PARTICIPATION, CHOICE, AND ACCOUNTABILITY IN LOCAL GOVERNMENT: LAC AND THE U.S.

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EXECUTIVE SUMMARY

i. This note reviews selected kinds of popular participation—a tool which is central to effective public choice and to accountability—in local government. The review concentrates on the most tested forms of participation in the U.S., and though not a perfect map for work in LAC, the experiences may be seen as a bellwether of possibilities in the region. The forms of participation—categorized as electoral, civil sector, and legal-juridical—go well beyond those customarily considered in Bank work and are discussed in relation to typical features of Bank projects. This approach, along with a cost-benefit type analytical framework, help to identify upcoming issues and to gauge where and how to lay emphasis on participation in local government.

ii. The overarching message of this Note is that gains in efficiency and accountability can be made in local governments of LAC by deepening participation—notably by recruiting grass roots groups closer to the "ground" and supporting electoral choice-making—and this is possible in the context of ESW and project lending.

iii. Participation by civil sector groups (grass roots and membership organizations, a distinct subset of NGOs) can improve efficiency of local government in two ways. First, participation helps to detect and verify demand for local investments. Second, participation helps to forge community attachment to projects, and this translates into more careful implementation and supervision of local investments and services. The Bank takes pains to work closely with NGOs, but has been slow to distinguish clearly among comparative specializations of different NGO groups. Whereas much attention has been given to developing the broker and intermediation roles of "confederated" NGOs, effective local development hinges on the demand detection and supervisory advantages of genuine grass roots groups (known as GSOs, MSOs and PSOs), already ubiquitous at the local level in LAC.*

iv. Municipal strengthening and social funds projects provide substantial scope of opportunity to incorporate primary grass roots interest and membership groups to achieve greater payoffs in project ownership, accountability (pre-hoc and ex post), and resource allocation. One suggestion is to integrate grass roots groups into municipal strengthening projects—with additional potential for improved poverty targeting—by designing urban project components to look more like social funds.

v. In the electoral arena, the Bank can help decrease the transaction costs of electoral participation. By improving the channels for expression of collective consumer sovereignty, Bank ESW and project assistance can lead to better public choices at the local level. Bank projects could incorporate pilot components to: i) support nonpartisan institutions to formulate alternative, and competing, spending and taxing programs, ii) communicate "prices" or costs to the voting taxpayers; iii) improve the quality of counsel reaching the public and elected representatives, and iv) explore the phased transfer of power for local control of tariffs and rates. Yet another mechanism the Bank could support is to gather and publish standardized performance measures to subject the management record of local authorities to the scrutiny of voter-taxpayers.

vi. In legal and judicial arenas, much more basic work needs to be done to buttress the foundations of legal and judicial systems before they can be effective as participatory instruments in local governments of LAC. In the near term, participation in local regulatory arrangements and in dispute resolution are both desirable and necessary to strengthen accountability over local services and infrastructure.

* Hereafter, we shall be using PSOs (after Carroll, 1992) to mean primary support organizations to refer both to grass roots support organizations (GSOs) and membership support organizations (MSOs), unless otherwise specified.
I. INTRODUCTION: BACKGROUND AND FRAMEWORK

A. Background and Purpose

1. Many countries in the region are ushering in new models of urban organization in which decision-making and spending powers are devolving from central to local government. Often these strategies leave a gap between the capital spending discretion of the local government on the one hand, and on the other, the capacity of local governments to be responsible and accountable to the public. A major question still to be resolved in most countries is how to set up accountability systems where they have never been invented or atrophied under centralized modes of government. A previous Note identifies participation as one such mechanism. The Bank's Interim Report on Participatory Development encourages "... greater attention [to] the role of local governments for involving people in decision making on locally provided services, including their financing" (World Bank, 1992: 6). But while popular participation is among the most fundamental of accountability mechanisms, it is also complex, and sometimes ticklish to implement.

2. The purposes of this paper are to: i) delve more deeply into participation as a mode of accountability; ii) to highlight forms of participation in local government not being reviewed by the Learning Group, that is, experience in the U.S., where citizen-government interaction has been the subject of experiment over many decades; iii) to distinguish NGOs from other "primary" grass roots organizations making a bid to participate in local governments in LAC; and iv) with these perspectives, form a reference point for gauging the utility of participatory mechanisms now emerging with decentralization in the region.

B. Analytical Framework

3. Participation refers to the many channels for voicing and exchanging opinion—in voting, articulating preferences, providing advice and counsel, and channeling feedback from the public to elected or appointed decision makers. In its largest sense, participation represents a fundamental link between government and the governed. It is not merely a voice of beneficiaries in projects, nor is it a royal guarantee to "ownership." Rather, the central dimension in participation in decentralized systems of LAC is the political economy of collective choice, where a central question is to resolve the preferences of a collective—neighborhood, district, city—into a coherent set of policy and spending programs, and to see that these are implemented. Achieving this resolution may be seen in terms of costs and benefits.

i) costs: transactional and political. For both citizens and government officials, participation can extract a heavy cost in time, for instance, to gain information needed for meaningful interactions over formulation and implementation of policy. Financial resources are also

1/ "Modes of Accountability in LAC," Dissemination Note from the LACTD, 1992., discusses 'external' and 'internal' forms of accountability, of which participation is one.

needed to mount effective campaigns, deploy experts, explore the implications of policies and programs, survey opinion, and to publicize alternative approaches to a problem. Transaction costs are also involved in efforts to express citizen input or to cajole officials into responsiveness. Finally, participation heightens the possibility of confrontation over conflicting demands, and these tensions, as well as the risks of political loss, can be expressed in terms of political costs.

ii) Benefits: legitimacy, demand efficiency, accountability. Most political theorists see participation as a legitimating mode of consent central to the democratic process. Participation develops in individuals "feelings of efficacy" (DeSario & Langton, 1987:108) which lead them to a kind of equilibrium with their political system and with the role they play in it. Citizens also provide information—preferences and willingness to pay—officials need to fashion government policies and programs, and these inputs then form a sound basis for spending proposals. Local inputs have long been seen as the most effective way to reflect demand, and therefore achieve efficiency in resource allocation. Citizen inputs in the process of governance also constitute a check on public sector performance, and therefore represent an important form of accountability.

4. For Bank staff and local governments, achieving local participation is somewhat hit or miss at present, and weighing costs and benefits of doing so, an art, certainly not an exercise open to quantification. With more experience and better analytical tools, and documented cases of good practice, it should be possible to make this work more craft than art.

II. MECHANISMS OF PARTICIPATION IN THE U.S. AND LAC

5. Political participation in the U.S. has many roots, including the ideas of the political philosophers who framed the U.S. Constitution, Progressive period reforms, and theories of political economy and collective choice. Much of the history of local politics in the U.S. can be viewed as a search for the appropriate fit between governmental structures and ideas of self-governance, citizen control, and accountability. Local government in the U.S. has seen great innovations in the search for structures which "realize joint advantage from the powers of government, while keeping the dangers of exploitation and oppression to a minimum" (Ostrom, 1988:13).

6. Municipalities in LAC are founded on similar principles as those in the U.S., but have followed a very different history, marked until recently by economic and political dependence on central administrative fiat, extending from a strongly centralized tradition. Nevertheless, most municipalities in LAC already count on quite strong grass roots groups, many of which have survived decades, sometimes in long quiescence during periods of military repression. To this foundation are now being added more aggressive NGOs and renewed resolve among grass roots groups and local
governments, invigorated by the prospects of more meaningful control over local affairs.

development.

7. Because a very broad range of local government actions can accommodate participation, we simplify the present discussion by employing a typology which draws on some of the most tried and tested forms of participation in the U.S.: electoral, civil sector, and judicial. These are arrayed (as rows) in Table 1 against successive phases in a project cycle—planning, implementation and development.

TABLE 1: PUBLIC PARTICIPATION AND THE PROCESS OF LOCAL GOVERNMENT ACCOUNTABILITY: Examples in U.S. and LAC

<table>
<thead>
<tr>
<th>Participation Mechanism</th>
<th>Aspects of the Project Cycle</th>
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<td>LAC</td>
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finance, and the provision of municipal services (columns in Table 1). The categories of participation are: i) electoral—citizen participation is made directly in the political process through the ballot box;
ii) civil sector—public policy and decisions are affected by groups representing neither state nor for-profit entities and individuals (see Wolfe, 1991); and iii) judicial—provides citizens legitimate legal standing in the courts. Specific examples of each form of participation drawn from recent history in both LAC and the U.S. are noted for illustration in the cells of Table 1.4.'

8. We recognize that this typology necessarily limits the discussion by excluding some potentially important forms of local participation, for instance, political parties and the media. This drawback we hope to balance by maintaining a focus on operational aspects directly amenable to development assistance. Another problem is that the experiences in LAC are chosen on the basis of personal reconnaissance, i.e., experience and consultation, and this introduces a potentially serious bias in the conclusions expressed here—i.e., a near absence of legal and judicial participatory mechanisms, and with few exceptions, mostly only de jure electoral forms of participation in comparison with the U.S. Care has been taken to consult many other knowledgeable sources inside and outside the Bank, but nothing short of a sample of local participation will ensure more reliable results. Indeed, one conclusion of this Note is that such a survey should be conducted. In the meantime, readers are encouraged to provide anecdotal information to the authors for purposes of updating and improving the information base on participation in local government.

A. Electoral Mechanisms

9. The electoral system represents the most fundamental instrument available in democracies to tap into the public will. Voting is fundamental in decentralized fiscal systems, because voter-taxpayers are given the means to express preferences about packages of services and spending and to be confronted with the costs of their preferences. Voting to make public decisions is sometimes clumsy—lengthy feedback loops, "bulky" spending packages mixing many options, and sometimes inarticulate actors (parties and politicians) and an uninformed or lethargic electorate. Still, voting is the most definitive means of arriving at public choices, even though most decision makers in local governments of LAC are left without the benefit of fully functioning electoral systems.

10. Participation in the U.S. is, perhaps more than in any other form, marked by voting to select government leaders (Verba & Nie, 1987) and to express preferences. Voters show their approval or disapproval of public leaders and policies, including local programs of taxing and spending. In addition to these fiscal choices, should an elected official in the U.S. prove unsatisfactory, petitions can be drawn up by interested citizens to force a special, recall election. The election will then determine if the individual should be removed from office. Unlike regular elections, recalls are costly and difficult to arrange, but they do serve the purpose of putting officials on notice that citizens are dissatisfied. The authors know of no recall provisions at the local level in LAC, but a number of council-initiated actions have resulted in mayoral impeachments. Many national constitutions or municipal organic laws specify impeachment processes. For example, in the Brazilian state of Para, a mayor was removed from office by council vote even before President Collor was charged with impeachable offenses. Though rare, these instances indicate that the mechanisms are not out of the question, nor totally moribund.

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4/ The Annexes consist of case write ups and are available separately.
11. Other electoral mechanisms extend direct citizen participation in both the U.S. and LAC to public policies and programs. In the U.S., an initiative may be carried out by voters in a two-step process: a petition proposing legislation is drawn up and then circulated for signatures. (See Box 1.) With a prescribed number, it is then presented on a ballot, which may be approved or disapproved by the voters during a regularly-scheduled election. \(^5\) Referenda are legislative decisions put on the ballot for the voters' approval; only when they are approved do they take effect as law. Venezuela's most recent municipal legislation allows referenda, and national legislation has been introduced in Colombia to permit voter review of municipal and departmental budgets.

12. Increasingly, citizens in many states in the U.S. have turned to "ballot box planning" (Caves, 1992), particularly as they confront growth-no growth issues related to land-use. Zoning is the most widely used mechanism to control land use, and virtually all zoning measures are subject to review, either by commissions or directly by citizens through public hearings, and not infrequently at the ballot box. Many groups in the U.S. have drawn up initiatives to forestall or stop growth proposals. Furthermore, citizens can influence the character and nature of subdivisions, for instance by expression of sentiment about such things as the size and number of streets; the levels of services such as sewerage and lighting; and grading and erosion control measures. Other amenities like parks, bicycle paths, recreation areas, and landscaping may also be subject to control. Although many problems hamper electoral effectiveness—low voter turnout, confusion over complex issues, real economic costs, to name only a few—the experience in the U.S. with ballot box planning has been generally positive (Caves, 1992:24).

13. Possible Future Options in Bank Work. Though electoral mechanisms have, by and large, been used only peripherally in LAC, they are legal constitutionally, and it may be expected that as local control gradually leads to local autonomy, these instruments will begin to come into use as methods to define local interests and justify municipal positions to "higher" levels of government. Official multilateral groups are already beginning to explore modalities of U.N. assistance in electoral arena (International Electoral Institute Commission, 1993). Bank involvement directly with electoral mechanisms need not risk apparent or real conflict of interest with the Bank's charter provisions.

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\(^5\) Initiatives are said to be direct if petitions drawn up by the citizens are put on the ballot without perusal or review by the local legislative body; petitions subject to legislative review, are said to be indirect. In the U.S., legislative review gives the legislative body an opportunity to either adopt the petition as its own or put the petition on the ballot, unaltered, together with an alternative measure of its own. Under this latter condition, the ballot would have both the initiative, drawn up by the citizenry, and the referendum, drawn up by the legislative body. Generally, initiatives approved by the voters have the force of law, except for advisory initiatives, which simply alert government to the concerns of citizens on a specific issue (Caves, 1992).
concerning political interference. Technical and financial assistance related to electoral process can be justified both in terms of economic theory as well as operational considerations, i.e., to structure channels for expressions of consumer sovereignty and to improve decision-making in public choice.

14. Most of the municipal strengthening projects in LAC offer an opportunity to build upon the choice making instruments constitutionally or legally mandated by democracies in LAC. Besides strengthening the strategic, as well as tactical, means of improving revenue generation and management, a component typical in most Bank projects, Bank assistance could also explore the electoral domain for formulating alternative, and competing, spending and taxing programs. Civil organizations, even political parties, and more than a few NGOs, could be capable of performing this function, as well as analyzing the fiscal and cost implications of alternative programs, and presenting these for the benefit of the voting public. (See Box 2.) In addition, some civil groups—universities, research foundations, regional corporations—have capacity to analyze and communicate financial and economic dimensions of spending programs—the "prices" or costs to the voting taxpayers—and for improving the quality of counsel reaching the public and elected representatives (see para. 18). In some countries, local governments are stripped of the powers to set local "prices" of services and infrastructure, and even where this mentality is not changing, it is important to prepare local government to assume price and tariff setting expertise.

B. Civil Sector Mechanisms

15. The civil sector—understood to mean non-governmental and not for profit private groups—is also widely recognized as a class of actors with organized input in policy making, implementation, and service delivery. (Refer to the Box 3 for a conceptual "map" of the civil sector, after Carroll (1992). Although locally organized groups have long been important in the U.S., the

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Box 2

Focussing Choices at the Ballot Box
Several remarkable campaigns have been sponsored by UNICEF and national institutions in Colombia to focus voter and candidates’ attention on children’s health issues during mayoral campaigns. The programs made use of effective radio, TV, and poster ads designed to shape debate and foster commitment among local government officials, for instance, to reach targets for immunization during their terms in office. (UNICEF, 1993)

Box 3

Continuum of Sectors—Conceptual "Map"

<table>
<thead>
<tr>
<th>Public Sector</th>
<th>Civil Sector</th>
<th>Private Sector</th>
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<tr>
<td>line agencies / public-private/</td>
<td>civic orgznas (GSOs, MSOs, PSOs)/ nonprofit</td>
<td>For-profit</td>
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6/ The reader may wish to refer to Free and Fair—Towards Democratic Governance, a position paper prepared by the International Electoral Institute Conmiision. The paper outlines the need for a politically neutral, technically professional normative and operational center for the long-term development of free and fair elections in democratic societies.
influence of civil organizations was given strong impetus in the post-War era by such programs as the Great Society (specifically, community action and model cities) and the administrative review requirements embodied in the National Environmental Policy Act (NEPA). These and other programs greatly expanded the role of citizen voice in government. Such laws require local authorities to hold public hearings, in which citizens may voice their concerns regarding preferences and priorities of specific government actions. Failure to hold hearings could result in the withholding of federal funding. Some reviews show that timing and early access to technical information can be decisive in the effectiveness of hearings; at the same time, some reviews of Great Society Programs, suggest that public hearings have seldom been effective in shaping choices (Kweit & Kweit, 1990).

16. **Sunshine laws** and other mechanisms to make local government more transparent have a somewhat more constructive outcome. Many practices have been instituted by local governments in both the U.S. and LAC to ensure that mayors, public boards, planning or zoning commissions, or legislative councils hold meetings open to citizen attendance and participation. Two particularly effective mechanisms are the *cabildos abiertos* in Venezuela and Mexico and the economic planning committees (COPLADES) in Mexico. "Open house" sessions are obligatory for local governments in order to provide the public an opportunity for direct access (see Box 4 on *Cabildos Abiertos*) to local government in Venezuela.7 The COPLADES in Mexico represent one of the few instances of broad cross-sectoral participation in capital investment planning found anywhere in the region. The Mexican system also involves a program of matching grants, and many governments, including the U.S., are now beginning to notice (Box 5 on the following page).

17. Outside the realm of government are other institutions, usually categorized under the broad rubric, NGOs, which "facilitate," "intermediate," or "broker" citizen participation. These include an extremely wide range of organizations—from political parties to local sports clubs. Of special interest at the moment, particularly in decentralized structures of governance, are neighborhood improvement associations. In the U.S., these have become partners in governance,

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7/ A separate dissemination note "Quasi-Matching Grants in Mexico," describes this system in more detail. Similar mechanisms are found in the U.S. For instance, the New Horizons program in Nebraska developed innovative mechanisms for citizen participation. State and local community leaders meet in focus groups, regional meetings, and statewide discussions to develop ideas and opinions which then form the basis for initiatives or legislative action. Reading materials are disseminated in English and Spanish. Citizens testify before the state legislature through closed-circuit television and audio feeds set up throughout various community locations. Annual meetings allow government officials and private citizens to map out short and long term goals for the state. In three years, the program had involved 4000 citizens from over 300 communities in its activities (Armstrong, 1991).
even service delivery. By some counts, associations of this type numbered around 110,000 in the mid-1980s (Ostrom, 1988:11) and participated in the provision or control of services like solid waste disposal, street construction, lighting, and security, among other things.

18. **Political parties** at their best function to interpret a political philosophy and express this in programmatic terms for voter-taxpayers. At their worst, political parties become machines capable of corrupting both public decision-making and public sector spending. In LAC, parties have largely been coopted by special interests and have grown excessively partisan, completely abrogating a more legitimate public interest of translating a political philosophy into policies and spending, interpreting citizen demand, and acting as intermediary between the public and government. Most local governments in LAC at present, do not have access to even rudimentary technical opinion, much less objective policy analysis, to illuminate the tradeoffs of public choices (see para. 15).

19. Many local governments in both LAC and the U.S. have also instituted citizen panels and community advisory boards to provide counsel regarding the impact of government programs. Elected advisory councils, without legislative powers, have been implemented in Chile and Mexico City. A step beyond advisory boards is the designation of specific public interest responsibilities in an advisor or panel, sometimes with regulatory functions. Such public commissions, most commonly those dealing with energy, have in some U.S. communities, incorporated the position of public adviser to act as a channel of communication between government and the citizenry regarding the provision of goods and services (DeSario & Langton, 1987).

20. Regulatory arrangements compatible with the spatial and social interests of local governments in LAC also require participatory features which have not yet been a part of Bank assistance. For instance, regulatory arrangements currently under consideration in LAC, rarely give voice, and never vote, status to municipalities or other representatives of local interest, with which to express preferences and priorities as inputs to capital investment planning by utilities.

21. In order to determine the quality and efficiency of government programs, local governments have also instituted **performance measurement programs** (PMPs). In these programs, local governments gather information on the performance of its service efforts and determine, through a citizen survey, public satisfaction or dissatisfaction regarding such performance. Incorporating citizen feedback on services fosters credibility and legitimacy in the political system (Hatry, 1981;
22. **Citizen-initiated contact** represents "a pure form of Hirschman's voice option" (Coulter, 1988). It allows citizens to communicate a request or complaint directly to public officials. Many local governments in LAC have taken the initiative to set up public relations contacts, some of the most sophisticated with computerized programs to track the identity and nature of complaints, along with periodic reports. A German assistance program in Venezuela has financed an experimental program now under development for the state government of Lara. In many cities in the U.S. and LAC, central complaint centers or offices of citizen assistance have been established, usually attached to a mayor's office. Other public bodies have instituted the office of ombudsman with much the same functions as the complaint centers.

23. **Civil Sector in Bank Work.** Perhaps the most important change the Bank can make immediately in operational work is to distinguish primary grass roots neighborhood groups from the many others populating the universe of NGOs in the region (see Box 6). Carroll (1992) separates out in particular the grass roots and membership support organizations (GSOs and MSOs), because these groups have local origins and a social commitment. In this respect they should be seen in a different light than what we might call nonlocal NGOs. NGOs have been seen, in the Bank and other development institutions, in many ways and with many objectives, ranging from facilitating project implementation, to improving efficiency and local empowerment, to advancing country dialogue (Cernea, 1988, 1991; Paul and Israel, 1991; Bhatnagar and Williams, 1992). Grass roots and neighborhood organizations constitute the bedrock of local community action in municipalities of LAC, and Bank project lending can take greater advantage of this resource.

24. Participation in the context of local urban development might be seen on a spectrum of management, ranging from a centralized management of large numbers of groups in long term regional planning, such as in Cernea's PIDER case (described in Cernea, 1992), to a decentralized system of largely uncontrolled interventions, but under a set of pre-agreed rules, as is typical in social and municipal funds. We can sharpen this contrast for purposes of clarity. The model of

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**Box 6**

\[ \text{NGOs} = \text{GSOs} + \text{MSOs} = \Sigma \text{PSOs} + e \]

The term 'NGOs' covers a broad range of organizations. As a whole, NGOs might be thought of in terms of a pyramid, the base of which is formed by Primary Support Organizations (PSOs) whose cohesive force arises from some common territorial interest or shared problem, for instance, neighborhood improvement. 'Grassroots' and 'Member' Support Organizations (GSOs and MSOs) are aggregates of PSOs. GSOs and MSOs can be thought of as second and third level groups (local and national confederations) which represent the interests of PSOs before official functions, like hearings of a city council or central government legislature. MSOs are distinguished by a membership, and the political or financial clout this can bring. The term "e" refers to other groups not fitting neatly into the other categories.

For purposes of Bank project work in infrastructure, environment, human resources and poverty, typical decentralized projects need to make more room for consultation with interest groups as sources of preference expression and ownership, rather than only look to NGOs as executors of projects.
participation in PIDER described by Cernea represents perhaps a near end-point on a spectrum of centralized social engineering and control which may well be inappropriate for decentralized contexts of municipal development. The experience of municipal development, also in Mexico and many other countries in LAC, suggest a point on the management spectrum of participation quite distant from the PIDER experience. In most urban municipalities, participation arises \textit{ipso facto} from local neighborhoods, complete with a social agenda and vision of what is important for local welfare. Local groups long ago developed the organizational tissue of participation, and these today under decentralized democracies are constantly in search of outlets. Thus, participation in distributed systems lets local groups, as well as elected governments, grasp the instruments of implementation through a mutually beneficial participatory process which needs, at least in the Mexican case, relatively little of social engineering.

25. As local governments in LAC gradually adapt to an expanded scope of functions, Bank projects— in municipal strengthening, water and sanitation, primary health care and primary education— can correspondingly work with PSOs to increase project reliability and ownership. OED and other reports consistently comment on superior implementation of projects which have incorporated local sponsorship early in identification and design (OED, 1992). This can be achieved, as it has been in social fund projects in Bolivia and Honduras, by means of eligibility requirements regarding project sponsorship in identification, implementation, and supervision. Project manuals illustrating these principles in the social fund cases are available from LATAD as "good practice" in this area (see Box 7).

26. Still another tool is to begin constructing standardized performance measures with which to educate the public and harness the power of social censure in the interests of management efficiency. This is done already to a limited degree in most municipal strengthening projects. But it could be taken much further by exposing performance of local officials and governments to scrutiny of the public. The records of easily understood measures of performance, for instance in spending and service indicators, could be published to inform voter-taxpayers in one jurisdiction about the record of local officials compared to others, or to a national average. Preparations are underway to launch such a program in Colombia, and the Technical Department has completed exploratory work on urban performance indicators.

8/ The matching grant system in Mexico, as evidenced by the Decentralization and Regional Development Project which in less than three years has disbursed more than 10,000 projects at an average cost of under US$11,000 provide this outlet in the same cultural and institutional context as the PIDER program. The one major exception is that PIDER operated in a largely undemocratic environment insofar as elections of municipal officials is concerned.
27. The Myth of Local Capture?. The Bank's paper on governance cautions against the dangers of local capture, the control of resources and rents by a local elite, particularly as decentralization is implemented. Participation can be seen both as a weapon against, in addition to a tool which helps achieve, local capture. In the U.S., this problem of capture was documented by Verba and Nie (1987), who found that individual participation increases with socio-economic status. Thus, the label "local elite" emerged from the speculation that groups with better education and income would come to dominate the participatory process and capture benefits. The potential problems of capture were confronted in the U.S. by encouraging more participation from individuals as well as associations and interest groups. Since information is crucial to participation, an effective media is practically indispensable, and many other tools important, like the Freedom of Information Act, to safeguard against capture in the U.S.

28. A few additional points are worth noting about the differing circumstances of local control in LAC as compared to the U.S. First, national, not local, capture in LAC has long been a far more important source of bias in the incidence of benefits and rents. Perhaps a more fundamental factor is that decentralization in LAC has introduced a new basis for political power and local political mandates based on popular vote linked with powers to spend. Together, these factors affect behaviors of local leadership differently than before, when power and rank were conferred from the center. Another safety factor is that many of Bank-financed projects for local development are targeted specifically for low income groups through eligibility criteria and project design. Though leakages and inefficiencies are likely to be larger cause for concern than local capture, participation in the many forms discussed in this Note can be thought of as forms of accountability and control.

C. Judicial Mechanisms

29. Citizen involvement in the judicial process in the U.S. arose from concerns quite similar to those of present-day LAC: the question of capacity of government agencies to regulate individual and corporate behavior (DeSario & Langton, 1987). Federal laws such as the Federal Register Act of 1936, the Administrative Procedure Act of 1946, and the National Environmental Policy Act (NEPA) of 1969 forced procedural and substantive limitations on government actions, and these were then used as a basis for judicial review. One key step was the achievement of "standing" by citizens, meaning the legal right to participate as affected parties in judicial proceedings. Judicial rulings in U.S. courts over the past 20 years have resulted in standing not only for individuals with "pecuniary" interests, but also for those with "aesthetic, conservational, or recreational" interests (Anderson, 1973:27). As a result, local groups have brought numerous lawsuits challenging growth ordinances and county or area development plans. (Petaluma is one of the archetypical cases). Citizens also seek judicial recourse whenever they feel they have been unfairly treated as a result of public decisions (Boots, 1972:2). Prior to 1978, municipalities and their officials had enjoyed broad immunity from federal statutes (Lee, 1987:160). Annex C reviews the Petaluma case to illustrate growth control suits and cases filed under NEPA and municipal liability laws.
30. **Judiciary Participation and the Bank.** Judicial proceedings in LAC have been all but nonexistent as a participatory mechanism of accountability, although occasional instances arise. To be effective, judicial mechanisms require a complex infrastructure of law, case history, local courts, and professional expertise. As a frame of reference, many judicial systems are already overwhelmed with criminal and high stakes civil suits, individual standing is treated with ambiguity. Some countries have no system of local courts (e.g., Venezuela), and others, no bar (e.g., Mexico). Bank work in judicial projects will continue to address these larger issues.

31. Perhaps more important in the short run are the legal corollaries of local empowerment and privatization. The push for privatization, along with the new sense of autonomy being fostered in many local governments, give rise to both opportunities for new solutions to old problems, as well as a completely new breed of problem. Local solutions to problems of common concern, particularly where spillovers affect environmental quality, represent one area where the constitutional field is clear but where legal and institutional practice—such as metropolitan arrangements—is unexplored. More virgin still is the terrain of inter-jurisdictional conflict and the need for inter-governmental dispute resolution mechanisms. Privatization of local goods and services presents also a fundamentally new set of circumstances where local territorial interests—of neighborhood preferences and municipal mandates—need to be reflected in the planning and investment calculations of privatized operators of water, power, and other utilities.

III. PERSPECTIVE AND CONCLUSIONS

32. Participation within the analytical perspective adopted here, public choice, introduces a range of participatory mechanisms much broader than those admitted in most Bank work. Participation in local government is practiced on substantially different scales and in sharply different patterns in the U.S. and LAC, but it is of normative and political value in both places for essentially similar reasons. Participation is valued in itself, because democratic societies require participation as a means of reaching collective decisions. It is of value politically as a way to ensure that institutions remain accountable and legitimate. Though the forms of participation discussed in this note include, by Bank standards, unconventional modalities, the Note nevertheless excludes many issues which deserve further scrutiny, for instance, voter registration, campaign and electoral financing, political parties, the media, and expert technical assistance to citizen groups (DeSario & Langton, 1987). Accountability cannot be completely achieved in pluralistic societies without an interlocking system which incorporates these and other checks and balances. For the time being, this Note has focussed on operational aspects of participation more immediately relevant to, and achievable with, Bank assistance. Eventually, the Bank will need to address other issues of pluralism.

33. The idea of weighing notional costs and benefits of participation has been introduced as an analytical approach, not a method amenable to numeric calculation. By this perspective, we may infer that in the U.S. experience, sustained attention to participation in public choice making

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9/ For example, local neighborhood groups in Mexico City have successfully sued contractors and even the City, even though the central government retains tight control over Solidarity and has dominated public works. See Wall Street Journal, 1992.
machinery suggests some sort of "positive" outcome in the ratio of costs to benefits. In specific instances, case analysis is definitive. The Note also suggests that Task Managers might find it helpful to think in terms of minimizing the costs in time, information, and money to achieve through participation, gains in efficiency and accountability in local government. At the same time, this Note underscores the importance of a discriminating eye in the selection of grass roots groups in LAC to achieve these gains. The exercise suggests that more analytical work should be done—particularly a survey of PSO groups and an evaluation of their effectiveness—perhaps in the context of the Bank Learning Group.

A. Selecting Appropriate Civil Groups.

34. Past Bank experience with social funds and municipal strengthening projects provides a number of pointers to follow in the selection and use of civil groups. Future municipal strengthening projects might even include components emulating social funds and these principles. Guiding principles include the following:

- recruit already-recognized grass roots groups (e.g., PSOs or those with registered \textit{personería jurídica}) to serve as project advisors in the design stage of projects affecting local services and infrastructure;
- require that such groups be invited to make proposals in the identification and implementation of services and works in neighborhood upgrading and municipal development projects;
- require that local governments reach a working understanding, if not contractual relationship, with grass roots groups wishing to sponsor or carry out local improvement projects;
- by means of eligibility conditions, make PSOs responsible for specific parts of counterpart financing, construction, supervision, and implementation of local facilities and services;
- consider setting up advisory councils of PSOs or their confederations to provide feedback to project execution units;

35. Experience in LAC and the U.S. also points up the importance of such measures as: i) making available staff and technical expertise to explain alternative responses to community issues; ii) ensuring that sufficient time and information are available for participation processes to get underway; and iii) introducing or promoting the idea of public hearings as a public educational function.


36. Although many problems hinder electoral effectiveness, the experience in the U.S. has been positive, and ample scope is available for expanded use of electoral instruments in the context of Bank assistance. Technical and financial assistance can be geared to strengthen competition in public
choice, for instance: i) foster local capability to develop and analyze public policy choices; ii) develop standard, comparable performance indicators; iii) publish the performance records of elected and public officials (e.g., local government and utilities); iv) develop the capacity of local institutions to formulate alternative taxation and spending programs; v) communicate "prices" or costs to the voting taxpayers; and vi) prepare local government to assume price and tariff setting expertise.

C. Judiciary: Dispute Resolution and Regulation.

37. While little can be done in the judiciary under the present circumstances in LAC, local participation in regulatory arrangements and for dispute resolution are growing increasingly important as private sector role expands into local services and infrastructure. Bank projects affecting the judiciary may need to consider these aspects in the future.
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