relevant and important legislation and policies which affect the present day situation and presents the reader with a general picture of the current status of decentralization in each country. The report, therefore, is not exhaustive in its examination of national legislation and its effects on the decentralization process, nor does it comprehensively analyze the implications of the legislation at the various levels of government. The purpose of the report is to generate discussion on the process of decentralization in Central America and to facilitate the sharing of experiences among the countries of the region. For those who would like more information on decentralization and municipal development, a bibliography as well as further suggested readings are included at the end of this report.

I would like to express my gratitude to a number of people who contributed significantly to the

completion of this report. I would like to first thank Lisa Peterson, formerly on the staff of the Regional Information Clearinghouse (RIC) and presently living and working in Africa, whose initial investigations and research into this subject matter formed the basis upon which this report is structured. I would also like to thank both Nelson Amaro, USAID/Honduras, for generously sharing his wealth of knowledge about decentralization and local governance in the region, and Roger Yochelson, USAID/Panama, for his assistance in obtaining accurate information on legislation in that country. Special thanks to Harry Jager of the Regional Housing and Urban Development Office for Central America (RHUDO/CA) who, through his own work in the area of municipal development in the region, provided the most current information on the efforts of the national municipal associations to bring about effective decentralization in their respective countries. Finally, I would like to thank Steven Dorsey, Information Resources Manager at the RIC, for his guidance and assistance in editing and preparing the final edition of this Special Report.

The views expressed in this report are solely those of the author and do not represent the views of the Regional Information Clearinghouse, the United States Agency for International Development, the United States Government, or the Academy for Educational Development.



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INTRODUCTION

The basis for the current political structures and balance of power in the countries of Central America dates back to the Spanish colonial period. In order to maintain a high level of control in the colonies, power was firmly lodged at the central government level, with high government officials serving at the pleasure of the Monarch or the Monarch's representative in the colony. Even after independence, both military and civilian dictators, who commonly governed throughout the region, maintained autocratic policies and political schemes which served to reinforce central control of national resources. Indeed, even now that all of the Central America nations have democratically elected national governments, the transfer of power and resources to sub-national levels of government has been a slow and difficult process.

Nevertheless, during the past decade, significant progress has been made towards creating more decentralized and participatory democratic systems in the countries of Central America. Such progress includes: legislation which devolves authority and responsibility for certain public services to local governments; reforms in electoral codes which help to decrease national political party influence over local affairs; creation of legal systems of inter-governmental transfer of national revenues; and improved mechanisms for community participation in local decision-making. These legislative reforms not only signify a move towards government which is closer to its citizens and to

local situations, but they also involve a fundamental change in inter-governmental relations and political power structures. Effective decentralization requires such a shift in power so that local populations, through more effective, responsive and accessible local governments, are able to participate in the public decision-making process.

This report presents an overview of the status of legislation related to decentralization and municipal development in each of the Central American countries. It reviews the most relevant and meaningful legislation and policies currently in effect and presents the reader with a view towards the future in each nation and the efforts being made by the national municipal associations to bring about effective decentralization. Key mandates and national organizations affecting the decentralization process in each of the countries of Central America are illustrated in Box 1 (page 3).

COSTA RICA

Decentralization has long been discussed in the political circles of Costa Rica; however, little progress has been made in transforming such discussions into action. There are a number of reasons for why this is true. First, there is a widely-held belief that the centralized political model used in Costa Rica has, thus far, worked fairly well. Indeed, the provision of services through central government agencies has not been characteristi-

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The 1967 Law of Community Development

The Constitution of 1949

**BOX 1:
KEY NATIONAL MANDATES AND ORGANIZATIONS AFFECTING DECENTRALIZATION IN CENTRAL AMERICA**

MANDATES	GUATEMALA	EL SALVADOR	COSTA RICA	HONDURAS	NICARAGUA	PANAMA
Constitution (Year)	1985	1983	1949	1981	1987	1970
Municipal Code (Year)	1988	1986	1970	1990	1988	1973
Election of Local Authorities	Direct vote for mayors and síndicos (juridical reps), by party slate (every 4 years), according to relative majority system; direct for council members with proportional minority representation	Direct vote for mayors, síndicos and council members, by party slate (every 3 years), on separate day from Pres. elections; slate with most votes occupies every office in the council	Direct vote for council members by party slates (every 4 years); party receives proportional number of council seats according to percent of votes won; direct vote for síndicos at district level	Direct vote for mayors, síndicos and councils by party slate (every 4 years); 1993 - citizens had 1st chance to vote for one party at local level & another at n'l level; Separate Pres/Mayoral ballots approved for 1997	Direct for municipal council by party slate (every 6 years); slate receiving greatest number of votes gets 50% of council seats	Corregidor (district level) representatives are listed by party and elected according to district's (every 5 years) In May, 1994, mayors were elected instead appointed by Pres. according to a 1993 l
Appointment/Selection of Local Authorities	Governors appointed by President	Governors appointed by President	Governors appointed by President; Munic. Exec. Officer selected by Municipal Council	Departmental Governors appointed by President	Council members elect mayor	Provincial Governors appointed by Preside
Local Taxing Authority	Annual Congressional approval required for all local "planes de arbitrio" (tax plans); Munic. council can set local public service fees	Taxes and rates must be annually renewed by national legislation; 1992 law gives munic. authority over local service fees	Taxes administered by n'l govt. agencies and rates set annually by Ntl Assembly; service fees are reviewed annually by n'l. govt. agencies	Tax rates set by munic. council, within limits set forth in 1990 Munic. Law; munic. authorized to set fees for local services	Annual approval by Exec. Decree required for all municipal taxes and rates; munic. authorized to administer broad range of taxes	Each district has its own system of taxes and service fees which operates w/in framework of the Panamanian Munic. Law
Legal System of Intergovernmental Transfers	10% of central revenues transferred annually to munic.'s - 10% can be used for operating expenses, 90% infrastruc. investments	Fondo de Desarrollo Económico y Social - Annual transfer to munic.'s - up to 20% for operating expenses, 80% capital investments	No permanent, legal system of transfer	5% of national revenues transferred annually to municipalities - up to 10% can be used for operating expenses, 90% for capital invest.	No permanent, legal system of transfer	\$10,000 for each Corregidor rep. transferred annually to districts for capital investments
Mandated Forms of Community Participation	National system of urban and rural development councils	Open councils held at least every 3 months; Council must encourage creation of Community Assoc.'s (with a legal role designated by munic. council); referendums allowed at local level	Community Devt. Assoc.'s, which assist in implementation of central govt. public sector projects; plebiscites at local level; Cabildos abiertos with munic. council, at district level	Cabildos abiertos at least 5/year; plebiscites allowed at local level; obligatory Munic. Devt. Council -- reps chosen from the community by Munic. Council; Auxiliary mayors	Municipal council obliged to support creation of Community Councils which can contribute to munic. mgmt.; Complementary Organizations can also be created; cabildos abiertos at least 2/year	Community Boards and Local Boards
Municipal Association	Asociación de Municipalidades de Guatemala (ANAM) - Created in 1957	Corporación de Municipalidades de La República de El Salvador (COMURES) - Created in 1941	Unión de Gobiernos Locales de Costa Rica (UNGL) - Created in 1974	Asociación de Municipios de la República de Honduras (AMHON) - Created in 1962	Asociación de Municipios de Nicaragua (AMUNIC) - Created in 1993	Asociación de Municipalidades de Panamá - Created in August, 1994.
Public Municipal Institutes	Instituto de Fomento Municipal (INFOM)	Instituto Salvadoreño de Desarrollo Municipal	Instituto de Fomento y Asesoría Municipal	BANAM (Banco Municipal Autónomo)	Instituto Nicaragüense de Fomento Municipal	Private Institute - Instituto Panameño de Fomento Municipal



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pal government, there is often a lack of coordination with municipal officials and the associations compete with municipalities for *partidas específicas* (Special Project Funds) which National Congressmen have the facility to distribute locally at their own discretion (Stout, et. al., 1990, p. 2).

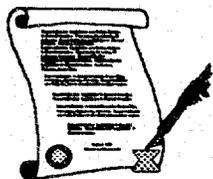
Municipal Code of 1970 - The passage of the 1970 Municipal Code brought to an end the centrally-controlled system of *jefes políticos* (political bosses) which had been in place since 1862. The jefe politico was a *canton* (municipal) -level official, appointed and responsible to the president, whose functions at the local level included signing all payment vouchers against municipal funds, preparing the municipal budget for submission to the council and supervising all municipal employees. The code transferred all the *jefe politico's* municipal functions to a municipal executive officer, or city manager, who is appointed by the municipal council and responsible only to the council. The Municipal Code also eliminated the municipal functions of the centrally-appointed provincial governor, who exercised the same power in the provincial capital that the *jefes politicos* exercised in the *cantones* (Stout, et. al., 1990, p. 18).

Article 4 of the Municipal Code of 1970 assigns ten fundamental responsibilities to municipalities:

- 1) To promote culture, science and the arts;

- 2) To promote general and vocational education in coordination with central education authorities and the private sector;
- 3) To promote tourism;
- 4) To promote civic awareness among their respective citizenry;
- 5) To protect the environment and natural resources;
- 6) To protect citizens in coordination with national authorities;
- 7) To protect and promote development of industry, agriculture and commerce within the municipality;
- 8) To supervise the physical and mental health of the citizens within their respective communities;
- 9) To formulate rural development policies for rural communities; and
- 10) To establish comprehensive urban development plans as well as the policies and services necessary to realize these plans.

Although the provisions contained in the 1970 Municipal Code do appear to allow for some degree of local authority, it is important to note that the Code also states that municipal activities will be coordinated with central authorities and will be closely supervised by the Controller General of the Republic. Municipalities are to become involved in local activities and development projects but they are required to always do so in coordination with the appropriate central authority (PADCO Regional Municipal Assessment, 1992,



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Annex II, p. 18). Again, it is evident that while legislation refers to increased decentralization, these reforms are counteracted by the reinforcement of central government control and limitations on local authority.

Creation of the Instituto de Fomento y Asesoría Municipal (IFAM) - The 1970 Municipal Code created The Institute for Municipal Development and Advisory Services (IFAM) to serve as the national municipal development institute. As a central government agency, IFAM was established to: 1) stimulate municipal coordination (through voluntary means); 2) provide financial assistance to municipalities; 3) provide technical assistance to municipalities; and 4) cooperate in projects of mutual interest. It is important to note that the members of the Board of Directors of IFAM are appointed by the President and, thus, must be at least somewhat responsive to the President's views about the role of municipal government and its relationship to other levels of government. IFAM's advocacy of municipal government, therefore, is always tempered by the necessity to reflect current central government policies (Stout, et. al., 1990, p.19).

Reform of Article 170 of the 1949 Constitution - A reform of Article 170 of the Constitution of 1949 was proposed in 1986 but was never approved. This reform would transfer 10 percent of central government revenue to municipalities. The implementation of this transfer would take place over an 8-year period — 2 percent initially and an

additional 2 percent each biennium until the total reached 10 percent. The 1990 RTI study on Municipal Development in Costa Rica notes the potential advantages of this reform: 1) an increase in participatory democracy — achieved through an increase in responsibility and authority at the local level; and 2) an increase in the efficiency of delivering local public sector goods and services as decisions regarding investments and new projects are brought closer to actual users (Stout, et. al., 1990, p.35). However, the long tradition of centralized governance and the strong perception that municipal governments are not thoroughly capable of running their own affairs or making important local decisions keep the passage of such reforms in favor of decentralization uncertain in the near future.

EL SALVADOR

The decentralization process in El Salvador is inextricably linked to the peace and national reconstruction process being implemented since the end of El Salvador's 12 year civil war. Local officials are playing an important role in this process. Indeed, the recently re-established national municipal association, the *Corporación de Municipalidades de la República* (COMURES), is formally represented on the National Municipal Development Coordinating Committee (CDM), which was established in 1993 for the purpose of developing a national decentralization strategy.



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Additionally, some recent legislation and policy reforms, such as the granting of authority to local officials in establishing rates and fees for services and the creation of a program to devolve responsibility and resources for delivery of certain services to the local-level, demonstrate positive steps towards decentralization. Thus, although there are substantial challenges to be faced during the move towards peace and reconstruction in El Salvador, there are significant efforts being made, particularly on the part of COMURES, the national municipal association, to try and bring about effective decentralization.

The Constitution of 1983

Chapter IV of the Constitution of 1983 discusses in detail the powers, responsibilities and authorities of local government. This Chapter states that "municipalities

will be autonomous in economic, technical and administrative aspects." Furthermore, Article 204

COSTA RICA

CURRENT EFFORTS TOWARDS DECENTRALIZATION

The national municipal association of Costa Rica, *la Unión Nacional de Gobiernos Locales de Costa Rica* (UNGL), is actively seeking democratic reforms which would involve significant changes in local government administration. These reforms include:

- 1) ***Real Estate Tax*** - A preliminary plan to transfer the administration of the real estate tax to municipalities was developed by the Commission for Comprehensive Municipal Reform (*Comisión de Reforma Integral Municipal - CORIM*). When formed at the Seventh Congress of Local Governments in August 1993, CORIM consisted of the then candidates for President of Costa Rica, representing the major political parties. Some months after the formation of CORIM, representatives from minor political parties were also invited to participate. In August 1994, the Commission presented to the UNGL General Assembly the preliminary plan for the decentralization of the administration of the real estate tax. It is anticipated that this reform will be approved sometime in 1995.
- 2) ***Popular Election of the Municipal Executive Officer*** - The UNGL is also proposing the direct election of the official who is to preside over the local government. Currently, a municipal executive officer, or city manager, who is appointed by the municipal council oversees the operation and administration of the city. The proposed reform, written by CORIM, would, in essence, eliminate the position of municipal executive officer and transfer his previous responsibilities to the municipal council president, a popularly elected official. It is anticipated that this reform will be put into effect in 1997.

NOTE: The information contained in this and other sections entitled "Current Efforts Towards Decentralization" is taken from Harry Jager's "Las Reformas Municipales en Centroamérica," Guatemala, Guatemala: FEMICA, 1994.

of the Constitution establishes that: 1) municipal autonomy consists of the power to create, modify



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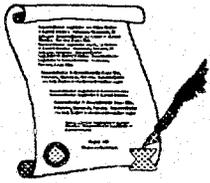
and eliminate public taxes and contributions, within the limits of established law; and 2) the municipality legally possesses the powers to: a) enact its own revenues and budgets expenditures; b) freely manage matters related to municipal competence; c) designate and remove its officials and employees; d) enact local ordinances and regulations; and e) establish tax rates and propose them as law to the Legislature (PADCO, Regional Municipal Sector Assessment, 1992, Annex II, p. 5).

The Municipal Code of 1986 - The Salvadoran Municipal Code of 1986 reiterates and reinforces the autonomy given to municipalities through the Constitution of 1983. Additionally, through the provisions of the Code, the role of the city council is defined as the primary political and administrative unit of the State and the municipality is obligated to assure popular participation in the management of local affairs. Indeed, it is specified that the municipality must hold town meetings (*cabildos abiertos*) at least three times per year and must encourage the creation of Community Associations which assist in social analysis and in the design of projects to benefit the local community. The 1986 Municipal Law also allows for referendums at the local level.

The Municipal Code of 1986 also assigns certain functions and responsibilities to municipalities such as: 1) planning, implementation and maintenance of various essential public works; 2) the promotion and development of education, culture, sports, recreation, and sciences and arts within the local

community; 3) creation of birth and voter registrations; 4) preparation, approval and execution of local urban and rural development plans; 5) local environmental protection and natural resource conservation; 6) jurisdiction over local transportation services; and 7) collection and disposal of garbage. In reality, municipalities do not provide all the services stated in the Code. The central government renders certain of these services, some are shared by the municipalities and the central administration and others, most commonly garbage disposal, street cleaning and public markets, are provided exclusively by municipalities (PADCO, Regional Municipal Assessment, 1992, Annex II, p. 6).

The Creation of The Instituto Salvadoreño de Desarrollo Municipal (ISDEM) - The Salvadoran Institute for Municipal Development (ISDEM) was established in March 1987, as the nation's official municipal development institution. Its mandate is to provide technical, administrative, financial and planning assistance to city councils so as to enable them to better carry out their duties and obligations to the local community. According to law, ISDEM is also responsible for the "Economic and Social Development Fund," established in Article 207 of the Constitution. Through the Fund, monies are transferred annually to municipalities in order to ensure the development and economic autonomy of the municipalities. However, the amount actually transferred is seriously insufficient and municipalities are unable to cover essential costs (Pérez, 1994, p. 40).



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General Law on Municipal Taxation - This taxation law, which went into effect in January 1992, allows municipalities to set their own fees and rates for local services. The SIECA study entitled "*Sistemas Tributarios de los Gobiernos Locales en el Istmo Centroamericano*" notes that by May 1994, municipal income from service fees had risen by over 100 percent in 174 of the 262 Salvadoran municipalities (Pérez, 1994, p. 36). The granting of such autonomy over rate and fee-setting represents an important step towards effective decentralization. Nonetheless, it should be noted that according to the provisions of the Salvadoran Constitution, local tax rates must be approved annually by the National Legislative Assembly.

The Program for the Modernization of the State - This decentralization Program was approved in 1992 with the purpose of transforming the Salvadoran public sector through redistribution of functions and responsibilities among the various levels of government. The Program's strategy is to gradually and progressively transfer specific functions, currently performed by the national government, to municipalities. New municipal functions would include responsibility for such services as: water and sewer; construction and maintenance of local public works; administration of local health and education services; and a system of cadastre. It is also stipulated in the Program that the funds used to pay for the completion of these duties would also be gradually transferred to the local level. The decentralization plan developed by the Salvadoran Municipal Development Coor-

inating Committee (see below) is an integral part of this Modernization Program.

Comité Coordinadora del Desarrollo Municipal (CDM) - The Municipal Development Coordinating Committee (CDM) was established in June 1993, to help facilitate the decentralization process by creating an operational framework for implementing national decentralization policies. CDM consists of representatives of the national municipal association (COMURES), ISDEM, MIPLAN (the Salvadoran Ministry of Planning), the Ministry of Finance, and the Secretary General for National Reconstruction. The Committee is responsible for considering various aspects and approaches to municipal autonomy as well as preparation of a national decentralization strategy which covers a 5-year period.

A preliminary National Decentralization Strategy was presented at the Seventh National Congress of Mayors which took place in September 1993. All then candidates for the Presidency signed the Strategy, promising to carry out its mandates and to further the process of decentralization if elected as President. The Strategy includes a pilot project in the departments of Sonsonate and Usulután which involves the gradual transfer of certain competencies to the municipal level, such as health, education, and water. A program of municipal strengthening will also be implemented in an effort to transfer authorities, responsibilities and resources to local government through a process of effective decentralization. (For more information



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on the efforts of the municipal association, COMURES, in seeking greater decentralization, see "El Salvador: Current Efforts towards Decentralization," p. 9).

GUATEMALA

Progress towards decentralization in Guatemala has been mixed. A strong legal basis for municipal autonomy and responsibilities exist in the Constitution of 1985 and the Municipal Code of 1988. Indeed, the Government of Guatemala made a very significant move in the Constitution of 1985 by including a mandate which obliges the national government to annually transfer 8 percent of national revenues to local governments for capital investment. [This percentage was increased to 10 percent in 1993]. Nonetheless, political power remains firmly in the hands of the central govern-

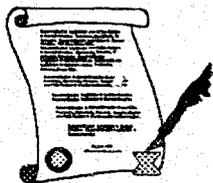
EL SALVADOR

CURRENT EFFORTS TOWARDS DECENTRALIZATION

COMURES, *la Corporación de Municipalidades de la República de El Salvador*, is actively working to further decentralization and increase municipal autonomy, both in cooperation with other national institutions through the Municipal Development Coordinating Committee (see p. 9) and through its own efforts. Reforms for which COMURES is currently lobbying include:

- 1) **Real Estate Tax** - A preliminary plan to transfer the administration and control of the real estate tax to municipalities was developed and COMURES is presently in discussions with the national assembly and legislature regarding the inclusion of the plan on the legislative agenda for the fourth quarter of 1994.
- 2) **Proportionality of Municipal Council** - As noted in Box 1 (p. 3), there exists a direct vote for municipal councils in El Salvador; however, the party slate with the most votes wins every seat in the council. The objective of the electoral reform proposed by COMURES is to assure that the municipal council reflects the will of the voters in that the council should include minority as well as majority (party) representation. COMURES will conclude an analysis of the proposed reform which it hopes will be approved in 1995.
- 3) **Increase in Municipal Incomes** - The Salvadoran municipalities receive an annual transfer of funds from the national Economic and Social Development Fund (*Fondo de Desarrollo Económico y Social*). However, the amount of the transfer is seriously deficient and municipalities cannot cover essential costs. COMURES is currently negotiating with national authorities to increase the amount of funds transferred. It is anticipated that this reform will be approved in 1995.

ment both in terms of the control of resources and decision-making. Furthermore, there has not been a strong advocate for greater decentralization as



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is true of the national municipal associations in El Salvador and Honduras. The Guatemalan national municipal association, *Asociación Nacional de Municipalidades* (ANAM), has a very limited financial base and only recently attempted organizational reforms in an effort to democratize internally. Thus, the association has not previously played a very significant role in the Guatemalan political arena and the movement toward decentralization has not found strong support at the highest political level. Yet, in recent months ANAM has become more politically active, lobbying for legal reforms in support of decentralization. Through discussions and negotiations with national level officials, ANAM appears to have at least been successful in gaining attention at the national level and potentially in influencing political will and increasing receptivity towards reforms that favor decentralization and municipal autonomy.

The Constitution of 1985 - The Guatemalan Constitution of 1985 restored municipal autonomy which had previously been interrupted by the military government in 1982. Article 224 of the Constitution clearly states that the public administration of the country will be decentralized (Amaro, 1990, p.72). The Constitution also mandates the election of local officials and empowers municipalities to: 1) obtain and dispose of their funds, and 2) attend to local public services, the territorial arrangement of their jurisdiction and the implementation of their objectives (PADCO, Regional Municipal Sector Assessment, 1992, Annex II, p.

1). Additionally, Article 257 states that the national government must transfer, on an annual basis, 8 percent of national revenues to municipalities for investment in basic infrastructure. In November 1993, a constitutional reform was approved which modified the system of inter-governmental transfers. One result of the modifications was that the national government was prohibited from transferring any funds, other than the percentage of certain specific taxes which corresponded to municipalities by law. Therefore, the national government could no longer finance the remuneration of municipal employees, which had previously been common practice, nor any other expenses. Therefore, the annual inter-governmental transfer to municipalities was increased to 10 percent so as to compensate the municipalities for this loss of funds and municipalities were also authorized to use up to 10 percent of the transferred funds for operating expenses (Pérez, 1994, pp. 57-58). Thus, on the whole, municipalities did not actually receive an increase in central government funding via the revised inter-governmental transfer.

It is important to note that the Constitution of 1985 (Article 224 - 2nd paragraph) also calls for the regionalization of the country through which "regions of development" would be formed. The purpose of establishing these regions, which consist of one or more departments with geographic, economic, and social similarities, is to help "rationalize" the nation's development process. That is to say that the government should create a na-



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tional system to promote development on a nation-wide basis through implementation of government actions and mandates and by assuring citizen participation in development projects and programs (Echegaray, 1991, p. 13).

The Constitution established a National Council for Urban and Rural Development which was charged with formulating urban and rural development policies and establishing the regions of the Republic. Regional and Departmental Councils of Urban and Rural Development were also created and were made responsible for promoting development in their respective territorial jurisdictions. The Constitution did not, however, further develop the roles and responsibilities of these Councils; this was accomplished through Decree 52-87 (1987) which defined in detail the national system of councils of urban and rural development.

Decree 70-86: *Ley Preliminar de Regionalización (Dec. 1986)* - The regionalization of the country, called for in Article 224 of the Constitution, was manifest in Decree 70-86 which divides the nation into eight separate regions. This system of regionalization was created to promote and encourage the participation of the population in the identification of problems and solutions and in the execution of development programs and projects.

Decree 52-87 (Sept. 1987) - Decree 52-87 establishes, and defines in detail, the roles and respon-

sibilities of a National System of Urban and Rural Development Councils. Such a system was called for in the Constitution of 1985 in order to promote development on a nation-wide basis. The national system of councils consists of: 1) the national council; 2) regional councils which correspond to the regions established in the *Ley Preliminar de Regionalización*; 3) departmental councils, 4) municipal councils; and 5) local councils. The main objective of this system is to promote and encourage the participation of the population in the identification of problems and solutions and in the execution of development programs and projects, i.e. the same basic objective as the regionalization law.

Various reports and studies note why the National System of Urban and Rural Development Councils does not function as originally conceived. In its report entitled "*Temas Públicos*" (July 1993), the Guatemalan Center for National Economic Research (*Centro de Investigaciones Económicas Nacionales* - CIEN), notes five reasons for the lack of success of the councils: 1) inappropriateness in the formation of regions; 2) lack of integration due to disagreement or lack of interest on the part of the different political levels involved; 3) lack of decision-making authority on the part of the various councils; 4) lack of cooperation between the municipal and departmental authorities; and 5) dependency of the councils on the central government in terms of finances. It was the decision of the Constitutional Court of Guatemala in 1988 to declare the local councils unconstitu-



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tional as these councils were said to have undermined or contradicted municipal autonomy (Amaro, 1990, pp. 72, 103). To date, the National System of Urban and Rural Development Councils has not been able to promote greater efficiency in the public administration of the country as was originally envisioned (Pérez, 1994, p. 46).

It is important to note that Decree 52-87 also establishes the criteria by which the inter-governmental transfer is distributed to municipalities. These criteria were later modified by Decree 49-88 (1988) in order to create a greater balance between compensating those municipalities which contribute more fiscally to national revenue and compensating those which are in need of subsidies (Amaro, 1990, 105). The original criteria contained in Decree 52-87 and the modified criteria contained in Decree 49-88 are presented in Box 2 (p. 13). The revenue transfer is distributed annually to municipalities through the National Council of Urban and Rural Development.

Decree 58-88: Municipal Code (Oct. 1988) - The Municipal Code of 1988 establishes that municipalities are autonomous public institutions, comprised of the following basic elements: territory, population, authority, community organization, and economic capacity. Furthermore, the Code states that the principal purpose of the municipality is to render and administer non-profit public services for the population under its governance.

The 1988 Municipal Code specifies municipal responsibilities and authorities in areas such as rendering of services, regulations governing local development and environmental conservation. Municipal functions include: 1) regulation and provision of local public services; 2) administration of local private and public works as well as authorization and inspection of the same; 3) creation of birth and voter registrations; 4) preparation, approval and execution of local urban and rural development plans; 5) maintenance of springs and water sources; 6) provision of street cleaning, sweeping, and garbage collection; 7) control of local transportation; 8) protection of the cultural identity of the local inhabitants according to their own values, language, traditions and customs; and 9) promotion and regulation of tourism in the local area.

In practice, the Guatemalan municipalities do not perform all the functions provided for in the Code. CIEN's *"Temas Públicos"* notes that this is due to the centralized nature of the system of governance in Guatemala whereby all decision-making power and the authority to execute programs and projects lies with the central government (CIEN, 1993, p. 1). Furthermore, other authors note that the Code refers to the municipality as an autonomous public institution, and confers upon the municipality a variety of powers. However, as noted by Francisco Echegaray in his report *El Papel de Las Transferencias Fiscales del Gobierno Central al Gobierno Municipal y la*



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Descentralización: El Caso de Guatemala, a municipality within a nation cannot be totally autonomous as is implied in the Guatemalan Municipal Code (Echegaray, 1991, p. 14).

The National Agenda 1994-1995 - The Agenda of the Government of Guatemala for 1994-1995 includes a national strategy for combating poverty. Within this strategy, the national government states that an effective fight against poverty requires the

decentralization of the provision of public services to the local level (Pérez, 1994, p. 47). In order to realize this decentralization, the central government has planned a Program of Cooperation with the municipalities which includes:

- 1) Financial strengthening of the municipalities through the timely delivery of the 10 percent transfer mandated in the Consti-

Box 2 - Guatemala: Criteria for Inter-Governmental Transfer

Decree 52-87 (1987)	Decree 49-88 (1988)
1) 25% will be distributed in equal parts among all municipalities;	1) 25% will be distributed in equal parts among all municipalities;
2) 25% will be distributed proportionately according to the percentage of the population in each municipality which is considered to be rural;	2) 25% will be distributed proportionately according to the total population in each municipality;
3) 25% will be distributed proportionately in accordance with the total population in each municipality;	3) 25% will be distributed proportionately according to the income of each municipal jurisdiction;
4) 25% will be distributed in a manner inversely proportional to the per capita income in each municipal jurisdiction.	4) 15% will be distributed in a manner directly proportional to the number of villages and hamlets within the municipal jurisdiction;
	5) 10% will be distributed in a manner inversely proportional to the per capita

Source: Nelson Amaro, *Descentralización y Participación Popular en Guatemala*. Guatemala City, Guatemala: Instituto Centroamericano de Estudios Políticos (INCEP), 1990.

tution and an increase in local own-source revenues (i.e. participation in the real estate and gasoline tax). The Program also calls for an analysis of the appropriateness of approving a Municipal Tax Code — such a Code was proposed in 1986 (but was vetoed by the President) in an effort to systematically review and define all aspects of local tax authority and to serve as



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a basis for modernization and improvements in the current system;

- 2) Strengthening of the technical and management capacity of local governments, including reforms to the national municipal institute — INIFOM — and the possible participation of the national municipal association — ANAM — in the Executive Board of the institute;
- 3) Strengthening of municipal capacity to promote, facilitate and organize the active participation of the community in the identification and implementation of solutions to local problems; and
- 4) Review of the legal basis so as to increase the period for which municipal governments are elected (Pérez, 1994, p. 47).

The central government has been successful in completing Point 4 of the Program, extending the period of governance for officials of all municipalities to four years. It has also made great efforts towards honoring Point 1 of the Program, the transfer of revenues to municipalities, despite the national fiscal crisis (Pérez, 1994, p. 47). Thus, it is evident that while some advances have been made towards decentralization in Guatemala, little progress has actually been realized in putting discussions and proposals into action. However, through the current efforts of ANAM, there is evidence that greater progress towards decentrali-

zation may be achieved in the near future (see “Guatemala: Current Efforts Towards Decentralization,” p. 15).

HONDURAS

Honduras is often used as an example of decentralization in Central America. The 1990 Municipal Law includes the basic elements necessary for effective decentralization — devolution of power, authority and resources to the local level. Thus, the Law has significantly advanced the process of decentralization in Honduras and has allowed for greater local control and increased opportunities for citizen participation in local affairs. Additionally, the Honduran municipal association, *Asociación de Municipios de Honduras* (AMHON), is perhaps the strongest national association in Central American and, indeed, is considered to have been instrumental in the passage of the 1990 Municipal Law as well as important reforms in the Honduran electoral process. The National Program for Decentralization and Municipal Strengthening, recently approved by the new administration, was created with a vision towards furthering the process of decentralization and municipal development and demonstrates the new President’s commitment to decentralization. Yet, a great challenge remains for both national and local officials in Honduras to effectively implement and strengthen the process of decentralization which has been initiated through the passage



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of national legislation.

The Constitution of 1982

- The Honduran Constitution of 1982 makes several references to municipal autonomy, decentralization, and community participation. Article 5 of the Constitution refers to the creation of a participatory democracy in Honduras. Article 294 recognizes the autonomy of municipalities. Finally, Article 302 states that citizens will have the right to freely create community associations, federations or confederations.

Municipalities Law of 1990 (Dec. 1990)

- The Municipalities Law of 1990 replaces the 1927 Honduran Municipal Code, and has very significant implications for decentralization in the Hon-

duras. The Law of 1990: 1) passes to municipalities the rights conferred under the Constitution; 2) opens new doors for democracy; 3) increases citizen participation at the local level; and 4) transfers some services to municipal govern-

GUATEMALA

CURRENT EFFORTS TOWARDS DECENTRALIZATION

ANAM, the National Association of Municipalities of Guatemala (*Asociación Nacional de Municipalidades*), has become increasingly active in the national political arena, seeking national legislative reform in the following areas:

- 1) ***Real Estate Tax*** - A preliminary plan, developed and currently being revised by ANAM, proposes municipal administration of the real estate tax. ANAM will negotiate with the new Guatemalan Congress to ensure inclusion of the proposed new tax on the Congressional agenda for this year.
- 2) ***Modernization of the Taxation System*** - ANAM has proposed a new tax law which would impose one uniform tax on economic activities. ANAM hopes to finish preparation of the proposed new law and submit it for review during the fourth quarter of 1994, for possible approval in 1995.
- 3) ***Direct Transfer of Resources*** - ANAM has elaborated a plan that would reform existing law so as to guarantee the automatic transfer of resources to which the Guatemalan municipalities are entitled (i.e. the delivery of the constitutional transfer of 10 percent of national revenues and the municipal share of national taxes). The new law would help normalize the delivery of these funds according to legal requirements. ANAM will prepare the proposed new law for review during the fourth quarter of 1994 for possible approval in 1995.

ment (PADCO, Regional Municipal Sector Assessment, Annex II, p.12).

In his report "Decentralization and Democratic Governance," George Peterson notes that over the



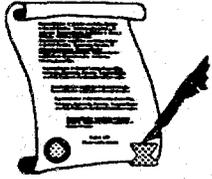
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course of four years (from approximately 1986-1990), municipal reform had gained a good deal of support from Honduran mayors who, by 1990, were extremely active in lobbying for greater reform (Peterson, 1991, pp. 6-7). AMHON, the national municipal association, was revived and the leadership, which was previously central government appointees, was replaced by popularly elected mayors. These mayors joined forces to lobby for a new municipal statute that would allow for greater tax and fee setting discretion. This new statute came in the form of the Municipalities Law of 1990 which included the following provisions:

- Transfer of 5 percent of national revenues to municipalities - Over a 4 year period (1990-1994), municipalities are to receive gradually increasing percentages of the national budget. The schedule is designed as follows: 2 percent in 1992; 4 percent in 1993; and 5 percent in 1994. According to the provisions of the Law, municipalities will receive an established amount of lempiras, based on the number of inhabitants in each municipality, in accordance with the SECPLAN (*Secretaría de Planificación*) Census of 1988. These funds are to be used primarily for capital investments, although up to 10 percent of the funds can be used for operating budget expenses.
- Provision of administrative authority - The

1990 Municipal Law gives full administrative autonomy to municipalities in the preparation and approval of local budgets and fees. Article 84 of the Law states that municipalities are able to charge municipal inhabitants for: 1) municipal services, direct or indirect; 2) use of municipal or commonly-held land; and 3) administrative services that affect or benefit inhabitants of the municipal district. The municipality is able to collect these funds exclusively for municipal use. Thus, in addition to the 5 percent national revenue transfer, municipalities have access to other income sources.

Creation of greater means of citizen participation - The 1990 Municipal Law establishes several mechanisms for greater citizen participation in the local decision-making process. For example, the Law includes: formal recognition of neighborhood development associations and acknowledgment of their role in choosing municipal services; detailed instructions on holding local plebiscites; a specific regulation that each municipality must have a Municipal Development Council consisting of community representatives; a mandate which states that municipalities must hold *cabildos abiertos* (town meetings) no less than five times per year; and the obligation of the municipality to make public the municipal budget.



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As all of the basic elements of a decentralization process are included in the 1990 Municipalities Law, it has sometimes been used as an example of what can be accomplished in other Central American countries as they also move forward in the process of decentralization and increased local government autonomy.

The Electoral Reform of 1991 - This reform, implemented in February 1991, allowed for a separate vote for local mayors and council members, independent of the presidential election. In November 1993, for the first time in Honduran history, electoral ballots included both presidential/congressional candidates and municipal candidates on the same ballot. This allowed voters the opportunity to "split" their ballots, voting for one party at the national level and another party at the local level. Thus, the Electoral Reform of 1991 reduces political party influence and allows for greater citizen influence over local affairs.

Decree 270-93 - This decree was passed in December 1993, just as former President Rafael Leonardo Callejas Romero left office. It modifies the 1991 Electoral Reform Law by allowing for separate ballots for the president, congress and mayors. In 1997, through the provisions of this Decree, presidential, congressional and mayoral candidates will be placed on separate ballots. The ballots for presidential candidates and mayoral candidates will also include photos.

Decree 190-91: Law for the Modernization of

the State - Decree 190-91 was approved in December 1991, creating both an Executive Secretariat and a Presidential Commission for the Modernization of the State. The overall objective of this law, as stated in Chapter 1, Article 1 of the Decree, is to analyze the process of modernization which includes political and institutional transformations, improvements and innovations.

According to Decree 190-91, the Presidential Commission for the Modernization of the State is responsible for the study, formulation and design of national policies to reform the State as well as the design of decentralization programs and projects and the periodic evaluation of the results of these policies, programs, and projects.

The Executive Secretariat has both administrative and coordinating functions. It is principally charged with carrying-out the resolutions passed by the Commission, assisting the appropriate state institutions in undertaking the projects and programs which the Commission approves and completing studies and evaluations of these activities.

The National Program for Decentralization and Municipal Strengthening - In mid-1993, the Presidential Commission for the Modernization of the State approved the National Program for Decentralization and Municipal Strengthening. The objective of the Program is to further the process of decentralization and municipal development by 1) strengthening the municipality, as the basic territorial unit of the country, so as to improve the



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provision of services and the exercise of participatory democracy, and 2) strengthening local development through the effective transfer of authority, resources and decision-making power from the central government to municipalities. Some agreements for the decentralization of certain services are already in place as a result of this Program.

The Presidential Commission for the Modernization of the State created the Inter-Institutional Committee for Decentralization and Municipal Strengthening to implement this Program. The Inter-Institutional Committee was charged with the preparation of sectoral programs for decentralization, giving priority to the areas of health, education, sanitation, environmental protection and management, and public works and transportation.

The 1990 Municipal Law along with the electoral reforms and the national decentralization and modernization programs are testimony to the fact that Honduras undoubtedly leads the way in the region in terms of passage of decentralization legislation and policy reforms. However, as noted earlier, the challenge remains for both the national and local governments of Honduras to effectively implement this process of decentralization. Thus, the current efforts of the national municipal association, AMHON, have concentrated principally on assuring the proper application of the provisions of the Municipal Law of 1990 and other reforms and not on seeking new legislation.

NICARAGUA

Prior to the current Chamorro government, political power was firmly concentrated in the hands of central authorities in Nicaragua. Local government had limited political influence, very limited financial resources and was believed to lack the capabilities needed to be an effective provider of public services. However, in the late 1980's, just prior to the election of Violeta Chamorro (1990), the national administration implemented a number of changes in the country's political structures in an effort to transfer some responsibilities and authorities to the local level. Evidence of this effort can be seen in the autonomy granted municipalities in The Constitution of 1987 and in the authorities assigned to the municipalities in the Municipal Law of 1988. Nonetheless, a strong central control and administration was maintained and it was not until the entrance of the Chamorro Government that a greater effort was made to promote democratic reform and to strengthen local government as an essential part of a participatory democracy. Recent steps, such as the transfer of the administration of some services to municipalities, the implementation of a State Reform Program and the creation of a national municipal association, demonstrate a growing political will to further the process of decentralization in Nicaragua.

Reforms of 1982: Regionalization and Decentralization - In 1982, the Government of Nicaragua implemented reforms to promote



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regionalization and coordination. The reforms involved a number of critical measures which included: rationalization of the political-administrative boundaries in the country so as to create an intermediate-level of government (at the regional level) for more appropriate planning and implementation of government directives; creation of the office of regional delegate (appointed by the President) who served as chief coordinator of government activity; and elimination of the Secretariat of Municipal Affairs, which had served as the principal advocate of local government, and its replacement with the Secretariat for Regional Coordination (Downs, 1988, pp. 3-5).

Though the reforms were believed to have decreased government bureaucracy and increased accessibility and responsiveness over the period from 1982-1986, it was evident that they had had a negative effect on local governments. In all cases, municipalities lost some degree of the authority which they had previously possessed, as their broader functions were taken over by the regional government (Downs, 1988, p. 7). Furthermore, decentralization, or more precisely stated, deconcentration, at the regional level did not increase popular participation and, thus, it was recognized that reform of the overly centralized administrative structure was necessary for greater democratization, but it was not sufficient (Downs, 1988, p. 14).

The Constitution of 1987 - The provisions contained in the Nicaraguan Constitution of 1987 re-

new the importance of local-level government and its role in ensuring greater popular participation, which is critical to decentralization and democracy. Article 177 of the Constitution provides for the free and direct participation of the people in the election of local authorities.

The Constitution of 1987 also specifies that, for administrative purposes, the national territory is divided into regions, departments and municipalities. The municipality is defined as "the basic unit of political and administrative division in the country." Yet, it is also noted that "municipal government and administration correspond to the municipal authorities without detriment to the central government authority" (PADCO, Nicaragua: Municipal Government Assessment, 1992, p. 48).

The Municipal Law of 1988 - This law establishes the purpose, character, functions, authorities and organization of local governments. It also establishes the resources available to municipalities and defines the relationship between the municipalities and the central government. The mandates of the Nicaraguan Municipal Law of 1988 include the following: 1) the direct elections of high public officials — reiterating Article 177 of the Constitution; 2) the right to structure and operate the municipal government according to the reality of each municipality; 3) the possession of patrimony, which can be used freely according to law; 4) the capacity to manage and dispose of resources; and 5) the exercise of authorities for the



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satisfaction of people's needs (PADCO, Nicaragua Assessment, 1992, p. 32).

Though Nicaraguan municipalities, through the provisions of the Municipal Law, have been given a wide range of authority and functions, in reality, it is the central government which provides the majority of services and basic infrastructure. Nonetheless, it should be noted that the central government has transferred to the municipal level, on a pilot basis, the administration of some services which used to be under central control, in particular water and education (RHUDO Program Review, Municipal Development Section, 1993, p. 2).

The 1988 Municipal Law also deals with municipal tax incomes stating that such incomes can come from municipal taxes, fees, special contributions, fines and from municipal participation in fiscal taxes. Nicaraguan municipalities have been authorized since 1991 to collect a fairly broad range of taxes including property tax and a local vehicle tax. However, it is important to note that the municipal tax plan (*Plan de Arbitrios*), which includes a schedule of tax rates and charges, must be ratified annually by Executive Decree. Indeed, in his report on local tax systems in Central America, José Antonio Pérez notes that Nicaragua is the only country in the region whose national government enjoys such a high degree of power over municipal taxation due to the powers granted national authorities via the Constitution (Pérez, 1994, p. 80).

Decree 498 — “The Regulations for Organization and Functioning of Municipalities” (March 1990) - The mandates contained in the Municipal Law of 1988 clearly state the municipal government's obligation to provide means for citizen participation in municipal activities, management and administration. Decree 498 contains specific provisions for ways in which greater means of citizen participation in local affairs are to be created. Articles 64-66 of this Decree states that: 1) municipal governments are obliged to support the creation of citizen organizations and to promote the participation of local organizations in the administration of the municipality; 2) it is the mayor's responsibility to assemble the population at least twice a year so as to evaluate municipal activities, such as annual approval of the municipal budget; and 3) it is the municipal council's obligation to create Community Councils which can prepare proposals related to specific municipal activities and can contribute to municipal management. Article 74 of Decree 498 also states that the municipal council can create Complementary Organizations in order to strengthen community participation, to improve the rendering of services to the population and to increase the efficiency of municipal management and municipal activities (PADCO, Nicaragua Assessment, 1992, p. 49).

Decree 497 — Creation of the Instituto Nicaragüense de Fomento Municipal (INIFOM) (March 1990) - Decree 497 created the Institute for Municipal Development (INIFOM), which



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functions as an autonomous government agency. Through this Decree, INIFOM is obliged to: assist municipal governments; ensure the comprehensive development of municipal government as the primary expression of the state at the local level; and support popular participation in public affairs. The Institute also organizes and implements plans and activities dealing with the municipalities' role and resources (including research, training, technical assistance, etc.) within the context of national policies, strategies and plans and municipal participation (PADCO Nicaragua Assessment, 1992, p. 37).

It is also important to note that INIFOM has a Board of Directors which consists principally of mayors. The presence of a majority of local government officials on the Board greatly increases INIFOM's potential of providing efficient and effective assistance to municipalities.

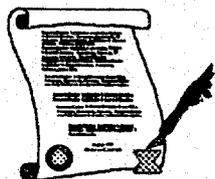
Comité Inter-Institucional para el Desarrollo Municipal y la Descentralización (CIDMD) - The Inter-Institutional Committee for Municipal Development and Decentralization (CIDMD) was created in 1992 to help promote the national process of decentralization. The committee consists of representatives from the Office of the President, the Ministry of Interior, INIFOM and from among the Nicaraguan mayors. Similar to the charge of the Municipal Development Coordinating Committee (CDM) in El Salvador, CIDMD is responsible for directing the transference of authorities, responsibilities and resources to local

government, as necessary and appropriate to achieve effective decentralization.

Some proposals for decentralization have already been presented before the National Assembly and other national government entities. Indeed, in 1994, a Program to Reform the State was initiated, focusing on deregulation and privatization of public enterprises (Pérez, 1994, p. 78). Other steps, such as the transfer (on a pilot basis) of the administration of some services to municipalities and the delegation of authority to municipalities for the administration of a variety of taxes, give some promise for real advancement towards decentralization in the near future (see "Nicaragua: Current Efforts towards Decentralization," p. 22).

PANAMA

In comparison to other Central American countries, Panama remains highly centralized. The country has maintained a strong central authority ever since the 1941 Constitution placed heavy restrictions on municipal authority and administration. Thus, very few laws have been passed or policy reforms implemented which relate specifically to decentralization and increased municipal authority. Nonetheless, there are some pieces of legislation which include provisions that define local government and its authorities and responsibilities. Observers who read these laws and regulations, however, often find serious contradictions



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as well as restrictions that impede municipal development. Many municipal regulations are simply not followed under present circumstances (PADCO, Regional Municipal Sector Assessment, Annex II, p. 27). Yet, although it is evident that Panama lags behind the other Central American countries in terms of the passage of decentralization legislation, recent events, such as the direct election of mayors and the creation of a national municipal association, signify important beginning steps towards a process of decentralization in Panama.

The Constitution of 1972

- Title 8 of the 1972 Constitution regulates the municipal and provincial regimes. The Articles contained in this Chapter relate to local government structure, provincial administration, municipal councils and municipalities (PADCO Regional Municipal Assessment, 1992, Annex II, p.26).

NICARAGUA

CURRENT EFFORTS TOWARDS DECENTRALIZATION

The recently (1993) formed national municipal association of Nicaragua, *Asociación de Municipalidades de Nicaragua* (AMUNIC), is working to bring about legal reforms that would contribute significantly to local government autonomy and finance. These reforms include:

- 1) *Real Estate Tax* - A 1992 Executive Decree transferred the administration of the national real estate tax to municipalities. A new law has been drafted which would formalize the tax by providing legal backing for the provisions included in the 1992 executive decree. AMUNIC plans to present this proposed new law to Congress during the fourth quarter of 1994.
- 2) *Direct Election of Mayors* - Currently, Nicaraguan mayors are elected from among the members of the municipal council. AMUNIC has prepared a proposal that would allow for the direct election of mayors and would change the mayoral term to one half of that of the presidential term. AMUNIC is now discussing with Congress the inclusion of the proposed reform on the Congressional agenda. It is anticipated that this reform will be approved in 1995.
- 3) *Intergovernmental Transfer to Municipalities* - AMUNIC is also actively lobbying for the inclusion of a proposal on the 1994 legislative agenda which would constitutionally assign 8 percent of the national budget to municipalities. The reform proposes the 8% annual transfer as a permanent line-item on the national budget. AMUNIC expects that this reform will be implemented in 1995.

Law No. 105 (Oct. 1973) - Law No. 105 establishes regulations regarding Community and Local Boards.



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Law No. 106 (Oct. 1973) - Law No. 106 is the most comprehensive code covering municipalities. It establishes that:

Article 1) Municipalities shall be autonomous;

Article 2) Local governments shall be independent and shall provide certain specific services;

Article 3) The mayor shall exercise control at the local level;

Article 4) A municipal council shall exist, describing its function;

Article 5) Municipalities can protest against any national law that goes against the provincial level;

Article 6) Local governments shall be involved in addressing local epidemics;

Article 7) Citizens have the right to participate in referendums at the provincial level when the central government violates municipal authority and autonomy; and

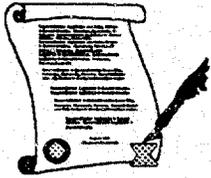
Article 8) Municipal councils can create public-private enterprises to generate income for municipalities or provinces (PADCO Regional Municipal Assessment, 1992, Annex II, p. 26).

Another important provision of Law No. 106 is the authority it grants municipal councils in setting their own taxes and service fees. The Law states that "it is the exclusive right and responsibility of the municipal council to establish taxes, special contributions and fees and rates, in con-

formance with the law, in order to cover costs of administration, services and municipal investments." Each district in Panama has its own system of taxes and fees, which is implemented within the framework of Law No. 106 (Pérez, 1994, p. 93). In his study of local tax systems in Central America, Pérez notes that despite the highly-centralized control exercised by the central government over municipal administration, Panamanian municipalities enjoy a much higher degree of control and autonomy in setting taxes rates than do the municipalities of the other countries in the isthmus (Pérez, 1994, p. 93).

Law No. 52 (Dec. 1984) - Law No. 52 made some revisions to the 1973 Municipal Code (Law No. 106) as follows: 1) mayors are not to be elected by the people but rather appointed by the President; 2) mayors and local council members are to be paid with local funds; and 3) municipalities shall collect taxes and those funds will go directly to the National Treasury and will then subsequently be returned to the municipalities (PADCO, Regional Municipal Sector Assessment, Annex II, p. 26). Article 4 of Law No. 52 expanded the authority of the municipal councils to create public-private enterprises to include any type of activity, including the provision of services currently provided by the national government and, in particular, those activities that promote the development of industry, agriculture and the raising of livestock.

Law No. 51 (Dec. 1984) - This 1984 law states



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the functions of the Provincial Councils.

Law No. 2 (Jun. 1987) - This law establishes the functions of the provincial governors. Law No. 2 was later modified by Law No. 19 (August 1992).

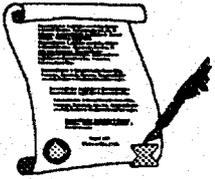
Law No. 17 (Jun. 1993) - This recent law made important reforms in the Panamanian electoral code. The passage of this law represents an essential step in the process of decentralization as it allows for the direct election of mayors. Thus, during the May 1994 elections, Panamanian mayors were elected by the people and not appointed by the President.

Panama has historically had a centralized government whereby the municipalities serve more as arms of the state rather than autonomous public entities with distinct attributes, functions and responsibilities. The country has not yet taken many critical steps towards decentralization as have other Central American countries; rather, the political scheme in Panama has been one of deconcentration of services to local governments and not actual devolution of authorities, resources and powers. Nonetheless, some recent events such as the direct election of mayors in May 1994, and the formation of a national municipal association in August 1994, represent positive steps towards decentralization. Indeed, the new municipal association has already established a meeting with key national officials in November of 1994 in order to begin a dialogue on possible legislative reform that would strengthen municipal government.

CONCLUSIONS

The countries of Central America have indeed made important strides within the past decade towards creating more decentralized and participatory democratic systems. Yet, it is evident from the findings of this Special Report that there is a great variance in the degree of decentralization realized in each of the countries of the region as well as the degree to which the process of decentralization is supported and given high-level political attention. Some countries such as Honduras and El Salvador have been able to make decentralization and municipal development important national political issues. Furthermore, the municipal associations in these two countries are playing a major role in the design of their respective national decentralization programs. Yet, it is important to note that El Salvador has only recently embarked on the road towards peace and the transformation of the public administration of the country. Thus, El Salvador is only in the beginning stages of a process of decentralization, whereas Honduras has had the opportunity to advance further along in this process.

Nicaragua, too, has only recently begun a strong push towards national reform in favor of decentralization. The country has certainly not seen the same progress as Honduras, yet the recent creation of a national municipal association (1993), the implementation of a pilot project to devolve authority for local services to municipalities and the establishment of the Inter-Institutional Com-



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mittee for Municipal Development and Decentralization (CIDMD), all point to increased political willingness to move towards greater decentralization.

The implementation of the transfer of national revenues to municipalities was praised as an important move toward decentralization in Guatemala and, indeed, has been used as an example for other countries in the region. Nonetheless, the central government retains a high degree of control over resources and decision-making. The countries of Panama and Costa Rica also continue to maintain strong central government authority; they have, thus far, made limited progress towards increased decentralization. Yet, recent efforts on the part of the national municipal associations in each of these countries point to increased political will on the part of national officials to discuss and consider decentralization legislation and greater possibilities for change in the short- to medium-term.

Honduras undoubtedly leads the region in terms of the passage of decentralization legislation and policy reform. Other Central American countries may look to such legislation as the 1990 Honduran Municipal Law, the electoral reforms and the recent National Program for Decentralization and Municipal Strengthening as examples to learn from and apply to their own specific situations. Yet, Honduras faces the immense challenge which all the Central American countries will face as they approve legislation related to decentralization—that is, to effectively implement and strengthen

the process of decentralization which, once signed and agreed to on paper, has only just begun.

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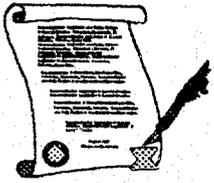
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Regional Information Clearinghouse

USAID/G-CAP

1ª Calle 7-66, Zona 9

Edificio Plaza Uno, 9º Nivel

Guatemala, Guatemala

Tel. (502) (2) 32 03 22

Fax (502) (2) 32 04 32

E-mail: Huracan - cirgt@huracan.cr

Nicarao - cirgt@nicarao.apc.org

Internet - sdorsey@usaid.gov

Steven D. Dorsey, Information Resources Manager

Sharon Van Pelt, Information Analyst

Silvia Rivera, Information Analyst

Claudia Galvez, Administrative Assistant