

Edited by  
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**Decentralisation and  
Democratic Governance**  
**Experiences from India, Bolivia and South Africa**

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Axel Hadenius



# List of Acronyms and Abbreviations

## *India*

AG	Accountant General
BDO	Block Development Officer
CEO	Chief Executive Officer
CAG	Comptroller and Auditor-General
CPI(M)	Communist Party of India (Marxist)
INR	Indian rupees
IRDIP	Integrated Rural Development Programme
JRY	<i>Jawahar Rozgar Yojana</i>
LGIs	Local government institutions
MKSS	<i>Mazdoor Kisan Shakti Sangathan</i> (Organisation for the Empowerment of Workers and Peasants)
PAAO	Panchayat accounts and audit officer
PIL	Public Interest Litigation
PRIs	Panchayati Raj Institutions
SAAO	Samiti accounts and audit officer
SCs	Scheduled Castes
STs	Scheduled Tribes

## *Bolivia*

APG	<i>Asamblea del Pueblo de Guaraní</i> (Guaraní People's Assembly)
ADN	<i>Acción Democrática Nacionalista</i>
BOB	Bolivian Boliviano
COB	<i>Central Obrero Boliviana</i> (Central Bolivian Union Confederation)
CM	<i>Consejo Municipal</i> (Municipal Council)
CNPP	<i>Comisión Nacional de Participación Popular</i>
CONDEPA	<i>Conciencia de Patria</i>
CV	<i>Comité de Vigilancia</i> (Vigilance Committee)
LDA	<i>Ley de Descentralización Administrativa</i> (Law on Administrative Decentralisation)
LDN	National Law on Dialogue ( <i>Ley de Diálogo Nacional</i> )
LPP	<i>Ley de Participación Popular</i> (Law on Popular Participation)
MBL	<i>Movimiento Bolivia Libre</i>
MIR	<i>Movimiento De Izquierda Revolucionaria</i>
MNR	<i>Movimiento Nacionalista Revolucionario</i>
NFR	<i>Nueva Fuerza Republicana</i>
NPE	<i>Nueva política Económica</i> (New Economic Policy)

OTB	<i>Organización Territorial de Base</i> (Grassroots Territorial Organisations)
PDM	<i>Plan de Desarrollo Municipal</i> (Municipal Development Plan)
POA	<i>Programa Operativo Anual</i> (Annual Operative Plan)
SNPP	<i>Secretaría Nacional de Participación Popular</i>
UCS	<i>Unión Cívica Solidaridad</i>
UPP	<i>Unidad de Participación Popular</i>

### *South Africa*

ANC	African National Congress
BLAs	Black Local Authorities
DA	Democratic Alliance
DP	Democratic Party
IDPs	Integrated Development Plans
IFP	Inkatha Freedom Party
LACs	Local Affairs Committees
MEC	Member of Executive Committee
MLCs	Metropolitan Local Councils
MP	Member of Parliament
NEC	National Executive Committee
NMC	National Management Committee
NNP	New National Party
NP	National Party
PAWC	Provincial Administration of the Western Cape
PEC	Provincial Executive Committee
REC	Regional Executive Committee
WLAs	White Local Authorities
ZAR	South African Rand

# General Outline of the Study

*Axel Hadenius*<sup>1</sup>

Decentralisation brings government closer to the people. The existence of local political arenas makes it easier for ordinary citizens to participate and exert influence. When power is brought closer to the citizens, the political process becomes more tangible and transparent and more people can become involved. Decentralisation may also create a more open political system in that it implies a division of powers in society; many channels of representation and power sharing become available. This counteracts the monopolisation of power by certain elite groups, often the consequence of centralised political and administrative structures. A decentralised system is also more accessible to new political movements and minority groups in their attempts to influence politics. This is particularly important in ethnically divided societies, where political exclusion can have seriously polarising effects (Lijphart, 1977; World Bank, 1997; Grindle, 2000; Hadenius, 2001).<sup>2</sup>

Decentralisation promotes participation and improves the controlling function held by the lower levels of the political system. Its greater degree of political inclusiveness may also have important conflict-dampening effects. In addition to such consequences – which have obvious democratic merits – decentralisation can also be an effective means of enhancing state capacity. As is well known, the actual steering capacity of the public administration is fairly weak in many developing countries. In its centralised form – often bloated with excessive staff – the state apparatus has in many instances proved to be poor at implementation. The state, as Göran Hydén puts it with reference to Africa, “has been left suspended in mid-air” (1983: 195. See also Wunsch, 2000). The state proclaims several things, but barely reaches down to the base level of society. Among the citizenry, the organs of the state are regarded with detachment and contempt.

The legitimacy of public bodies may be considerably boosted by the greater involvement and influence of ordinary people due to the greater

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<sup>2</sup> Decentralisation may entail the transfer of autonomy in the following areas: (1) *Policy autonomy*: local bodies are entitled to make their own decisions in certain (more or less restricted) fields of policy; (2) *Organisation autonomy*: local bodies are free to decide about their organisational structure; (3) *Staff autonomy*: local political leaders and administrative personnel are selected without interference from central authorities; (4) *Fiscal autonomy*: local bodies are able to raise revenues independently and/or receive grants from the centre without any strings attached (so-called block grants).

'proximity to politics' that decentralisation entails (Bhattacharyya, 1994). This tends to strengthen the state's capacity for implementation. Furthermore, a decentralised bureaucracy adapts more easily to local identities and norms, which may increase effectiveness.<sup>3</sup> Decision-makers who are rooted in the locality and knowledgeable of conditions on the ground are better placed to formulate concrete policies for that area than functionaries from the centre. While professional competence may be lacking, such decision-makers are more able to accommodate local demands by tapping into the "silent knowledge" that exists among the local public about the problems at hand and their possible remedies (Ostrom, 1990). Moreover, as elected representatives of their communities they can draw on an essential amount of popular legitimacy, which makes policy implementation easier (Blair, 2000).

In addition, decentralisation has a system effect that can increase efficiency. A decentralised system sets the stage for policy experimentation on a large scale. With many independent decision-making bodies, there is considerable room for different initiatives. New approaches can be tried, and those that turn out well can (through diffusion) be applied in other places as well. In this respect, a decentralised political system can function as an open 'market' (Oates, 1999; Manor, 2000).

Seen from this perspective, decentralisation looks highly attractive: it can be seen as an irresistible remedy for developing countries. It should be borne in mind, however, that decentralisation also has potential drawbacks. It goes without saying that in a decentralised system, political leaders have to give up the desire to pursue a unified, national public policy. Decentralisation implies that the content of policy may differ to a substantial degree from one community to the next. Hence, citizens are treated differently. To uphold certain rights and services uniformly across the country, a centralised political and administrative state structure is normally needed (Anzafar, *et al*, 1999).

Another possible consequence concerns the effects of decentralisation on the sphere of governance. There are many examples of decentralisation having had a highly detrimental impact on the quality of political and administrative practices. An increase in the incidence of corruption, mismanagement and patronage has gone hand in hand with the empowerment of local bodies. This naturally has a negative effect on the efficiency of the public sector, which in turn has adverse consequences for the welfare of a country's citizens. It also affects political life. Bad or corrupt governance lays the foundations for clientelistic forms of political organisation. Such an order – due to its elitist nature – provides only limited opportunities for grass roots influence. In addition, public bodies often come to lack legitimacy (Della Porta and Vannucci, 1997; Hadenius, 2001).

<sup>3</sup> This, for instance, is seen clearly in a study of political attitudes and behaviour in Zambia (Bratton, *et al*, 1997).

Hence, instead of enhancing the democratic quality of public decision-making and strengthening state capacity, decentralisation may have the opposite effect. Such reforms may just turn out to benefit the traditional local elite which can utilise the extended decision competence and accompanying resources to its own advantage, politically as well as economically. These unintentional results have been observed many times across the world. By increasing local autonomy, local fiefdoms of corruption, patronage and political domination are created. As a result, public resources are wasted and misused as they are spent primarily on serving narrow clientelistic and personal ends (Crook and Manor, 1998; Blair, 2000).

Thus, if the intention of the transfer of decision-making capacity and appropriate resources to popularly elected local bodies is to provide a foundation for successful democratic decentralisation, such reforms must be accompanied by efforts to improve the quality of governance among the bodies in question. Proper institutions must be installed to safeguard administrative regularity and efficiency, and a fruitful division of responsibility and control between local bodies and the centre needs to be established. Furthermore, channels of communication and active influence must exist in the local communities. Meaningful participation requires informed citizens who have the capacity for taking joint action. The press and local civil society can play a critical role in this context.

How, then, can this be achieved? The purpose of the study, which is presented below, is to come up with some guidelines in this regard.

## 1. The problem

As we saw above, the basic dilemma is as follows. A well-functioning state is needed at the local level in order to make the public sector work effectively in accordance with popular demands – thus setting the stage for the development of democratic governance. However, efforts to decentralise decision-making competence and resources may easily result in “local predatory capture”, i.e. a strengthening of prevailing networks of corruption, patronage and the rule of local ‘big men’. The latter tends to weaken state capacity and bar democratic development. This tendency – which stands out as the common pattern – is well documented in Migdal’s study (1988) of political reforms in Egypt and Sierra Leone (see also Manor, 1997; Blair, 2000; Heller, 2001).

However, we also know that the first (positive) scenario is not just wishful thinking in developing countries. Studies made by Uphoff (1985) Ostrom (1990) and Tendler (1997) demonstrate that it is possible to establish fairly well-functioning local organs even under difficult structural conditions (in terms of low levels of economic development, insufficient infrastructure as well as rampant corruption and clientelism). However, these studies illustrate exceptional cases, and their authors only partly

summarise their findings in ways that make them generally applicable. Their efforts have mainly illuminated some specific, encouraging cases. Nevertheless, by drawing on these case studies (and some other inquiries) it seems possible to point out a number of strategies that could be applied in order to achieve the possible positive consequences of decentralisation programmes.

Before elaborating on these different strategies, however, a general condition needs to be accentuated – namely that the centre be committed to pursuing reform. Successful decentralisation can hardly be brought about without strong support from key political leaders (Heller, 2001). Reform at the local level requires the involvement of, and backing from the state government. This is a matter of actually bringing down decision-making competence and resources to the local level while, at the same time, making sure (through the different measures discussed below) that the modes of decision-making and the way resources are allocated meet certain quality standards. If, instead, the political status of the central leadership depends on its nurturing traditional networks of corruption and patronage, it is normally only half-heartedly interested in strengthening lower organs (after all, this is a matter of surrendering powers that can be utilised politically). In such cases there are few incentives for eradicating existing patterns of political clientelism, corruption and mismanagement (Theobald, 1990).

## 2. Strategies

As noted above, the state government plays an important role in establishing the rules and standards to be applied. But of course, not everything can be directed from the centre. Successful decentralisation is the result of an interplay between central and local actors.<sup>4</sup> What the centre can do is establish incentives and the rules of the game, thus encouraging new modes of behaviour at the local level. The trick, as it were, is to initiate a local dynamic that works independently in support of political and administrative reform.

### 2.1 Control from above

Central government can do much to control local activities – both *ex ante* and *ex post*. There is a broad array of measures to be applied *ex ante* (that is, before local programmes are started). The central government can, for example, lay down specific criteria for choosing local programmes and for

<sup>4</sup> Uncontroversial as this may seem, this stands in contradiction to the position of e.g. the World Bank (1997) in its strong reliance on the one-sided capacity of NGOs and recommendations for "down-sizing" the state.



possible beneficiaries. It can also specify the decision processes to be applied. To ensure that local organs do things right, it is sometimes required that the central government (or its representatives) endorse local budgets, and even individual programmes. Such a requirement implies, however, that the local authorities enjoy only limited autonomy.

Another way for the state to intervene *ex ante* is to influence the recruitment of local personnel. In some successful programmes (as reported by Tendler, 1997), central government has taken charge of recruitment of the agents who should carry out the work in the field, with the intention of safeguarding an essential degree of professionalism and work-engagement among these field agents. This strategy also deprived local authorities of an important source of patronage, since the distribution of jobs is often a key factor in exerting political dominance. This was, of course, an intended consequence although no doubt, by intervening in local recruitment processes, the centre may create troublesome tensions between itself and local power-holders.

In controlling *ex post*, central authorities try by various means to supervise and monitor programmes that have been carried out. This, however, is not an easy task. As observed by Ostrom (1990), the supervision of local activities from the centre is seldom efficient, mainly because it is difficult to obtain reliable information on what really has been achieved. While people have been working (on paper at least) and money has obviously been spent, it is difficult to find out from a distance what has actually been done and what the outcome has been, especially if a number of dispersed small programmes have been operating simultaneously. New information systems that make it possible to trace economic transfers even at the local level may increase the degree of transparency (Nistads, 2001). Such systems are still scarce in poor countries, however. Besides, economic transactions are only one side of the problem. Other policy instruments that promote good performance are therefore also needed.

## 2.2 Encouragement and information

Studies of successful reform programmes reveal that work ethics can make a big difference. Great efforts have sometimes been made to motivate field agents to perform well. It is important to create a feeling among those involved in a programme that it is not just a matter of doing a job (and getting a salary), but of carrying out a mission. An enhanced work ethic has also proven to be a side-effect of recruitment on merit. Employment on the basis of certain qualifications of a technical or personal character gives prestige to the staff in question, and this in turn tends to generate dedication in carrying out the job. When projects have got off the ground, official appreciation of good performance, e.g., by awarding prizes to successful

communities and individual participants, is another way of boosting the work-spirit (Tendler, 1997).

Another important policy instrument is information to the general public about the goals of the programme, about the resources that have been invested, and about the achievements that have been made. This increases awareness in society, especially among potential beneficiaries, about the programme, and generates valuable popular support for the measures taken, thus facilitating the operation of the programme. Such publicity, moreover, tends to further the work-spirit of the agents. In addition, enhanced awareness among the general public makes it easier for society to exert control (Tendler, 1997).

### *2.3 Control from below*

The principal argument in Ostrom's study (1990) is that in order to bring about sustainable reforms, a process of change must take place in the local community. Central government can facilitate such a development in several ways, but it cannot accomplish the process itself; this can only be done by local actors on the ground. To a great extent it is a matter of mobilising and empowering the local community. Hence, local democratisation is an essential part of the 'reform package'.

As we have argued above, a basic weakness of centralisation is the fact that this mode of decision-making is inflexible to varying local demands and conditions. In addition, central actors are severely restrained when it comes to monitoring the actual implementation of programmes out in the field. Involving local actors with an independent responsibility for accomplishing certain activities may mitigate these drawbacks. This is a fundamental argument for decentralisation. The problem, however, is that existing local decision-makers often have their own policy agenda and are therefore likely to divert programmes for their own ends, to the detriment of the community at large (Manor, 1999). To counteract this tendency, it is necessary to inspire the stakeholders – the intended beneficiaries – to become involved in the process.

As noted above, one important parameter is information, i.e., to bring knowledge about ongoing programmes to the local public. Another is popular organisation. Groups in civil society could be encouraged to become involved in the work. In the last decade there has been what almost amounts to euphoria about the significance of civil society as a vehicle for reform. Robert Putnam's study (1993) on democracy and governance in Italy has been very influential in this regard. A strong organisational life can certainly be a great asset, as it serves as a means of popular influence, and may also have important effects in the area of democratic schooling (Hadenius and Ugglå, 1996). Civil organisations can channel popular demands, and can also strengthen society's capacity for holding decision-

makers accountable. Such organisations can even be made responsible for actually realising certain programmes. It should be observed, however, that civil society is a mixed bag. It may contain highly reform-minded elements. But it could also hold important elements that are closely tied to a prevailing clientelistic structure that is mainly interested in preserving the status quo (Schönwalder, 1997; Azfar, *et al*, 1999).

If reform-minded groups do exist – be they churches, unions, cooperatives, professional associations, business groups, human rights groups, etc. – it is natural to invite them to take part in the process. Sometimes however, such groups do not exist at all, or are poorly developed. Under such conditions it has at times been possible – in connection with a reform project – to establish new organisations of reform-minded local stakeholders, or to give support to existing feeble ones. As demonstrated by Fox (1994), where such organisations have been established for *ad hoc* purposes they may endure and subsequently take on new tasks. Another key factor is the existence of institutions at the grass roots level that can channel influence upwards. Community organs at the village or ward level can be supported and actively involved in the reform programme to ensure that measures meet the demands of the local community at large. Where such organs do not exist, they can be established. Some successful programmes of decentralisation have created and mandated new local decision-making bodies with broad social representation to handle certain issues (Tendler, 1997).

It is thus argued that a mixed strategy needs be applied to effectively challenge prevailing structures of corruption, patronage and poor governance at the local level. Some kind of coalition should preferably be established between a reform-minded centre and supportive groups at the grass roots level (Johnston, 1998). Such a coalition puts the prevailing local elite – accustomed to running things its own way – under concerted pressure from both above and below. Under such pressure, it has been shown, even representatives of the ‘old order’ can gradually change their behaviour, either out of political necessity, or as a result of a process of socialisation into new viewpoints and attitudes (Tendler, 1997).

A major difficulty with regard to this mixed strategy is getting the rank and file activated. Political participation is often very low at the local level in developing countries; turnout in local elections is an indication of this. This is not primarily a question of a lack of support for democratic principles (see, for example, Afrobarometer, 2000, which reports high popular support for democratic values; Bratton and Mattes, 2001). Nor is it always due to a lack of political resources (as we know, poor people have also proved capable of forceful action). It would seem that a vital condition is lack of confidence in public organs and in what they can accomplish. Hence, it is necessary to demonstrate that public representatives can be trusted, and that political participation can really make a difference in terms of improved public services. This, in turn, presupposes access to resources and a critical administrative capacity on the part of the public organs in question.

In other words, there is a reciprocal relationship between state capacity (i.e., the quality of governance) and democratic activity. These factors mutually reinforce each other, often functioning as components in a vicious circle (Fiszbein, 1997). Low levels of governance and state capacity breed low levels of democratic activity among the citizenry – which, in turn, makes it easy for the traditional local elite to stay in power and utilise public resources to its own advantage. We know, however, that such a circle can be broken and turned into a positive one. The interesting question is how such a dynamic can be initiated.

### 3. The study

Some previous studies indicate fruitful strategies for successful decentralisation, involving the establishment of effective and democratically responsive local governments. However, there is scant evidence as to the conditions that make such development possible. This study focuses on the experience of decentralisation and reform in three countries: India, Bolivia and South Africa. These countries have all launched decentralisation programmes in the 1990s.<sup>5</sup> The most far-reaching programme has been initiated in Bolivia. Some states in India have also taken fairly ambitious steps in that direction. In South Africa, the government has been more reluctant. Yet, even in this country important efforts have been made to strengthen local organs. In all three countries we are looking in particular at regions or municipalities which have proved relatively successful in dealing with the problems at hand.

The Indian analysis has been conducted by George Mathew (with the collaboration of Anand Mathew). The study focuses on the state of West Bengal, where an ambitious and relatively well functioning decentralisation programme has been in operation for several decades. In addition, the study makes a survey of experiences from local government reforms in some other states of India as well. The Bolivian inquiry has been carried out by David Altman (in collaboration with Rickard Lalander). It gives an overview of the extensive programme of local participation which was initiated in the mid-1990s, and provides an analysis of the attainments (and failures) which are discernible so far. Robert Cameron, finally, has been in charge of the South African study. Cameron starts by providing an account of the local government reform, which was part of the new (democratic) constitution that was inaugurated in 1996. He goes on to make an in-depth examination of two incidences of local fraud and maladministration, which resulted in the ousting of the mayors in question.

<sup>5</sup> In all, at the turn of the century, some seventy states have been implementing decentralisation schemes involving the strengthening of local governments (IDEA, 2001).

In the closing chapter, I have summarised the experiences learnt from the countries under study, and integrated these findings in a general analysis of different means of enhancing democratic governance in low-income countries. The main argument is that the advancement of democratic governance is a two-way process. Different forms of control – from above and from below – need to be at work. To be effective, the two spheres of control should be interlinked and mutually reinforcing.

The central government must take measures to enhance the responsiveness of its field agents and to further the development of local institutions and civic networks. The establishment of effective institutions of statutory control is likewise a prerequisite. Factors enabling pressure at the local level include – amongst others – well-organised and competitive political parties, vigorous public meetings and watchdog committees, a vital media and a politically active civil society.

It goes without saying that such a three-case inquiry is mainly explorative in nature. The aim is to obtain an array of examples – from India, Latin America and Africa – which have made possible some general conjectures about feasible strategies for decentralisation of state authority, entailing the improvement of democratic governance.

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# India: Decentralisation and Local Governance – How Clientelism and Accountability Work

*George Mathew with Anand Mathew<sup>1</sup>*

## 1. Introduction

Decentralisation and local governance are central issues in India today. When India gained independence in 1947 it had a population of 360 million, living, apart from the Provinces under direct British rule, in 562 princely states that came together to form the Union of India under the Constitution adopted on 26 November 1949. In terms of plurality of religion, culture, language and diversity, India has no parallel. When India became a republic on 26 January 1950 it was considered a highly centralised system.

In the last five decades, India has travelled a long road towards decentralisation, especially through institutions of local self-government. This study examines briefly the half-century history of the decentralisation process, which has been democratic rather than administrative.<sup>2</sup> The factors which have accelerated this process and the problems faced in bringing about full-fledged decentralisation, especially with regard to local governance, are dealt with in some detail. However, the focus of the study is the accountability mechanisms built into the present system from the village community to the district level, and the status of their functioning.

India's traditional society with its stratification and hierarchy based on the caste system give ample scope for the growth of clientelism, patronage and primordial loyalties perpetuating favouritism, corruption and misappropriation of public funds. To what extent could regular elections to the local bodies, socio-economic reforms and institutional mechanisms arrest these tendencies? What are the mechanisms in operation at the state level and measures taken up by citizens at the local community level? While these questions are discussed on the basis of the experiences of several states from north to south, the working of local bodies in the state of West

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<sup>2</sup> By democratic decentralisation we mean the devolution of powers to regularly elected local bodies, which have maximum autonomy as institutions of local self-government. Administrative decentralisation aims at efficiency by delegating functions to bodies at lower levels, especially through bureaucratic structures. In a sense the accountability of the former is to the people, while in the latter accountability is to the superiors/higher authority.

Bengal is taken up as a case for special treatment.<sup>3</sup> The study concludes by stating that in India the challenges ahead are enormous; only political education and a deepening of the roots of democracy through a multi-party system can bring about the desired ideals envisaged in the constitution of India.

## 2. Historical overview

### 2.1 *The pre-independence period*

Self-governing village communities had existed in India from the earliest times. These village bodies of five persons were known as *panchayats*, a term that could best be translated as Village Councils. They looked after the affairs of the village, had police and judicial powers and were the lines of contact with higher authorities on matters affecting the villages. Custom and religion elevated them to a sacred position of authority. These panchayats were the pivot of administration, the centre of social life, and, above all, a focus of social solidarity. Besides these panchayats or village councils, there were also caste panchayats, whose role was to ensure that persons belonging to a particular caste adhered to its code of social conduct and ethics.<sup>4</sup>

Even during the medieval and Mughal periods, this characteristic of the village panchayats remained unchanged. So much so that Sir Charles Metcalfe, who was the Governor-General of India (1835-36), called the panchayats “the little republics”. Given the caste-ridden feudal structure of the village society of those days, these republics left much to be desired. B. R. Ambedkar, the architect of the Indian Constitution, did not think highly of these panchayats and, in fact, his own experience had given him a negative view of them. His well-known remark in the Constituent Assembly on 4 November 1948 that “these village republics” have been the ruination of India and that they were “a sink of localism, a den of ignorance, narrow-mindedness and communalism” (Malaviya, 1956) has validity in several parts of the country even today.

With the advent of the British, the self-contained village communities and their panchayats were replaced by formally constituted village administration. Local self-government in India – in the sense of an accountable, representative institution – was the creation of the British. Although

<sup>3</sup> The state of West Bengal was chosen for special investigation because this is the only state in India where for the last 25 years panchayats have functioned uninterruptedly with regular elections every five years and political party participation in the elections at village, block and district levels.

<sup>4</sup> The Indian Caste system broadly divides society hierarchically into two categories, *varna* and *jati*, on criteria of purity and pollution. Under the *varna* system there are Brahmins (the priestly class and teachers), Kshatriyas (warriors and rulers), Vaishyas (traders and merchants), Shudras (peasants and artisans) and Atisudras/Antyajas (outsiders, i.e. untouchables). There are hundreds of *jatis* or endogamous groups in each of the linguistic areas of India (See Srinivas, 1966).

not the first reforms of its kind, the Ripon Resolution of 1882 providing for local boards consisting of a large majority of elected non-official members and presided over by a non-official chairperson, is considered to be the Magna Charta of local democracy in India.

Although the progress of local self-government on the lines of the Ripon Resolution was tardy, the term self-government had begun to gain currency and it triggered several resolutions aimed at strengthening the panchayats and local government on the part of the Congress Party, which was fighting for India's freedom, including self-government as the political goal for the country. But most importantly, village panchayats became central to the ideological framework of India's national movement under the leadership of Mahatma Gandhi. For him the village panchayat was a complete republic based on perfect democracy and individual freedom (Gandhi, 1942).

## *2.2 Panchayats in the post-independence period*

In spite of its history, the nationalist movement's commitment to panchayats and Mahatma Gandhi's unequivocal propagation of the ideal, the first draft of India's constitution did not include a provision for panchayats. The argument of those who pleaded for the inclusion of village panchayats in the constitution finally prevailed only in a modest measure. (A provision was included in Part IV, which is not mandatory.)

The Gandhians considered panchayats both a means and an end and sincerely believed in their immense potential for democratic decentralisation and for devolving power to the people. There was a basic conviction among those who fought for India's independence from British rule that village panchayats could play an important role in the social transformation and implementation of development programmes. Why were they not given constitutional status? The answer lies in the fact that the urban and rural elites and their political representatives felt a disdain for panchayats which has, moreover, remained intact ever since. Whatever genuine attempts were made on behalf of a devolution of power, these interests saw to it that the attempts did not succeed. A break from this negative approach took place after about four decades, mainly because of the unrelenting, continuous upsurge of people's quest for meaningful democracy at the grassroots level, demands for people's involvement in development, decentralisation and devolution of funds, functionaries and functions from the centre (federal level) to the villages and towns.<sup>5</sup>

<sup>5</sup> Since the mid-1950s, the central government and state governments had been appointing high-powered committees to look into the working of the panchayats and recommend ways and means to improve their functioning. Mention may be made of the Balwantray Mehta Committee of 1957 and the Asoka Mehta Committee of 1977. The discussions and debates such measures generated led to the building up of a positive social climate for radical measures to establish local governments on a firm footing.

### 2.3 Need for constitutional support

It is well established that constitutional support and legislative measures are necessary for bringing about social change, but they are not a sufficient condition to achieve the goal. Our experience in the more than fifty-five years since independence bears witness to this fact. The same observation is true of democratic decentralisation. Of course, one can argue that since there was no constitutional support for self-government below the state level until December 1992, no state government took the process seriously. It may be observed here that along with constitutional guarantees, political will and popular political awareness are essential to bring about democratic decentralisation below the state level. In the five decades in which the Constitution has been in effect, it has become more and more clear that a three-dimensional approach – political will, popular awareness, and the building of healthy conventions and traditions underpinned by constitutional and legislative measures – is essential for any far-reaching changes to be brought about in Indian society; when one of these dimensions is weak, an entire measure may remain form without content.<sup>6</sup>

Although state governments were not compelled to establish full-fledged *panchayati raj* (panchayat government) without a constitutional mandate, some states like West Bengal, Karnataka and Andhra Pradesh had gone ahead, as far as they could, in the devolution of powers to the panchayats. However, they had felt that the concentration of power at the federal level acted as a serious impediment. For instance, in 1985 Abdul Nazir Sab, the minister for *panchayati raj* and rural development in Karnataka stated, “Without a constitutional amendment guaranteeing the ‘Four Pillar State’, our efforts may not be as fruitful as we desire” (Mathew, 1986: 53). In 1985, he pleaded with intellectuals to ponder this question and to initiate a public debate on the necessity of a constitutional amendment. There was a growing realisation that it was lack of constitutional support that had led to the sorry state of affairs where local governments were concerned in several states.<sup>7</sup>

The Asoka Mehta Committee (1977) made the first official recommendation for including *panchayati raj* in the Constitution, in keeping with its approach that panchayats should be regarded as political rather than mere developmental institutions. This committee also favoured participation of political parties in panchayat elections.

Since the post-Asoka Mehta Committee panchayats gave more powers to the local bodies and their orientation was more political than develop-

<sup>6</sup> For a detailed discussion on the subject, see Mathew 2001.

<sup>7</sup> For instance, Malcolm Adiseshiah, commenting on the fact that the State of Tamil Nadu had not held panchayat elections for 15 years, raised a pertinent question : “Why is it that we cannot have a constitutional amendment which will make it obligatory for local elections to be held on time? We should earnestly work for a constitutional amendment to put the *panchayati raj* elections on the same footing as the Lok Sabha and State Assembly elections (Mathew, 1986:53).

mental, they evoked widespread enthusiasm both in their implementation and in their working. The remarkable enthusiasm among the ordinary people in West Bengal and Karnataka on the implementation of *panchayati raj* strengthened the moves to incorporate constitutional provisions for it. Based on the positive results of the West Bengal experience and the Karnataka initiative in this direction, the idea of 'district government' came into vogue.

### 3. The constitutional amendments

#### 3.1 *The 73rd Constitution Amendment*

It was against this backdrop that on 15 May 1989 the Constitution (64th Amendment) Bill was drafted and introduced in Parliament. Although the 1989 Bill in itself was a welcome step, there was serious opposition to it.<sup>8</sup>

Though the Constitution Bill won a two-thirds majority in the Lok Sabha (lower house), it failed to meet the mandatory requirement by two votes in the Rajya Sabha (upper house). The National Front government introduced the 74th Amendment Bill (a combined bill on panchayats and municipalities) on 7 September 1990 during its short tenure in office but it was never taken up for discussion.

By this time, all the political parties had supported a constitutional amendment for strengthening panchayats in their statements and manifestos and a pro-*panchayati raj* climate prevailed in the country. In September 1991, the Congress Party government introduced the 72nd (Panchayats) and 73rd (Municipalities) Constitutional Amendment Bills, which were passed in both chambers in December 1992 as the 73rd and 74th Amendment Acts, and came into force in 1993.

The main features of the amendments were:

- Panchayats and municipalities were defined as "institutions of self-government".
- Gram sabhas (village assemblies) comprising all the adult members registered as voters became basic units of the democratic system.
- For all states with a population above two million the panchayats shall have a three-tier system at village, block/*taluk* (intermediate) and district levels, with seats at all levels filled by direct election.
- Seats and posts of chairpersons of panchayats at all levels are reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their population. One third of these must be women.

<sup>8</sup> The objections were: (a) the bill overlooked the states and was seen as an instrument of the centre for dealing directly with the *panchayati raj* institutions; and (b) that it was imposing a uniform pattern throughout the country instead of permitting individual states to legislate the details, keeping in mind the local circumstances.

- Not less than one third of the total number of seats are reserved for women. One third of the offices of chairpersons at all levels are reserved for women.
- The term of the local bodies is five years and elections to constitute new bodies shall be completed before the expiry of the term. In the event of dissolution, elections are mandatory within six months.
- Each state has an independent Election Commission for superintendence, direction and control of the electoral process and preparation of electoral rolls.
- Panchayats shall prepare plans for economic development and social justice in respect of 29 areas listed in the 11th Schedule. A District Planning Committee shall consolidate the plans prepared by panchayats and municipalities.
- Funds shall come from grants from state and central governments, revenue of certain taxes collected and retained, and revenue raised.
- A Finance Commission in each state shall determine the principles on the basis of which adequate financial resources would be ensured for panchayats and municipalities.

These amendments to the Constitution brought about a fundamental change not only in the realm of local self-government but also in India's federal character which was succinctly put by Nirmal Mukarji: "The amended Constitution requires the states to constitute panchayats as institutions of self-government not only for villages but also at intermediate and district levels. Consequently, there will, henceforth, be three strata of government: the union, the states and the panchayats. A more radical change is difficult to visualise. Its implications are far-reaching" (Mukarji, 1993: 859–62).

This journey from the local self-government idea of Lord Ripon to the institutions of self-government concept in the 73rd Constitution Amendment, which took more than a century, has been described at some length to bring home the fact that today's decentralisation and local government in India is the result of an evolutionary process that a traditional and complex society has gone through because of internal compulsions, pressures and demands from the people, channelled through communities, civil society organisations, intellectuals, political parties and ideologies, people's movements, occasional interventions of the state (provincial) and central (federal) governments – and above all because of people's urge for participation in development and governance through democratically elected bodies.

### *3.2 Critical issues after the constitutional amendment*

For the *panchayati raj* institutions to function as institutions of self-government, the essential prerequisites are: (a) clearly demarcated areas of jurisdiction; (b) adequate power and authority commensurate with re-

sponsibilities; (c) necessary human and financial resources to manage their affairs; and (d) functional autonomy within the federal structure. Since the constitutional amendment opens up possibilities for fulfilling these conditions, the new *panchayati raj* was seen as a “third tier of governance”.

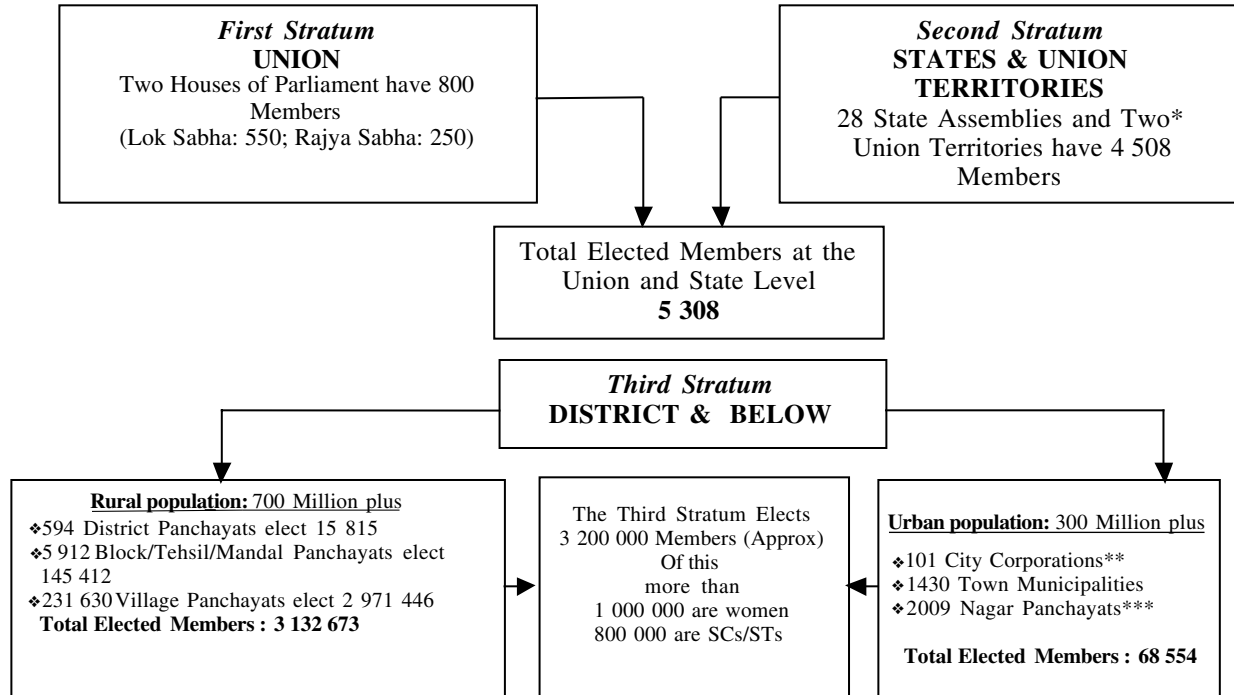
At the outset two fundamental changes that have come about in Indian democratic polity must be noted. First, the democratic base of the Indian polity has widened. Before the amendments, our democratic structure through elected representatives was restricted to the two Houses of Parliament, twenty-five State Assemblies and two assemblies of Union Territories (Delhi and Pondicherry).<sup>9</sup> These bodies had a total of just 4 963 elected members.

Now there are 594 district panchayats, about 6 000 block (*tehsil* or *mandal* panchayats) at the intermediate level and 250 000 gram (village) panchayats in rural India, where about 70 per cent of India’s population lives. Urban India, with about 30 per cent of the population, has 101 city corporations, 1 430 town municipalities and 2 009 *nagar* (town) panchayats. Today, every five years, about three million representatives are elected by the people through the democratic process, of whom more than one million are women. Women head about 200 district panchayats, more than 2 000 block panchayats at the intermediate level and about 85 000 gram panchayats. Likewise, more than 30 city corporations and about 500 town municipalities have women chairpersons. A large number of hitherto excluded groups and communities are now included in the decision-making bodies. As the Indian population has 14.3 per cent Scheduled Castes (SCs) and 8 per cent Scheduled Tribes (STs), about 700 000 elected members – nearly 23 per cent of the total membership in the rural and urban local bodies – will be from Scheduled Castes and Tribes.

Second, these amendments are bringing about significant changes in India’s federalism. India is on the way to becoming a multi-level federation with elected local bodies at the district level and below. Of course, the elected local bodies have no legislative powers in the strict sense of the term and *de jure*, the Union and states constitute federal India. The qualitative change that has come about in the Indian federal structure nevertheless has far-reaching consequences making the local bodies the third tier of governance.

<sup>9</sup> In December 2000, three more new states – Uttarakhand, Jharkhand and Chhattisgarh – were created. They were carved out of Uttar Pradesh, Bihar and Madhya Pradesh respectively.

**Figure 1. Multi-level federalism and widening democratic base after the 73rd and 74th Constitution Amendments**



\* only two Union Territories (Delhi and Pondicherry) out of seven have elected Assemblies.

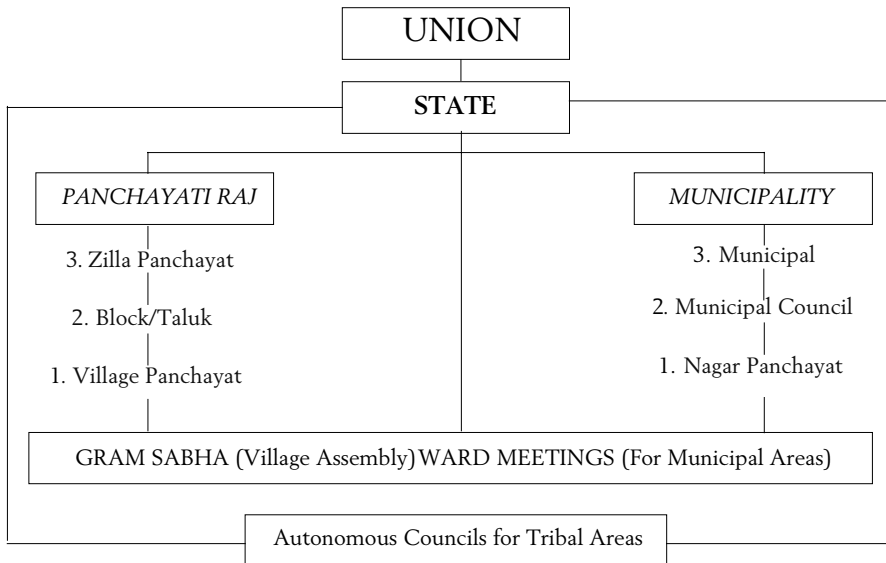
\*\* Population above 300 000.

\*\*\* Areas in transition. One-third of all the Panchayats and City Corporations/Municipalities/Nagar Panchayats are headed by women as Presidents or Mayors. About one-fourth are headed by hitherto untouchables (Scheduled Castes) and Scheduled Tribes.

Source: Institute of Social Sciences, Panchayati Raj Research.



**Figure 2. Implications of *panchayati raj*/ municipalities as the third tier of governance in India's federal structure**



The dynamic multi-party political process, the widening democratic base as well as the structural changes brought about by the new panchayats and municipalities, have contributed significantly towards the development of a healthy federal system. As governments at the Union level nowadays are coalitions that include state level or regional parties, the federal level cannot ignore the states politically or in other areas. In the same vein, state governments cannot ignore the *panchayati raj* institutions. If they do so there is every likelihood of not being re-elected. A state ruling party's popularity depends on the extent of the sincerity with which it devolves power to the local bodies and strengthens them in the letter and spirit of the Constitution.

#### **4. Clientelism, corruption and mismanagement**

Looking at the workings of decentralisation and local governance in the last ten years or so, it has clearly proved impossible to achieve the expected outcomes and reach the envisaged targets in many areas of importance. All the states have passed conformity legislation, all of them have held elections for the local bodies and the elections have now become more or less regular. In almost all the states, the local governance institutions such as the finance commission, election commission, district planning committees, etc., are in place. But it is impossible today to write of the success of

*panchayati raj* or municipalities, or of decentralisation and local governance.

The main reason is the actors in the system. Social and cultural factors perpetuate the hierarchical, unjust social system in the country, which produces illiteracy (about 40 per cent) and extreme poverty conditions (about 35 per cent below the poverty line). Because of the pyramid-like rent-seeking structures of political parties, the command and control system of the bureaucracy and the organised class and caste interests, the leaders this system produces have hardly had an interest in change. On the contrary, leaders at state and federal levels alike have had, and still have, a vested interest in maintaining the status quo. This is reflected in their not-so-friendly or even hostile attitude towards the decentralisation process and the strengthening of local government institutions. Of course, the traditional local leaders are equally concerned about holding on to their positions and powers.

The most important sociological fall-out of this persistent traditional social and cultural mind-set is the conscious attempt of leaders at all levels to cultivate and strengthen clientelism through the modern democratic process, utilising traditional instrumentalities like feudal/land relations, caste, community or religious ties. This is particularly the case at the local level because of the close and intimate relationships that exist there, in spite of the *one-person, one-vote system*, as well as a wide range of rules and bye-laws that govern all institutions and are designed to avoid favouritism and short cuts. As a study by the Institute of Social Studies puts it, "The argument that freedom to choose local representatives places everyone on an equal footing, allowing each to have their interests represented equally, is only a farce in the absence of proper accountability" (Kurian, 1999: 41). Feudalism and feudal attitudes still prevail in most parts of India, which has direct implications for local leadership, even though this is elected through a democratic process. Another trend causing serious concern is the criminalisation of politics, as persons with criminal backgrounds enter public life using muscle and money power.

Clientelism, which has taken new forms after the introduction of modern democracy, needs to be discussed in this context. Political leaders today desire to keep what may be called 'vote banks'. Favours are granted to those within that vote bank and clientage becomes the most important social relationship. The easy criteria of the vote bank are affiliations in terms of caste, religion, region and so on. The clients show extreme deference to their patron. The patrons then use their political influence to extend favours, by-passing or even violating laws, rules and norms and even resorting to extra-constitutional means. For many, beginning with the submission of their nomination papers as candidates in the elections, democracy is a convenient instrument for sustaining and perpetuating clientelism.

Evidently this is conspicuous in local communities where traditional relationships still exist, the negative side being the dependence syndrome due to extreme economic inequality. Caste loyalty makes things worse. The face-to-face interaction in everyday life, close proximity to leadership, connectivity of neighbourhood communities, kinship and family relationships – all these, though positive, are being turned into means of strengthening loyalties, clientage and thereby vote banks in elections to the local bodies and their operation. These sociological factors contribute to enhanced corruption even in the working of the local bodies.<sup>10</sup>

Clientelism, which results in the abuse of power, and misappropriation and misutilisation of public resources, finds its antithesis in accountability. The positive aspects of accountability in the context of our discussion are that it institutionalises the democratic values of responsiveness and participation, brings about efficacy and efficiency in the management of programmes and prevents the abuse of power and dishonesty in the use of public funds. Accountability will make local governments engaged in developmental functions responsive (programmes meet the needs of the community), effective (programmes meet the objective), and efficient (resources are used economically).<sup>11</sup>

Accordingly, many checks and balances and accountability mechanisms are built into the system of governance. India is one country where there is no dearth of rules and bye-laws. Two situations have developed as a result: (i) nothing will move because of the multitude of rules and regulations, and (ii) those who are in power find loopholes in the laws, defy them and do as they want.

In India, developments at two levels attract our attention in this context. First, the accountability mechanism built up by the governments at both federal and state levels. Second, innovative programmes initiated by civil society organisations, state or local authorities to break the patron-client relationship so as to reduce corruption and bring about transparency and accountability.

<sup>10</sup> Transparency International has rated corruption in India very high. According to perceptions of the degree of corruption as seen by business people, risk analysts and the general public, on a scale of 10 (highly clean) and 0 (highly corrupt) India scores 2.7.

<sup>11</sup> Two methodologies used by the World Bank's Operation Evaluation Department in evaluating public sector performance have direct relevance for the local government's accountability. These are: a) Is the public manager doing the right things? The 'right things' are those that are responsive to the needs of the community. b) Is the public manager doing things in the right way? This question brings in the issue of efficacy and efficiency. See Shah, 1998.

## 5. Mechanisms to combat clientelism, corruption and mismanagement

The local government institutions (LGIs) are required to play an active role in the planning and implementation of development programmes. The success of LGIs will depend on the extent to which they are able to improve the delivery of programmes, which can be done through participation, transparency and accountability. In order to avoid malpractice and misuse of power by the functionaries and elected representatives of these institutions, all state governments have introduced relevant legislative provisions in their *panchayati raj* acts.

Broadly, the checks and balances in terms of state control over the *panchayati raj* institutions can be categorised as: (1) power to cancel/suspend a resolution; (2) power to take action in default of a gram panchayat; (3) power to remove elected representatives; (4) power to dissolve panchayats; (5) power to give direction to panchayats; (6) power to call for records and inspection; and (7) power to conduct an inquiry. The following table shows the checks and balances and the states that subscribe to each of these categories (Government of India, 2001: 80).

**Table 1: Checks and balances in state acts**

	Powers	States
1.	Power to cancel/suspend resolutions	Andhra Pradesh, Himachal Pradesh, Kerala, Madhya Pradesh, Manipur, Orissa, Rajasthan, Sikkim, Tamil Nadu
2.	Power to take action in default of a gram panchayat	Andhra Pradesh, Orissa
3.	Power to remove elected representatives	Andhra Pradesh, Orissa, Sikkim, Tamil Nadu, Uttar Pradesh
4.	Power to dissolve PRI	Andhra Pradesh, Arunachal Pradesh, Assam, Gujarat, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Sikkim, Tamil Nadu, Tripura, West Bengal
5.	Power to give direction to PRI	Arunachal Pradesh, Bihar, Himachal Pradesh, Sikkim
6.	Power to call for records and inspection	Arunachal Pradesh, Assam, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tripura, Uttar Pradesh, West Bengal
7.	Power to conduct an inquiry	Assam, Bihar, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Orissa

It may be noted here that in some states wide powers of suspension and dismissal are vested in the state bureaucracy. This has immediately placed LGIs in a disadvantageous position vis-à-vis even middle-rung officials of

the state governments. It takes away the basic characteristic of LGIs as democratically elected representative bodies and goes against the concept of democratic decentralisation and autonomy.

### 5.1 *Gram sabha or village assembly*

The gram sabha (village assembly of all voters) is the basic unit of Indian democracy. Although villages are defined differently according to the habitation of the people, the gram sabha is the forum, which enables direct democracy aimed at making democracy vibrant and participatory.<sup>12</sup>

The gram sabha has no executive powers and is only a forum in which those above eighteen years (eligible voters) can meet and express their wishes and criticisms of the working of local government institutions. Powers and functions assigned to gram sabhas in the various state acts include: examining and discussing reports on the administration as well as annual statements of accounts and audit reports; reviewing the programme of work; considering proposals for fresh taxation or for raising existing taxes; selection of development schemes, beneficiaries and locations of works; mobilising voluntary labour and contributions in kind and cash for community welfare programmes; rendering assistance in the implementation of development schemes and rendering services in villages; seeking clarifications from the president and members of the gram panchayat about any particular activity, scheme, income or expenditure; scrutinising all kinds of activities of panchayats; maintaining a register of all development works undertaken by a gram panchayat or any other government department; scrutinising the completed works; seeking clarification from the *sarpanch* (president) and the *panches* (members) of the gram panchayat regarding panchayat activities, income, expenditure, schemes and other matters (Jain, 1997: 566–67). Of course, no state has incorporated all of these in its local government acts.

It may be stated here that the relationship between gram sabhas and panchayats is dialectical in nature. The panchayats in the rural areas will be effective only if gram sabhas meet regularly with maximum popular participation. At the same time, gram sabha will be effective only if the *panchayati raj* institutions (PRIs) are strong.

The state governments generally fail grievously to ensure that gram sabhas are convened at regular intervals. Although all voters from the gram sabha area are members, attendance at sabha meetings is poor. Studies have found that in most cases even a quorum was lacking. (See, for instance, *Kurukshetra*, April, December 1995; October 1999). Women and oppressed classes are particularly handicapped, as attending meetings involves travelling long distances. The advantage for women of reserved rep-

<sup>12</sup> Its importance can be gauged from the fact that in his budget speech the Finance Minister of India declared 1999–2000 to be the Year of the Gram Sabha.

resentation in panchayats is thus substantially lost. In some cases, whenever the gram sabha meets, it devotes its time to considering lists of beneficiaries and discussing matters relating to works and contracts in which many have no interest. The gram sabhas in some cases are too large and unwieldy for any effective participation.

But it must be stated here that several states are taking up gram sabha issues seriously. In order to overcome the large size or unwieldy geographical space, states like West Bengal, Orissa, Kerala and Madhya Pradesh have gone for smaller and viable units for people to meet in. Gram sansads in West Bengal, *palli* sabhas in Orissa, the ward meetings in Kerala (ten to fifteen wards constitute a village panchayat in the state) and the village-based meetings in Madhya Pradesh (here several small villages constitute a gram sabha) are manageable in terms of area and number of persons covered, and they are effective as units of direct democracy.

Moreover, in Madhya Pradesh the gram sabhas have acquired a new status as a result of a state law to ensure the holistic development of villages. The village-based sabhas meet once a month – a quorum is twenty per cent of the voters, one-third must be women and a proportionate number belong to Scheduled Castes and Tribes. A nine-member village development committee, eight standing committees for important matters, a village fund for development and audits by external agencies are other features. It may be noted here that in Kerala, ward sabhas play a key role in micro-level planning. In this state, below the ward sabhas there are neighbourhood groups which meet regularly. In West Bengal absolute power has been given to the gram sansad in respect of selection of individual beneficiaries under the poverty alleviation programmes.

As the Constitution makes no provision in respect of the functions and powers of the gram sabha, the state acts have given it only a marginal role. If the gram panchayat is to be made effective in the present context there is a strong feeling that there must be certain amendments to the Constitution making it incumbent on the states to bestow compulsory necessary powers on the gram sabha. The sabha should also have its committees to oversee the functioning of the gram panchayats. It should have power to approve the plan, the budget, the list of beneficiaries, sites for different works and accounts of the panchayat (Sharan, 1999: 4)

## 5.2 Social audits

With the gram sabha coming to the fore, the concept that has gained currency is the 'social audit'. The concept of the social audit has a broader scope than a traditional audit. A social audit is an independent evaluation of the performance and attainment of social obligations and it starts from the principle that in a democracy the decision makers should account for

the use of their power. The social audit adopts the perspective of the vast majority of the people in a society, in whose name and for whose sake the very institutional/administrative system is promoted and legitimised. Social audits of institutions are undertaken to see what these institutions mean for the vast majority of the ordinary people, who are not essentially a part of the state machinery or the ruling class of the day.

Today the panchayats provide the best forums for implementing social audits. For effective social audit, committees consisting of respected citizens and professionals are set up at various levels. The committee set up by the Kerala government in 1996 went into some detail as to how to facilitate social audits.<sup>13</sup>

As the gram sabha is the ears and eyes of the people, it is the best social audit unit in India's new democratic institutions. As public-spirited citizens and their collectivity are the key to social audits, in the gram sabha all sections of the people could raise issues of social concern and public interest and demand explanations. Retired persons from different organisations, teachers or others of impeccable integrity could constitute a social audit forum or a social audit committee.

In order to bring about greater transparency and accountability through social audits by the gram sabhas, the Ministry of Rural Development, Government of India, has issued instructions, to include the following: (i) a mandatory special meeting of the gram sabha during the last quarter of every financial year, for a social audit of all works completed or in progress; (ii) if the majority of the gram sabha expresses dissatisfaction this must be recorded and communicated to panchayats at all levels; within one month a special gram sabha meeting should be convened, presided over by a member of the gram sabha who is not an elected member of the gram panchayat, for a detailed audit; similarly, the secretary for this meeting need not be the regular gram panchayat secretary. The proceedings would be recorded and approved by the gram sabha; (iii) copies of all documents including estimates, bills, vouchers and muster rolls must be posted on the notice board of the gram panchayat office; (iv) all records must be available for inspection and certified copies available on payment of fees.

If we examine the working of the gram sabhas in various states we come across two kinds of situations. First, there are cases where social audits are taking a healthy, democratic, humane approach to social and development

<sup>13</sup> The Committee made the following recommendations: (a) Making all estimates, lists of beneficiaries, vouchers, accounts, etc., open documents for scrutiny by any citizen and providing photocopies of them on payment of actual cost; (b) Stipulating that all applications for various licenses, permits, certificates, submitted to Local Self Government Institutions are given a queue number and that this priority should not be violated; registers indicating date of application and date of clearance in each case should be available for reference by any applicant; if possible copies should be published on the notice board; (c) Making public assessments of taxes, grants of exemption, etc., to ensure that there are no complaints of undue preferential treatment to some people. If these guidelines are followed, then social audits will become a powerful social institution.

problems. There are many success stories of gram sabhas using the social audit for the good of the villages, preventing misuse of resources and corruption. The second situation is that of the gram sabhas where people raise unwelcome questions which result in violence.<sup>14</sup>

This is a serious problem in the backward areas of the country where caste divisions result in conflicts. The gulf between the rich and the poor, where government officials side with the rich through corrupt practices, also contributes to the violence. There are many examples of crude and violent behaviour in the villages of north India and also the southern districts of Tamil Nadu. After the introduction of the gram sabhas such incidents have come to light very frequently.

### *5.3 Right to information and panchayats*

A significant development in the last few years in the sphere of accountability and anti-clientelism has been the struggle for the right to information. Information is necessary for citizens to participate in governance, especially at local levels. Since information is power, those in authority deny ordinary people access to information. The bureaucracy in India still keeps up the colonial culture of secrecy, distance and mystification. Today there is a strong movement for every citizen to be given “the enforceable right to question, examine, audit, review and assess government acts and decisions, to ensure that these are consistent with the principles of public interest, probity and justice. It would promote openness, transparency and accountability in administration by making government more open to continuing public scrutiny” (Mander and Joshi, 1999).

*Mazdoor Kisan Shakti Sangathan* (MKSS)<sup>15</sup> in the state of Rajasthan took the pioneering role in this. Their survey in two district panchayats in the state revealed that 85 per cent of the estimated development projects budget was not spent on development work. False vouchers and bills were submitted by panchayat representatives for official sanction. These findings gave rise to a demand for the right to information.

As a result of the MKSS's struggle, the Chief Minister of Rajasthan declared on the floor of the State Assembly in April 1995 that every citizen had the right to information. On payment he/she could demand and receive details of expenditure on the work done over the last five years in his/her village and all the relevant documents could be photocopied as evidence, should they be wanted for use in the future. However, this assurance was not put into practice and social activists resorted to public action

<sup>14</sup> In gram sabha meetings, by raising questions about the corrupt practices of powerful elected representatives or of officials, those who are critical of prevailing activities risk becoming victims of intimidation and violence and even face threats to their life. For case studies in the state of Madhya Pradesh, see Mathew and Nayak, 1996.

<sup>15</sup> Organisation of the Empowerment of Workers and Peasants.



to get it implemented. Their question was: “Why can’t the government give us information regarding expenditures made in our name?” It took more than two years after the Chief Minister’s assurance in the Assembly for the government to issue an order (May 1997).

Meanwhile this idea spread all over the country and states like Tamil Nadu, Kerala, Madhya Pradesh and Uttar Pradesh followed suit. Madhya Pradesh and Uttar Pradesh opened a large number of their departments, including panchayat bodies, to public scrutiny through executive orders. But there was a setback to the right to information movement when the Madhya Pradesh Right to Information Act was unable to obtain the President’s assent. However, the movement for the right to information has gained momentum, and today it is a central government legislation. The Parliament passed the right to information bill in December 2002, and the President gave his assent to the Freedom of Information Act on 10 January 2003.

As more and more states are forced to open their records to the public, the idea of social audits will spread to the local government institutions, enabling grassroots democracy to function effectively.

#### 5.4 Public hearings

The MKSS in Rajasthan State has also successfully organised *jan sunwais* (public hearings). Identifying people’s problems and relevant information, and accessing and scrutinising documents, are the preliminary steps for organising these public hearings. When a *prima facie* case of corruption is established, backed by the necessary documentary evidence, the date for a *jan sunwai* is fixed.

The preparation for *jan sunwais* begins by sharing the information in each place where the public work was undertaken and mobilising small groups of affected people. Wall writings and pamphlets with details of some *prima facie* cases are also used for bringing people together.

Those accused also mobilise support in a variety of ways, through persuasion, appeals to class, caste and clan loyalties, threats and covert or overt violence. In many cases, payments withheld from workers in the past are clandestinely paid. The accused may also come forward to negotiate with the facilitators of the public hearing. Such negotiations are conducted with full transparency (Mander and Joshi, 1999).

Government officials, panchayat members at the district, block and village levels, and a panel of impartial observers (eminent persons from public life, the press and the professions) are invited and they participate enthusiastically. The proceedings are conducted with “forthrightness and courage” but without “personal rancour or irresponsible mud slinging” (Mander and Joshi, 1999).

At the beginning of the *jan sunwai* itself the rules of the meeting are laid out. Everyone present is entitled to speak, except persons under the influence of liquor. They must exercise restraint in their language and abstain from assaults on the dignity of any individual. Cases are taken up one by one and the documents and relevant rules and technical details are “paraphrased and demystified for the assembly”. People speak out, and verbal evidence is gathered. The government and panchayat authorities are also encouraged to clarify or defend themselves on any issue (Mander and Joshi, 1999).

The outcome of the right to information movement and *jan sunwais* in Rajasthan is positive and encouraging. In Ajmer district, two sarpanches returned misappropriated money detected during the *jan sunwai*. The Collector<sup>16</sup> ordered a special audit and recovery of misappropriated money as arrears of land revenue, and also filed police complaints against the guilty. The two sarpanches are presently in judicial custody. Until now three officials have been jailed, eight have received suspended sentences, and departmental investigations have been instituted against twenty-five officials (*Grassroots*, June 2002).

It is noteworthy that this citizens’ initiative is now being taken up by the state. The Rajasthan government has stated in the assembly that it would institute social audits in panchayat *samitis* (development blocks) to review the spending of development funds over a period of five years. There was pressure from presidents of panchayats against this as they opposed the *jan sunwais*. Their plea was that it was an infringement of the authority of the elected representatives. The government was firm in its statement that it will not succumb to the pressures of the *sarpanches*. The government is also taking steps to familiarise its employees with the process of carrying out *jan sunwais* (*The Hindu*, 3 April 2002).

### 5.5 Experiments in Kerala

Kerala, one of the smallest states in India with a population of thirty million, has gone ahead with several programmes to ensure accountability. Being a state with high political consciousness and a multitude of active political parties, clientelism of the variety existing in some of the backward states is absent here. The clientelism in Kerala is more oriented to political party loyalties and affiliation. It may be mentioned here that the recent de-

<sup>16</sup> The Collector is the official in charge of the District Administration, directly responsible to the State government. He is the District Magistrate in charge of law and order as well as development. During the British colonial period the Collector collected land tax for the State exchequer. After the new *panchayati raj* institutions came into being, there has been debate on redefining the role of the Collector vis-à-vis the elected bodies. In some states like West Bengal the Collector is made the Chief Executive Officer or Secretary of the elected district panchayats.

centralisation reforms in the state were also designed to reduce rent seeking by political parties at the local level.

In Kerala, ward sabhas (equivalent to gram sabhas) and at a smaller unit level 'neighbourhood groups' have become active players in the *panchayat raj* system. The state's achievements have lain in involving citizens in the activities of the panchayats through institutional backing (e.g. Volunteer Technical Corps and vigilance committees) and above all by creating civil society organisations through people's plan campaigns. Recommendations of the Government Committee on Decentralisation (1996) laid the foundation for strengthening ward sabhas and through that social audits.

The panchayats have more or less implemented these recommendations and as a result, the ward sabha meets as frequently as possible, at any rate not less than once every three months, written invitations are sent to every household to ensure the ten per cent quorum and every member is given a copy of the government order detailing the rights and responsibilities of ward sabhas, with a covering letter by the gram panchayat president. The ward sabha has the right to know: (i) the action plan of schemes for the next three months, (ii) the detailed estimates of the proposed works, (iii) the detailed item-wise accounts of every expenditure incurred within the ward sabha area, (iv) the rationale of every decision of the panchayat concerning that area, (v) the services the officials will render and the work they are to execute in the next three months, (vi) priorities for preparation of the Five-Year and Annual Plans.

The ward sabhas also disseminate information on development and welfare programmes; canvass participation in health, literacy and similar development campaigns; collect essential socio-economic data; provide feedback on the performance of development programmes; use moral suasion to induce people to pay taxes and repay loans; promote environmental cleanliness; mobilise local resources to augment panchayat resources; supervise development works by volunteer teams; make arrangements for prompt reports on the incidence of epidemics and natural calamities; and above all, maintain social harmony. The Convenor of the ward sabha is required to maintain a record of the decisions taken at each meeting which must be made available in the panchayat office for reference and copying.

The ward sabha is expected to lay down norms and criteria for selection of beneficiaries and then select them as per those norms and criteria. Sub-committees undertake or oversee items of work in furtherance of the rights and responsibilities of the grama sabha. Failure to convene the ward sabhas in Kerala is a violation of the provisions of the Kerala Panchayat Raj Act and calls for penal sanctions, including loss of membership of the convenor in case of two consecutive instances of non-compliance.

The most important institution in Kerala in the context of our discussion is the Ombudsman. This is a seven-member body consisting of a High Court Judge as the Chairperson, two district judges, two officers with the

rank of secretaries and two non-political representatives appointed in consultation with the opposition parties. The Ombudsman in Kerala is not only an advisory body but will also be given legal teeth. Another important development is the setting up of the appellate tribunals for appeal against decisions by a panchayat body. No advocate is allowed to plead in these bodies. These are not adversarial but investigative bodies. The members of these bodies have the status of High Court Judges and they can only be removed by being impeached. Executive interference, therefore, will be practically nil.

Kerala also has special women's watchdog committees at the gram panchayat and municipality level. Any such committee should have two nominees from each gram sabha or ward committee, one being a member of a Scheduled Caste or Scheduled Tribe. Such committees have the same rights as social audit committees and may scrutinise costs, estimates, the quantity and quality of materials used in works, adherence to norms in selection, etc. (Rasquinha, 1997).

Because of all these mechanisms it may be stated that there is reduced clientelism and hence less corruption in Kerala at the local governance level than in other states. According to the Performance Audit Authority report for the five-year period 1997–2001, the most serious flaw they could find was non-utilisation of funds, that is, nearly INR 490 million (equal to ten million USD) remained in the form of idle deposits outside the treasury.<sup>17</sup> During the five years in the total implementation of the various schemes, the audit could find fault bordering on corruption with the utilisation of only INR 23.5 million – although unfortunate – it is less than in other parts of the country.

### 5.6 Panchayat *jamabandi* in Karnataka

The state of Karnataka is experimenting with panchayat *jamabandi*, which is an annual public inspection of the accounts and registers of the village panchayat and an inspection of selected works undertaken by the panchayat during the previous year. The inspection is conducted publicly by an official team in the presence of the members of the panchayat and the general public. The objective is to ensure greater transparency in the implementation of programmes and schemes. The panchayat *jamabandi* team is headed by a taluk (intermediate) level officer and he forms two or three teams depending upon the number of village panchayats in the taluk.

The village panchayat secretary makes all arrangements for holding *jamabandi* in public and ensures the presence of all the gram panchayat members and staff. The programme is published in the local papers and in

<sup>17</sup> Another irregularity was that in a panchayat an estimate of INR 562 456 was sanctioned to construct a panchayat office, but the project did not take off although INR 112 000 was paid to a state-owned construction company.

the panchayat newsletter of the district. Publicity is given through visual media and handbills.

The officials visit the gram panchayat two days in advance. They conduct a detailed check of all accounts and registers maintained by the panchayat and the prescribed forms filled in after verification of records. On the morning of the *jamabandi* day the officer inspects the accounts, registers, etc., in public. Any member of the public who wishes to know the details of a particular work done or property details etc., shall have access to the records and shall be entitled to inspect the records of the gram panchayat. The officer verifies specific complaints made by the public and a detailed report is submitted.

During the afternoon, the officer and his team conduct an inspection of selected works, especially those about which complaints have been received. The complainant or any member of the public may accompany the officer during his inspection. He should satisfy himself as to the quality of work with reference to the expenditure incurred. If it is a beneficiary-oriented scheme, it has to be verified whether the assets are established, whether the beneficiary has received the full amount due to him, etc.

The *jamabandi* team report will contain details of procedural irregularities, financial misappropriation, if any, as well as positive aspects. The report goes to the executive officer next day and the details are entered in a register. After scrutiny, the gist of findings is communicated to the Chief Executive Officer (CEO) and he in turn discusses the report with the panchayat secretary and ensures compliance within fifteen days. Major irregularities are sent to the CEO. The reports are tabled in the next meeting of the taluk panchayat. Punitive action based on the report of the officer will be taken only after obtaining approval from the CEO. The report is read out in the gram sabha by the panchayat secretary and published in the district panchayat newsletter.

Care is taken to ensure that the panchayat *jamabandi* is not a fault-finding mission alone but also offers constructive suggestions to the gram panchayats on ways to improve their functioning. *Jamabandis* have been successfully conducted all over the state of Karnataka and this experiment in involving people in the implementation of developmental programmes has been well received.<sup>18</sup>

### 5.7 Right of recall

Madhya Pradesh was the first state to empower the gram panchayat to recall an elected representative. The State Assembly passed a bill to this effect in April 1999. The right of recall is applicable only to a *sarpanch*

<sup>18</sup> Based on an interview with Srinivasa Murthy, till recently secretary, Department of Rural Development and *Panchayati raj*, Government of Karnataka.

(president) or *panch* (member) of a gram panchayat. It is not applicable to the intermediate (*janpad*) or district level panchayat representatives.

Members of gram sabhas have the power to recall their *sarpanch* or *panch*. In the case of a *sarpanch*, the process of recall must be initiated by at least one-third of gram sabha members signing such a note, which should be submitted to the Block Development Officer (BDO).<sup>19</sup> In the case of a *panch*, at least one-third of the members of the ward that has elected the *panch*, are required to initiate the process.

Panchayat representatives can be recalled only after they have completed two-and-a-half years of their term. If a *sarpanch* or *panch* has been elected in a by-election, he may be recalled only after he has completed half of the remaining term. At a special meeting of the gram panchayat convened by the BDO to consider the notice to recall a *sarpanch*, all members of the gram sabha can vote and in the case of a *panch*, all members of the ward can vote on the notice to recall and the voting will be secret.<sup>20</sup>

A *sarpanch* will stand recalled if more than half of the members of the gram sabha vote in support of the notice to recall him (in the case of a *panch*, more than half of the members of the ward). A *sarpanch* or *panch* shall be deemed to have vacated his office immediately after the proposal to recall him is carried through. As a result of this right of recall, several presidents and members have lost their positions.<sup>21</sup>

### 5.8 Vigilance committees

A third mechanism of accountability that exists at all levels of the panchayat is the formation of vigilance committees, including members who are elected representatives. The vigilance committees have in general not been entrusted with any special powers as such, but they have the potential to function as an opportunity to enhance accountability, as their task is to monitor and oversee the works of the panchayat, which, in turn, can be reported to the gram sabha. Most of the states have set up vigilance committees but they exist more in form than in substance or function.

This is because although the State Acts provide for vigilance committees, etc., details of their implementation, status, laws, bye-laws and rules have not yet been worked out. Even in West Bengal, the state with the longest history of the new panchayats, only a few panchayats have taken the initiative to form vigilance committees.

<sup>19</sup> A Block Development Officer is the Chief Executive of the middle administrative tier (Block), in between district and village.

<sup>20</sup> The *sarpanch* whose recall is being sought cannot preside over the meeting of the gram sabha convened to consider the notice to recall him.

<sup>21</sup> See *Panchayati raj Update*, June 2001, Institute of Social Sciences, New Delhi.

## 5.9 Elections

Regular elections are the best democratic instruments allowing voters to use electoral sanctions against members of any elected body if found corrupt or despotic. John Echeverri-Gent has commented in the context of West Bengal, where regular panchayat elections have been held without fail from 1978 onwards, that the issue of accountability can be addressed through holding regular elections to local bodies with substantial positive results in accountability and service delivery (Kurian, 1999: 42).

It is a great achievement that regular elections to the local bodies are now taking place in all the states, although in the beginning there were several obstacles in the way. The turnout in elections to the panchayats and municipalities in India is much higher than for elections to the state assemblies and Parliament. In the recently held elections in Andhra Pradesh (August 2001) and Goa (October 2000) the polling touched 70 per cent. In Haryana (March-April 2000) it was in the range of 80–90 per cent and in Karnataka from 58 to 84 per cent. The all-India turnout in the national parliamentary elections in 1999, in contrast, was 59.7 per cent. The high turnout at the local government elections shows the enthusiasm of the ordinary people to tackle their problems through systems of governance closer to them.

Strong public pressure as well as several non-governmental organisations and institutions filing writ petitions in the courts under the Public Interest Litigation (PIL) have made it possible to hold elections on time in the panchayats. However, these elections are facing serious problems, such as the use of money and muscle power and other undesirable means by the candidates to influence the voters. When candidates in an election spend huge amounts of money to get elected, they will naturally use the first opportunity while in office to make up for their election expenditure. It is recorded that panchayat presidents have succinctly summed up their opposition to transparency and accountability, saying that if there were to be transparency in the panchayats, how would they recover the money spent on election campaigns? (Roy, *et al*, 2001: 91–97) They also have to consider future elections too. This is the most conspicuous factor behind corruption, misappropriation and mismanagement.

All the states have set up State Election Commissions, which are statutory bodies with strict rules and regulations, but implementation at the ground level leaves much to be desired. Another sad aspect of the elections is violence. In the recently held elections to the Bihar panchayats, 96 persons, including a magistrate and several candidates, lost their lives. All these problems point to the serious challenges being faced at the local level in ensuring full accountability and transparency.

## 6. The West Bengal experience

The first step in the evolution of the *panchayati raj* system in the state of West Bengal<sup>22</sup> was the *Chowkidari* panchayats (1870) for the limited purpose of providing rural police (village watchmen). Union boards at the level of group of villages came into being through the Bengal Village Self-Government Act of 1919. They may be described as the first local government bodies at the village level, as their scope was much broader than that of the *Chowkidari* panchayats.

The West Bengal Panchayat Act of 1957 focused on administrative decentralisation for effective implementation of the development programmes and bringing the decentralised administrative system under the control of the elected bodies. The Act restructured local self-government by introducing two tiers – *gram* panchayats and *anchal* panchayats (for a group of villages at the block level) – in place of the union board. Thus blocks became basic units of democratic decentralisation. The West Bengal Zilla Parishad Act of 1963 remodelled the local governments to associate grassroots authorities with activities relating to development and to bring about democratic decentralisation with popular participation in the process of planning and development. At the block level *Anchalik* Parishads (panchayats) and at the district level Zilla Parishads were created (Ghosh, 2001: 309). However the provision for direct elections was only for the lowest tier, i.e., the village panchayat.

The West Bengal Panchayat Act of 1973 was the first consolidated piece of legislation that embodied the spirit of democratic decentralisation and provided the freedom for a vigorous local self-government system. In 1977 the Communist Party came into power led by the Left Front coalition government and for the last twenty-five years West Bengal has been under the uninterrupted rule of the Left Front. The first and most important action of the Left Front Government was to take major steps to strengthen the local governments – the panchayats. For the first time in the country panchayat elections were held on political party lines in 1978 and considerable powers were devolved to them. Since 1978 regular elections have been held every five years.

Another path-breaking step taken by the West Bengal government was to go for land reforms on a large scale. In the 1950s the Congress Party government had initiated the major legislation relating to land reforms. But it was the Left Front government, which went ahead with the land reform in earnest. What attracts our attention here is the fact that it was through the active involvement of panchayats that the land reforms were implemented. Therefore, decentralisation measures are attributed to the success of

<sup>22</sup> Bangladesh and the state of West Bengal were one British province till 1905, when it was divided into the state of West Bengal and East Bengal. This was annulled in 1911. In 1947 East Bengal joined Pakistan. In 1971 it became a sovereign republic: Bangladesh.



land reforms and vice versa. In a sense it was a dialectical relationship. The policy of the Left Front government to bring the panchayats to the fore through the strong foundation of land reforms led to what may be called a social renaissance. Nirmal Mukarji (1993: 862) who was Cabinet Secretary of India underlines the point when he says that the land reforms had,

considerably weakened the hold of the big landlords who had traditionally led rural society because of their dominant economic and social position. Thus when the first panchayat elections took place the power structure in the rural areas had already altered. As a result, instead of empowering the already powerful, the panchayats placed power in the hands of the newcomers who belonged to a middle category of society. The dedicated work of this group is responsible for the present standing of West Bengal's panchayats.

The twenty-five years of continuous development of the democratic process at the local bodies level with the active participation of political parties underpinned by ideologies of 'land to the tiller' and 'power to the people' saw the weakening of caste or landlord-based clientelism and the political allegiance to patron-client relations in rural West Bengal. This was an essential first step towards achieving an accountability-oriented society. We will go in some detail into the main features of the West Bengal experience.

### 6.1 Land reforms

The Left Front government accorded topmost priority to land reforms to restructure the land relations, which was basic to bringing about genuine and meaningful democracy. The stress laid by the government on land reform included recording the names of *bargadars* (sharecroppers) and redistribution of surplus lands among the landless, and extending institutional credit cover to land reform beneficiaries.

This programme, which was popularly known as Operation Barga, accelerated the process of the recording of sharecroppers' names. It is important to underline here that the panchayats and peasant organisations played an important role in implementing these programmes. The state bureaucracy initially undertook the recording of the names of the sharecroppers. This action was supplemented by the establishment of functional linkages between the bureaucracy and the panchayats. Another aspect of Operation Barga was the holding of evening camps and the identification of actual *bargadars*. The participation of panchayats in the evening camps and their support and encouragement for recording the names of sharecroppers contributed significantly to the success of the programme. The methodology adopted aimed at helping the sharecroppers to overcome their fear and to come forward for their names to be recorded. The

essence of the methodology was that instead of the sharecroppers coming to the revenue officials, the officials themselves went to them.

During the Operation Barga phase there was an attitudinal change within the bureaucracy towards implementing participative development programmes. According to an expert on West Bengal and a senior official in charge of Operation Barga, this change was made possible by,

holding reorientation camps where 30–40 landless labourers and sharecroppers and a dozen or two officials of different ranks stay together, eat together, and work together for three to four days. The village poor are encouraged to speak out their bitterness . . . Having seen their own images in the eyes of the poor, quite a few officials felt disturbed and started questioning the correctness of their past behaviour and activities. It sets in a process of change of mind at least among a few functionaries at the cutting edges of the administration. (Bandyopadhyay, 1980: 11).

This was the essential first step for functional linkages between officialdom and the panchayats. The panchayat *samities* (development blocks) were entrusted with the task of carrying out the land redistribution programme. The standing committee on land reforms at the panchayat *samiti* level, with the help of gram panchayats, prepared the list of persons to whom the vested lands would be redistributed. The experience of West Bengal in the land reforms led to a “churning of the submerged humanity in the rural areas and created a high degree of social and political awareness among all sections” (Mukarji and Bandyopadhyay, 1993: 3). According to Westergaard, the result of the land reforms was a preliminary step towards helping sharecroppers come out of their dependency relationship vis-à-vis the landowners (Westergaard, 1986: 8).

The State Act was brought in conformity with the 73rd and 74th Constitution Amendment Act in 1994, six years after the new generation of panchayats and municipalities came into existence in West Bengal. This further enabled the panchayats to function as more responsive institutions of self-government. The provisions in the new West Bengal Act regarding mechanisms for ensuring transparency and accountability are discussed below.

## 6.2 *Gram sabhas and gram sansads*

While all states have incorporated gram sabhas in their amended laws, West Bengal along with a few other states took a further step forward by making provisions for still smaller units of democratic participation. Thus the *gram sansad* in West Bengal covers only one electoral constituency in a gram panchayat. There are *para* (neighbourhood) meetings too. The gram sabha on the other hand consists of all the voters of all the constituencies of a gram panchayat area. (A gram panchayat on average has ten to

fifteen constituencies). Every gram panchayat has to hold an annual meeting of the gram sabha, ordinarily in the month of December every year. The quorum required for a meeting of a gram sabha is one-twentieth of the total number of members. The meeting of the gram sabha is presided over by the *Pradhan* (president) of the gram panchayat concerned or in his absence by the *Upa-Pradhan* (vice-president). All questions coming before a gram sabha shall be discussed and points raised there shall be referred to the gram panchayat for its consideration. The gram panchayat shall place before the gram sabha the resolutions of the gram sansads and the views of the gram panchayat along with its report on the action. The gram sabha will deliberate upon them and make recommendations.

While it is true that the gram sansads in their present form are consultative forums, two points need to be noted. First, wherever NGOs have taken the initiative in mobilising the local community, the gram sansad meetings have not only been well attended, the quality of deliberations has also been rich. In such meetings, the panchayat representatives are required to do a lot of explaining for their acts of omission and commission. Besides, panchayats do take seriously suggestions on local development coming from such sansads. (Dutta, 1998: 99–101) This may not be the case where the party monopolises the task of community mobilisation. But the dynamics of gram sansad meetings in areas where there is a virtual absence of civil society institutions needs to be investigated. Secondly, some gram panchayats have taken up the task of participatory development planning, taking gram sansad level plans as the building blocks of the gram panchayat plan. Here the sansads will have substantial power to influence the decisions of the panchayats. But nothing can be said definitely at this stage, since the institutionalisation of participatory gram panchayat planning has a long way to go.

Every year the gram panchayat shall hold an annual meeting of the gram sansad in May and a half-yearly meeting in November. At least seven days before the date of the meeting is held, the gram panchayat must give public notice of the agenda, place, date and time of the meeting. Notice of these meetings shall be displayed in the gram panchayat office. The member elected from the constituency concerned is required to attend meetings of the gram sansad. The quorum for a meeting of the gram sansad is one-tenth of the total number of members. A gram sansad shall guide and advise the gram panchayat with regard to the schemes for economic development and social justice undertaken or proposed to be undertaken in its area. The gram sansad may identify or lay down principles for identification of both schemes and beneficiaries of the various poverty alleviation programmes. The gram sansad can constitute one or more beneficiary committees, mobilise mass participation for various programmes, promote solidarity and harmony among all sections of the people and record its objection to any action of the *pradhan* or any other gram panchayat members

for failure to implement any development scheme properly or without active participation of the people of that area.

A beneficiary committee is made up of not more than nine persons, who are not elected members of the gram panchayat, whose task is to ensure the active participation of the people in the implementation, maintenance and equitable distribution of benefits of one or more schemes in its area.<sup>23</sup>

### 6.3 Audits and accounting

The audit load is increasing day by day as a result of the changes in the management of rural development through the panchayat system of self-governance. On the one side, a major proportion of funds reaches the gram panchayat through panchayat *samiti* and zilla parishad, while on the other, the volume of financial transactions at the lowest level is increasing at a phenomenal rate.

To ensure accountability of the funds at the disposal of gram panchayats, a system of statutory audits was introduced in the late 1950s and continued till 1980. During the first five-year period of the new generation of panchayats, the state government strengthened the panchayat financial management by introducing a cadre specially entrusted with internal audits for all the three tiers. They were expected to conduct internal audits and assist panchayat bodies in organising accounts. The duties of the panchayat accounts and audit officers (PAAOs) are to:

- Detect frauds and errors;
- Minimise frauds and errors by frequent visits to the gram panchayat;
- Exert a valuable moral check at gram panchayat level for keeping the books of accounts updated;
- Check the books of accounts in great detail;
- Be a part of gram panchayat management by keeping in constant touch and making frequent visits; and
- Introduce increased efficiency and accuracy in the bookkeeping of the gram panchayat.

PAAOs have to visit all the gram panchayats within the block at least once every month for the purpose of organising accounts and conducting internal audits of the gram panchayats concerned. They need to submit quarterly reports on the internal audits to the extension officer and the block development officer, with a copy to the *pradhan*. In case the gram panchayat makes persistent defaults in matters of maintenance of accounts, etc., despite repeated instruction, or when there is gross irregularity, the

<sup>23</sup> Most of the gram panchayats also conduct what is known as *Salishi*, performing a mediatory role, i.e., settling local disputes. Here many disputes get settled at the local level without recourse to the law and order machinery or the court (Choudhary and Jain, 1999: 897).

PAAOs are authorised to make a special report to the panchayat *samiti* (development block) through the extension officer, if the extension officer is responsible for statutory audits of the gram panchayat.

There are also *samiti* accounts and audit officers (SAAOs) at the sub-division level for the purpose of organisation of accounts and internal audits of the *samitis*. For this purpose they visit the office of the panchayat *samiti* in the sub-division at least once a month. They can also visit any gram panchayat to go into books of accounts, records, registers, etc. The functions of SAAOs are more or less similar to those of the PAAOs except that they are required to make an assessment of the work done by the latter with respect to the organisation of accounts and internal audits of the gram panchayat.

At the district level, apart from examining relevant books of the district panchayat, the audit and accounts officer has to process the statement giving particulars of action taken by the panchayat *samitis* on the annual report of the examiner of local accounts as received from the sub-divisional officer, before this is forwarded by the district magistrate to the Accountant General, West Bengal. He also processes the statement giving particulars of action taken by the district panchayat on the annual audit report of the examiner of local accounts. The internal audit of the accounts of the district panchayat is conducted by the Regional Audit and Accounts Officer, who comes under the administrative control of the Divisional Commissioner. His role is similar to that of the internal auditor of the panchayat *samiti*.

The statutory audit of the district panchayat is conducted by the examiner of local accounts, West Bengal and the statutory audit report is made in the meeting of the *Artha O Sthayee Samiti* (Standing Committee of Finance) of the district panchayat. The recommendations of the *Sthayee Samiti* on the actions to be taken by the district panchayat to remedy the defects or irregularities or, failing any remedial action, the reasons for such failure, should be clearly recorded. The district panchayat then convenes a special meeting for considering the observations made by the auditor and the recommendations of the *Artha O Sthayee Samiti*. The auditor is kept informed of the action taken.

It may be stated here that the Audit and Accounts Officers at each level are accountable to the authorities at the higher levels – the block, district and state. Although we cannot entirely rule out the possibility of the audit officers becoming susceptible to corrupt practices and inducements, since they are directly under the watchful eye of the higher level auditing authorities they cannot totally misuse their position. In every state there is an Accountant General (AG) who is the senior official of the Comptroller and Auditor General of India, which is a constitutional body. More than one AG are assigned to a state to look after various heads of account.

### 6.4 District council

For each district there is a district council on the model of the Public Accounts Committee in the West Bengal state legislature. The Chairman of the council is the leader of the opposition. The members of the district panchayat elect from among themselves one Vice Chairman and five other members. The state government nominates three government officers as members. The Additional Executive Officer of the district panchayat is the member secretary.

The main functions of the district council are to examine the accounts of the panchayats within its territorial jurisdiction in relation to the budget approved by the panchayats concerned for the expenditure they are to incur, along with the annual reports of such panchayats as the district council deems advisable. In scrutinising the accounts of the panchayat, the district council needs to satisfy itself that the money spent was legally available for the purpose for which it was spent, that the expenditure incurred is in conformity with the rules and that every appropriation has been made in accordance with the relevant regulations.

It considers the inspection report on the annual audit of panchayat accounts conducted by the auditors, including the replies furnished by the respective panchayats. It can pursue matters relating to the unsettled objections raised in the inspection report on an audit of accounts and refer such matters to the authorities concerned, suggesting corrective actions. It is also authorised to examine the accounts of stores and stocks maintained by the panchayat within the area of its jurisdiction. It is required to suggest ways and means to remove the difficulties, if any, experienced by the panchayat in giving effect to the provision of the Act and rules made thereunder. The district council has the right to obtain a copy of every inspection report on the audit of accounts of any panchayat and may call for any record of any panchayat to be produced for inspection.

### 6.5 West Bengal field observations

To obtain a better understanding of the working of the panchayat system in West Bengal, field studies were taken up in Haringhatta panchayat *samiti* and Haringhatta I gram panchayat in the district of Nadia. We had interaction with gram *pradhans* of Haringhatta gram panchayat, Birohi gram panchayat and Mullavaliah gram panchayat, elected members of the panchayat samiti, the block development officer, member of Hooghly district panchayat and some gram sabha members. Discussions with Government officials and experts in the field of decentralisation were also held.<sup>24</sup>

<sup>24</sup> Some of the respondents were granted anonymity as a precondition for being interviewed. Their names are therefore not indicated either in the text or in the list of references.

The district of Nadia is situated in the heart of the Bengal delta. The entire district lies in the alluvial plain of the river Ganga and its tributaries. It has an area of 3 927 sq. kms, with a population of 3 852 097 as per the 1991 Census, encompassing 1 406 *mauzas* (revenue villages). The decennial population growth rate for 1981–91 was +29.82 per cent. The district has seventeen panchayat *samitis*, eight municipalities and two notified area authorities (new townships). The seventeen blocks consist of 187 gram panchayats.

Haringhatta I gram panchayat consists of 5 510 families and has a total population of 25 064 (2001 census). The gram panchayat, which falls within the jurisdiction of Haringhatta panchayat samiti, has nineteen constituencies. The main source of income for the people comes from animal husbandry. The gram panchayat has eleven primary schools, one child education centre and nineteen child care centres. The Haringhatta panchayat *samiti*, which has an area of 168.39 sq. kms, has a population of 206 049.

The panchayat samiti consists of ten gram panchayats. It has 109 primary schools, four junior high schools, nine secondary schools, four higher secondary schools, one college, two universities and twenty-seven primary health centres. With regard to party composition, in the latest panchayat elections, held in 1998, the CPI (M) won the largest number of seats in Haringhatta panchayat *samiti*.

#### Haringhatta I gram panchayat

Meera Chakraborty, the *pradhan* of Haringhatta I gram panchayat, was elected to the local body for the third time. A woman in her early forties and a high school graduate, she is an active member of the Communist Party of India, Marxist CPI (M) and a full-time social worker. Her long experience is reflected in her confident manner of speaking and dealing with people.<sup>25</sup> Meera Chakraborty was able to talk about various issues facing her gram panchayat in a forthright manner. In her opinion the gram sansad was a powerful body in holding the elected members accountable to the people.

Unlike the panchayats of previous years, she said that the elected members could no longer take the electorate for granted, as they come under close scrutiny in the gram sansad meetings. People question them regarding the reasons for non-completion of work, selection of beneficiaries, activities of panchayats, etc. Even so, she feels that the number of people

<sup>25</sup> Interview with Meera Chakraborty, the president of Haringhatta I Gram Panchayat on 26 April 2002. During our field study at Haringhatta I Gram Panchayat, Meera Chakraborty spent half a day with us, very eager to share her experiences. Initially we began speaking to her at the Haringhatta Panchayat Samiti office and then she invited us to visit her Gram Panchayat office, where she had arranged for most of the other members of the Panchayat to come.

attending the meetings is not sufficient. The main reason for poor attendance, according to Meera Chakraborty, is that neither she nor the other elected members are able to reach out to the vast majority of people and mobilise them for the meetings. Moreover, the better-off sections of the village keep away from these meetings.<sup>26</sup>

In many cases, she opines that even those people who attend the meetings come with the main purpose of finding out which benefits are available under various development schemes. Though beneficiary selection and prioritisation have to be done by the people themselves, non-beneficiaries often become disgruntled and lose interest in attending the meetings. To avoid the resentment of those who are not eligible for a particular scheme, the *pradhan* said that they try and explain as far as possible the need to consider the poorest of the poor in the village. In this regard, she highlighted that the gram panchayat has started a process of compiling a list of poor in the *para* (neighbourhood) level meetings. This is useful in the selection of beneficiaries for various schemes, even when the beneficiary concerned is unable to attend the meeting.

The *pradhan* narrated an incident where she pleaded with the people in the gram sansad meeting to consider the case of a poor woman whose husband was blind and whose home was in a pitiable condition. Since the husband was ill, the woman could not attend the gram sansad meeting. Meanwhile her husband died. The *pradhan* requested the gram sansad to recommend her name for the house benefit under *Indira Awaas Yojana* (a rural housing programme). Taking pity on the woman, the gram sansad resolved to give her the benefit. The *pradhan* however was made to account for her handling of the issue by the opposition members and some villagers. The records of the gram sansad meeting proved handy for her, in this case.

To mobilise more women to attend the gram sansad meetings, Meera Chakraborty makes personal requests to women in her panchayat. Here the major motivation seems to be the call made by the *Ganatantrik Mahila Samiti*, a women's organisation of the CPI (M), for greater participation of women in these meetings. She also feels that the socio-economic conditions are compelling women in particular to increasingly attend the gram sansad meetings.

In an attempt to ensure transparency and accountability, she said that after every gram sansad meeting, the list of beneficiaries was put up on the gram panchayat notice board. During our visit to the gram panchayat, we could observe a list of beneficiaries posted on the notice board. Similarly, the accounts are posted in prominent places, so that even those who did not attend the meeting will know what has happened there. However,

<sup>26</sup> The same phenomenon is observed in other states and some parts of the state of Kerala also.



concerns have been raised by some as to whether this directive is being strictly adhered to on every occasion in all the gram panchayats.

An interesting feature that was mentioned for ensuring accountability was the statutory requirement to set up a purchase committee for matters related to the purchase of materials especially for construction works. In addition to the *pradhan* and the secretary, who are the chairman and the convenor respectively, the purchase committee also consists of a member from the opposition party. For any purchase made, the signature of the opposition member is obligatory. A purchase is made only after inviting sealed tenders, which are opened in front of all the members. If the opposition member is not present, tenders will not be opened. A final decision is taken after the signatures of approval of all the members are received.

In Haringhatta I gram panchayat this mechanism appears to hold good mainly because the elected members belonging to the opposition party are almost in equal proportion (twelve and eleven). Meera Chakraborty said that she was always kept on her toes because of this factor – the strong presence of the opposition. The *pradhans* of Birhohi II gram panchayat and Mullavaliah gram panchayat, the block development officer and the panchayat samiti members also mentioned the existence of the purchase committee as an effective mechanism for reducing irregularities.

Undoubtedly, there is reason to consider the purchase committee to be a good mechanism for ensuring transparency. However, some of the persons we interviewed were of the view that the mechanism will be effective only in panchayats where the elected members belonging to the opposition party are in fairly good numbers. Otherwise, the opposition members face every possibility of being sidelined. The panchayat elected members interviewed held the view that as opposed to the earlier system, where there were many allegations of corruption, in the present one, with the presence of opposition members in the purchase committees, the level of corruption has been checked.

#### Haringhatta panchayat samiti

The *sabhapati* (president) of Haringhatta panchayat samiti is a young man in his early thirties and an active member of the CPI (M).<sup>27</sup> With regard to accountability and transparency mechanisms, the *sabhapati* explained that, besides the gram sansad meetings, the vigilance committees, with both ruling party and opposition members, are a strong mechanism for ensuring accountability. The committee members periodically visit the gram panchayats within their jurisdiction and report on their suggestions regarding the functioning of the panchayats. If any allegations are made, the vig-

<sup>27</sup> Interview with Vishwanath Pandit, the president of Haringhatta Panchayat Samiti on 26 April 2002. Vishwanath Pandit was a very young and energetic president, he carried himself well and seemed to get on well with everyone at the panchayat samiti office.

ilance committee is empowered to look into the matter. During our discussions with the *sabhapati*, he gave us a copy of the plan for the construction of a room at the primary school in the Kurumbelia area. The plan provides details of the technical specifications and estimates for materials required for the construction and their cost, and a list of wages to be paid to the workers. This document was available to the public at the block office.

Meeting the *sabhapati* at the block office was not easy as the office was bustling with activity and people crowding into the *sabhapati's* and BDO's office rooms. Moreover, he was busy with a training programme being conducted there by the party for elected members belonging to the CPI (M) on decentralised planning. But he was enthusiastic to speak to us and answer our questions. While we were holding the interview with Vishwanath Pandit, we could see a large number of people, both men and women, gathered inside the block office premises, raising slogans and delivering speeches. Upon enquiring, we found out that it was the rickshaw pullers from the neighbouring villages, along with their families, who had come to raise their problems. Realising that the *pradhans* of all the gram panchayats were assembled in the block office to attend the training programme, the rickshaw pullers saw this as a good opportunity.

The BDO of Haringhatta panchayat samiti has been serving in the panchayat samiti since 1997. A young man in his late thirties, he seemed to enjoy some rapport with the elected representatives. Being the executive officer of the intermediate tier, we saw a steady stream of *pradhans* of neighbouring villages and common villagers visiting and discussing various issues with him. Unlike the general view of strained relations existing in many panchayats between the elected representatives and the government officials, here the BDO seemed to be bonding with the people.

He was of the view that the gram sansad meetings in particular, have high potential as a forum for social audits.<sup>28</sup> He underlined the fact that it is mandatory for gram panchayats to consider every resolution adopted at the gram sansad meetings and decisions and actions taken on them. A report on this process is to be given at the next meeting. If the gram panchayat fails to consider the gram sansad resolutions or fails to raise the draft budget, statement of accounts and audit reports in such meetings, this will be considered a serious lapse and in their report the auditors would declare all expenditures of the gram panchayat illegal.

In his personal view, the BDO felt that the political party affiliation (specially of those who are in power) often has a strong bearing on what

<sup>28</sup> Interview with Gautam Biswas, the Block Development Officer of the Haringhatta Panchayat Samiti on 25 April 2002. Biswas had a very good rapport with all the elected representatives. There was a steady crowd coming in and going out of his office room as he was speaking to us. He was devoid of any bureaucratic swagger and was patient in hearing out the concerns of the people.

takes place at the gram sansad meetings. And in his view this trend needs to be minimised for effective functioning. Of course, this is an observation often articulated by opposition parties and their sympathisers. The issue here is the undue influence and patronage exercised by ruling parties.

The *pradhans* interviewed said that the present government procedure for disbursement of benefits has also helped bring down corruption levels. The example of the housing programme *Indira Awas Yojana* was quoted, where previously the gram panchayat had to look into disbursements. As per the present government orders, the money is now provided directly to the beneficiaries. There was consensus on the power of gram sansads and gram sabhas. This was a common view that stood out in discussions with the gram *pradhans*, the panchayat samiti and district panchayat members.

### 6.6 West Bengal study findings

The most striking development in West Bengal is that the traditional rural elite and power holders had lost their control over the panchayats because of regular elections over a period of a quarter of a century, supported by socio-economic measures like land reforms. Moreover, West Bengal has brought to the fore the role of state sponsored mechanisms in bringing accountability and transparency in local government institutions. In West Bengal, when we say 'state sponsored', we mean the initiative of the ruling party – CPI (M) – which has been ruling the state continuously for the last twenty-five years. The point to be underlined here is that in this regard the non-party political process through citizens' initiatives and NGOs has a minimal if not non-existent role in this state, compared with states like Rajasthan that were mentioned earlier in this paper.

However, if we look at it from another angle there are forums for non-party political initiatives and the expression of citizens' interests in West Bengal. These are the meetings of the gram sabhas, gram sansads and *paras*, which are the statutory bodies. These institutions of direct democracy are accorded the utmost importance for checking corruption and favouritism in the new system of local governance in West Bengal. The importance given to these institutions is evident from the fact that their meetings are held fairly regularly.

#### Forums for direct popular participation

Table 1 gives a comprehensive overview of the number of gram sansad meetings held in 2000.

It must be underlined here that although the statistics are indisputable, field observations reveal that the participation in gram sansad meetings is not very high. The majority view was that the rate of participation of 15–20 per cent should have been higher in a state like West Bengal with its

high political consciousness. Major reasons for not so high participation include: lack of awareness of meetings, political minorities feeling that their views are not taken seriously, people from the disadvantaged sections/backward castes feeling that their voices are not heard if the leadership is from the dominant sections, etc. Moreover it was felt that economically well-off people take less interest in attending such meetings. Added to this, a lacuna in the procedures for gram sansad and gram sabha meetings also contributes to the low attendance and participation. If the quorum for any such meeting is not fulfilled, the State Act does not mandate a quorum for the adjourned meeting. The adjourned meeting can be held at the same time and place after an interval of seven days without the mandatory quorum.

**Table 1. Gram Sansad meetings in West Bengal held in the first half of 2000 and pattern of attendance (number and percentage)**

District	Gram pan-chayats	Gram sansads	Average voters in gram sansads	Meetings held with quorum	%	Post-poned Meetings	%	Total meetings	%	Average attendance	%	Average attendance of women	%
Coochbehar	128	1701	743	1360	80	36	2	1396	82	124	17	25	3
Jalpaiguri	146	2095	744	1769	84	288	14	2057	98	134	18	15	2
Darjeeling Hill Council	112	1041	382	1017	98	24	2	1041	100	–	12	11	3
Siliguri Division Council	22	349	764	349	100	0	0	349	100	–	11	–	3
Uttar Dinajpur	99	1470	740	1098	75	372	25	1470	100	70	9	10	1
Dakshin Dinajpur	65	925	744	485	52	440	48	925	100	52	7	10	1
Malda	147	2021	738	1289	64	454	22	1743	86	63	9	10	1
Murshidabad	255	3614	784	2806	78	687	19	3493	97	144	18	–	–
Nadia	187	2639	798	1975	75	591	22	2566	97	83	10	15	2
North 24 Parganas	200	2923	761	2003	69	824	28	2827	97	78	10	14	2
South 24 Parganas	312	4324	769	2493	58	1639	38	4132	96	62	8	12	2
Howrah	157	2218	803	917	41	1286	58	2203	99	52	6	10	1
Hooghly	210	3001	801	2037	68	954	32	2991	100	91	11	17	2
East Medinipur	224	2970	804	1778	60	1157	39	2935	99	95	12	25	3
West Medinipur	290	3449	787	3046	88	370	11	3416	99	89	11	18	2
Bankura	190	2844	750	1821	73	583	23	2404	97	65	9	9	1
Purulia	170	1925	711	1352	70	507	26	1859	97	79	11	7	1
Bardhaman	277	3833	817	3184	83	621	16	3805	99	97	12	27	3
Birbhum	167	2108	764	1452	69	521	25	1973	94	60	8	8	1
<b>Total</b>	<b>3358</b>	<b>45450</b>	<b>746</b>	<b>32231</b>	<b>71</b>	<b>11354</b>	<b>25</b>	<b>43585</b>	<b>97</b>	<b>86</b>	<b>12</b>	<b>13</b>	<b>2</b>

*Note:* Figures received up to and including 31 August 2002 have been included in the table.

*Source:* Directorate of Panchayats and Rural Development, West Bengal.

A cross section of the people hold the view that with the inception of the participatory planning process, which requires still further democratic participation in the form of *para* level meetings, the participation levels in gram sansad meetings are steadily increasing (30–50 per cent). The participation levels of women members especially are found to be increasing. Krishna Bannerjee, member, Hooghly district panchayat, pointed out that in disbursing funds, priority is provided to gram panchayats that conduct regular gram sansad meetings.<sup>29</sup>

Our interactions with the panchayat elected members and the BDO highlight the fact that they are increasingly experiencing the power of the people in gram sansad and gram sabha meetings. The voice of the poor and the disadvantaged is heard even from the *paras* level. Webster notes: “hot discussions amongst households in the poorer *paras* serve as a secondary forum for expressing views which later on come back to the gram panchayat via the members” (Webster, 1992: 101). A recent study of the West Bengal panchayat system also points to the fact that the review and monitoring of project implementation are receiving higher emphasis in gram sansad meetings (Ghatak and Ghatak, 2002). The *pradhan* and the local representatives are questioned on the progress of project implementation, and often face allegations about misuse of funds and selection of beneficiaries. Where there has been overwhelming evidence in support of the criticisms raised by the people, the village panchayat officials have admitted their errors.

In the field discussions too, the responses indicated that the non-completion of works is the major charge dominating gram sansad meetings. This the gram panchayat members attributed to the total dependence of projects on the flow of government funds. One of the major problems the panchayats faced, according to all the *pradhans* interviewed, was their failure to raise own resources. This was mainly because imposing taxes has been feared by elected representatives to be too unpopular. They considered that the major share of the funds come from centrally sponsored schemes like *Swarnajayanti Gram Swarozgar Yojana* (a centrally sponsored scheme for rural self-employment) and *Indira Awaas Yojana*. This undue dependence on government funds is creating a serious problem of a lack of autonomy for LGIs in West Bengal. When there is no financial autonomy, how can there be autonomy in decision making or, broadly speaking, political autonomy? There are also problems of accountability of a different nature. As panchayats do not raise even a fraction of the funds, they have fewer incentives to focus on the social returns from how they have spent these funds or to assess their performance in this regard (Ghatak and Ghatak, 2002). It is important to note here that West Bengal

<sup>29</sup> Interview, 23 April 2002.

too, following the Kerala experience, is taking initiatives to transfer untied funds to the panchayats.

Two systems of audit were in place in the panchayats, namely, the statutory audit and the quarterly audit. The quarterly audit by the PAAO is more in the nature of helping the panchayats to keep their accounts in order. The statutory audit, as mentioned elsewhere, is done by the extension officer (panchayats). In case of any complaint, the audit team informs the Block Development Officer, who will then send an extension officer for enquiry. In case of a criminal offence, the matter is sent to a sub-divisional officer. The audited accounts are then placed before the general body of the panchayat.

As mentioned elsewhere, beneficiary committees are active at the gram panchayat level to monitor the implementation of public works. The elected representatives interviewed at all three levels and the BDO reiterated this point. The effective functioning of such committees, according to the respondents, can ensure transparency in panchayat works. Also, the beneficiary committees can enhance people's participation, improve the quality of work and go a long way in eliminating corruption. The beneficiary committee receives guidance from the gram panchayat and it is within its power to modify or alter the work schedule within the sanctioned limit.

The members of the beneficiary committee have to certify the completion of the works undertaken before the gram panchayat pays the bills. The beneficiary committee can enlist local participation when public works are planned, implemented and monitored by the people through the gram sansad. However, the general feeling is that the beneficiary committee tends to be packed with members of the ruling party. This can lead to vested interests (in this case, a political party) enhancing their hold in the community. On the other hand, there are cases where, as in the Haringhata gram panchayat, a beneficiary committee consists of eleven opposition members and only two ruling party members.

In addition to the above-mentioned mechanisms, field visits showed the existence of non-statutory bodies like the *Sahayata* (Help) committee at the block level. This was mainly talked about at the panchayat samiti level. This committee consists of prominent persons like representatives of political parties, professors, teachers, social activists, and others. The committee looks into issues of land and family disputes, property, harassment of women, problems relating to electricity, roads, etc. The official statement of the Haringhatta panchayat samiti regarding the performance of the *sahayata* committee from 31 July 2001 (date of inception) to February 2002 reveals that 351 cases were referred to the committee and all the cases were taken up for conciliation. Of these, 223 cases were amicably settled, 125 cases are at the conciliation stage and three cases became specific criminal cases at the panchayat *samiti* level.

Various mechanisms for ensuring accountability and transparency in panchayat activities are thus in place in West Bengal. Effective and sustained functioning of these mechanisms can go a long way in reducing corruption, patronage and clientelism. But how far these mechanisms are put into practice throughout the state in all the panchayats is the pertinent question. Take, for example, the audit of accounts. While the statutory audit looks into whether the gram panchayat has complied with the financial norms, it is the gram sabha which has to look into the question of whether the money has been properly utilised or not. Here the mechanism of the social audit assumes greater significance than formal audit mechanisms.

Having said this, two things need to be stressed. One, a social audit requires the active participation of a majority of the people in the panchayat. If participation levels continue to be low, the scope of social audits is limited. Secondly, a social audit also requires information to be made available to the people by the panchayats. The normal practice now is to provide the people with the statement of accounts or read out the panchayat's annual statement of accounts. Field discussions brought out the fact that the statement of accounts is published in a format that is difficult for the people to comprehend. What is required is to provide people with important information in a simplified manner, and this process is yet to be developed in West Bengal.

Again, the low percentage of attendance at gram sansad meetings needs to be taken seriously by the elected representatives. Why is it that people are not coming to gram sansad meetings? There may be various reasons – maybe the gram sansad, as a forum for discussion, fails to address the major issues that are of interest to the common people, or else important decisions are just being communicated to them, without healthy discussion or any consultation process. The point to be underlined is that if less people attend gram sansads, there is less exercise of accountability at the grass-roots level.

### Panchayats and the CPI(M)

Another concern raised was the overwhelming influence of the ruling political party – the CPI(M). The party units are found to be active at district, block and even village levels. In India the general trend is that mass-based parties – e.g. the Indian National Congress, the Bharatiya Janata Party (BJP) – as opposed to the cadre-based parties like the CPI(M), though these also have a mass base, capitalise on traditional divisions in society like caste, religion, minority vs. majority, ethnicity, etc. It is well argued that when cadre-based political parties with strong ideologies like socialism or Marxism replace traditional caste and other such loyalties, this is a positive move towards a modern outlook. In such a situation, our field study points to the fact that an elected representative at the local government level feels

more obliged to the party hierarchy than to addressing the larger needs of the people in certain cases. The only constraint in certain situations is that this cannot be done against its basic ideology or at the expense of the popularity of the party.

West Bengal is one state where the hold of the cadre-based party is very strong. The other two such states are Kerala and Tripura. The institutionalisation of and support given to LGIs in West Bengal has certainly served the political objectives of the left, particularly the CPI(M). The objective initially was to expand the base and influence of the party in the rural areas and in the later period to keep it in power. To serve this political objective the agenda of decentralisation was carried up to a certain extent, but stopped short of granting autonomy to the PRIs.

Another feature of West Bengal's LGIs is that these bodies are controlled by the ruling party – the CPI(M). Recent research has shown that the party's control over the panchayats is so absolute that the elected representatives have little independence (Bhattacharya, 1998; Bhattacharya, 2002). This has resulted in party-centred clientelism even in the distribution of funds and benefits available through central government programmes. Glyn Williams in his study of three villages in the Birbhum district observes (1999: 235–36) the highly personalised role of panchayat members.

The control of development funds of JRY and IRDP schemes gave [panchayat] members a degree of economic influence. . . . Any development work a member undertook became highly personalised: rather than fulfilment of an objective set of criteria, it was seen by potential beneficiaries as 'help' . . . especially by those amongst the labouring classes . . . rather than being an institution in which they actively participate, it is seen as a distributor of personalised benefits.

These actions have helped the CPI(M) establish its political authority firmly in the villages.

Such control does not pay dividends in a free and fair election in an active multiparty democratic system where the decision to vote for one party or other is just based on sympathy with a party or party loyalty. A study conducted on the West Bengal panchayat elections in 1993 came to the conclusion that even though party affiliation is an important consideration in determining whom to vote for, the personal qualities of the party candidate are an important factor. (Kumar and Ghosh, 1993: 84). Honesty was of prime importance and next was sensitivity to the sufferings of the poor. As opportunities to evaluate the candidates at the village panchayat level are greater, past performance and personal qualities like integrity and honesty play a stronger role for voting decisions at the village panchayat level.



In recent times, West Bengal has seen some attempts to introduce reforms in the *panchayati raj* system, following the lead taken by the Left Front government in Kerala, led by the CPI(M). Firstly, untied funds have been released to all the three tiers of panchayats. Even though the amount of such funds has been much less than recommended by the State Finance Commission, the system of untied funding is a departure from the past practice of treating PRIs as mere state agencies. Secondly, policy pronouncements have been made to introduce Kerala-type participatory development planning at the panchayat level. In the participatory planning model developed for decentralised planning, there is a conscious attempt to involve people of all sections in panchayat activities. This is a bold attempt, because if participation on such a large scale is sought, then the hold of the local party units over the decisions taken by the panchayats will be loosened. However, such reforms have made extremely slow progress in the state. To date, the state has been unable to introduce participatory local level development planning.

No doubt the PRIs in West Bengal are powerful and important institutions, as they handle huge resources under the various poverty alleviation programmes. Nonetheless, they function as agencies of the state government for implementing its schemes for programmes. As the Mukarji-Bandyopadhyay report put it in 1993, “(the) concept of panchayats being institution of self-government (was) either missing or only dimly perceived”. Thus, the “decentralisation that took place in the state was in the nature of ‘deconcentration’ of power under which the panchayats served principally as the implementing agencies of state government. The process was not carried to its logical extent of ‘devolution’ type of transfer of functions, resources and authority from the state government to the PRIs” (Mathew, *et al*, 2001: 4).

Finally, an important question which came up during our field study was: why did the CPI(M) of West Bengal fail to take a radical PRI reform measure, while the same party could do so in Kerala? Why is it that the same party could take a ‘big bang’ approach of decentralisation in Kerala, but has, so far, failed to do so in West Bengal? In other words, why was Kerala successful in carrying out a radical decentralisation programme faster than West Bengal, despite the fact that the CPI(M) was in power in both states?

One argument going around is that Kerala had been facing a crisis in the economic sphere and decentralisation was seen as a means of overcoming such a crisis. In contrast, West Bengal has witnessed rapid economic growth in rural areas and this has tempered popular demand for further reform. (Ghatak and Ghatak, 2002). But this explanation has not been satisfactory, for there is no evidence that people do not demand transparent, accountable and participatory local government institutions or more devolution of functions and resources to the local bodies (Ghosh and Kumar, 2003). The

real causal factor was the different political environment in Kerala, where the opposition is very strong and the CPI(M)-led Left Front operates in a competitive political field. In such a political environment, the 'big bang' approach to panchayat reform was considered a rational political move to gain electoral advantage, whereas the Left in West Bengal did not feel any such necessity, as they monopolise the political space of the state. Yet another factor is that in West Bengal, the rural middle class has emerged as an important power base of the CPI(M) and this class resists empowerment of the masses through participatory governance at the local level (Ghatak and Ghatak, 2002). Ghosh and Kumar put it succinctly:

For long 25 years, the CPI (M) of West Bengal has pursued the strategy of establishing hegemonic control over all political and civil society institutions. Those who have benefited from this resist any reform that disturbs the status quo. Consequently, the regime's capacity to govern has been reduced. As already noted, there is awareness about the need for changing the policy of limited decentralisation with party's control over panchayats, but the determination to carry out the reform measures is not in sight. It seems that the party has to cross many hurdles within its own turf, if it desires to implement a radical programme of democratic decentralisation that allows more democracy at the local level and empowers the masses. To what extent the CPI (M) can change its strategy of establishing complete control over the representative institutions at the grass roots in order to pursue the ideal of local democracy remains to be seen (Ghosh and Kumar, 2003: 52).

## 7. Conclusions

The Asoka Mehta Committee observed in 1978 that PRIs are dominated by economically or socially privileged sections of society and have as such facilitated the emergence of oligarchic forces yielding no benefits to weaker sections (Government of India, 1978: 6). These oligarchic forces are the traditional rural elite consisting of agricultural landowners, moneylenders and upper caste people. Against this background, the report stated that the utility of panchayats for the average villager had been seriously limited because of corruption, inefficiency, scant regard for procedures, political interference in day-to-day administration and 'parochial loyalties' (ibid: 7).

This was written after observing the working of community development programmes and panchayats in independent India for about twenty-five years. A quarter of a century after this report, has the situation regarding corruption, inefficiency and parochial loyalties changed? What were and what are the instrumentalities working for a new system? What does the future hold? These are some of the issues taken up in this paper. Especially after 1993, measures for breaking parochial loyalties, clientelism and

checking corruption with regard to decentralised local bodies have been taking place at two levels.

Legislation, rules, bye-laws and institutions/committees have been created at the central government as well as at state levels. The radical departure in these moves of the government has been the importance given to the direct democracy forums like neighbourhood groups, village panchayat constituencies like the *sansad* (West Bengal), *palli sabha* (Orissa), 'village' in Madhya Pradesh, ward in Kerala, etc. We have dealt with these at some length to show that these forums for expressing the voice of the people have created the potential to check clientelism of all varieties. There are success stories and they cannot remain as islands in the Indian context; they are making a positive impact on a wider scale, slowly but steadily.

Second, measures have also been taken at the community level. From state to state, region to region, public-spirited citizens have been coming together, organising themselves to fight for the implementation of the ideals and values enshrined in the constitution and state legislative acts. NGOs and Community Based Organisations (CBOs), intellectuals and social activists play an important role in this. Such initiatives are winning widespread support from a cross section of society and the media in India especially plays an important role in encouraging such activities.

After independence, a major democratic achievement of India was the amendment of the Constitution by the provision to ensure regular elections to the local governments on par with the State Assemblies and the Parliament. This was the result of strong popular demand. The prevailing mood in the 1970s and 1980s was that if there were regular elections at the community level and upwards, the community and the electorate could choose those who best serve them and punish the corrupt and thus promote healthy competition in the delivery of good services for the people across divisions. In other words, as John Echeverri-Gent puts it, the political process provides avenues for corruption, but it also creates mechanisms to contain corruption (Kurien, 1999: 42). This observation was made in the context of West Bengal.

On an all-India level the big move of electing more than three million representatives started only less than a decade back. It is still in its infancy, although democratic traditions are well entrenched in Indian society. The biggest challenge is that many negative elements in elections at the State and Central level (e.g. money power, caste or community or religious loyalties) are also surfacing in the elections to local bodies. Since the problem is systemic a holistic approach is necessary to correct such trends. Cadre-based political parties on a strong ideological footing which function actively at the local government level have radically changed the ground realities for the better. It could also be argued that the establishment of rigorous electoral norms at the local level could trigger a healthy influence upwards.

One worrying aspect is the nexus between political representatives and officials in corruption and spoils sharing. Although India has been striving to create a citizen-oriented public service through the checks and balances, this nexus still prevails. The Rajasthan experience in this regard is revealing. Panchayat representatives, despite their written assurances to furnish all documents to the electorate, have taken the cue from the panchayat secretaries and BDOs (both government officials) and organised themselves as a lobby against transparency. Examples of this type of collusion are found all over the country (Roy, *et al*, 2001).

The bureaucracy in independent India is the legacy of British colonial government. Its responsiveness to the democratic system has been on the whole positive, especially when power was concentrated at the federal level and state (provincial) levels. It developed a mindset of serving the higher echelons of government and taking orders from them. When the new democratic system and culture began to emerge after 1993, the bureaucracy stuck to the culture of a bygone era that was often devoid of ethical dimensions. Therefore today the emphasis is on training programmes for the newly recruited members of the bureaucracy and on re-orienting the existing system.

There are issues still to be tackled. How do informed villagers in a panchayat, armed with evidence of misuse of authority by their elected representatives or officials, ensure that the guilty are punished? In other words, if the guilt of a local panchayat body is established through a social audit, and no action is taken, what are the remedies available to the citizens? There is serious concern as to what happens if the elected members are found guilty. It has been found that there are instances of cases not being registered in the courts even after the guilty have been identified. The same applies to cases against officials. As Harsh Mander and Abha Singhal Joshi put it, "There are no ready answers because people's audit of public authorities is a new avenue of people's action. Clearer answers would emerge after more experience is gathered by diverse groups working in different regions on varied issues. However, recourse to some kind of organized peaceful protest seems inevitable, if state authorities remain recalcitrant" (Mander and Joshi, 2001).

However, the situation is slowly changing. According to a report from Orissa, the number of corruption cases filed against the Panchayat Department more than double in three years (1997–2000). The majority of the vigilance cases have been against panchayat officials, project directors of District Rural Development Agencies, Block Development Officials, and *Tehsildars*, the latter being officials in charge of a *Tehsil*, or taluk, below the Block level.

This is mainly because of India's Public Interest Litigation (PIL) system, which is used extensively by citizens to bring those who violate the law and constitutional provisions to book. The PIL has contributed substantial-

ly in creating awareness about the possibility of redress of grievances and bringing the guilty to justice. This judicial accountability has strengthened the credibility of local government institutions in India.

Certain other achievements of the local government at an all-India level after the new constitutional amendments worth mentioning here are: (a) It has opened a brave new world for women in public life, more and more women from all sections of society are coming forward in election after election; (b) The excluded sections of society – the former untouchable castes and tribals – are making use of these forums to enhance their opportunities and for economic development; (c) There are many success stories, which are recognised locally, state-wise and nationally because grassroots level democracy has strengthened; (d) Indian federalism has moved towards multi-level federalism, giving federalism in India a new meaning; (e) Fiscal decentralisation to the village level along with micro-level, decentralised planning, has come to the centre stage of discussion at the all-India level; and (f) Issues of corruption in development spending in local areas have come to the fore with a demand for value addition in spending.

As seventy per cent of the Indian population lives in rural areas and most of them depend on agriculture for their livelihood, the unequal distribution of resources creates a dependency syndrome, mainly in the area of land ownership. Wherever land reforms have been implemented, the primacy of the political process and political party involvement has overtaken traditional linkages. West Bengal and Kerala are the best examples of this welcome trend. Loyalties there are now to political parties and party ideologies.

Control over local bodies is possible only through the empowerment of the citizens and that is what is happening in many parts of the country. The social activism of the Right to Information Movement in Rajasthan is a case in point. When the people in Rajasthan were empowered, they could confront the officials and elected representatives with the slogan: *Hamara paisa, hamara hisab* (We want proper accounts for our money). Citizens' activism has made the abstract notion of transparency and the right to information tangible and concrete.

The demystification of governance, government rules and system of administration is a definite result of people's initiatives against corruption at the community level. Without decentralisation and empowerment of local bodies this would not have happened. This will have a contagious effect at other levels too.

It must be stated here that the majority of the provisions of the Constitution, mechanisms, institutions and instrumentalities created as a result of the Central and State Acts mostly remain on paper rather than being effectively implemented. Moreover, the people in general and even elected representatives as well as functionaries are unaware of the existence of

some of these enactments. In this context, the political parties, especially the cadre-based parties, have taken lead roles in conscientising the people about these legislative measures and their implications. Looking at the national scenario one could find that wherever civil society organisations and political parties like the CPI(M) are active, there is awareness-building on a large scale, the best examples, as we have seen, being West Bengal and Kerala.

Moves at two levels for reforming the system need mention here. One, India has a large number of civil society organisations and they continue to agitate for strengthening the local bodies. Their advocacy is a major factor in creating awareness about the pitfalls of the system so that the authorities can take the necessary corrective measures.

Two, as a consequence of the pressure from below, there is a strong move to rectify the weaknesses in the 73rd and 74th Constitutional Amendments and to amend the Constitution further. The National Commission to Review the Working of the Constitution recommended several important changes in its recently submitted report to make the working of local governments efficient and corruption-free.<sup>30</sup> Mention may be made of the following recommendations: strengthening the State Election Commissions which supervise panchayat and municipal elections every five years; increasing the functional domain of the local bodies by categorically declaring them “institutions of self government” with exclusive functions and separate fiscal domains;<sup>31</sup> giving powers to recruit and control the staff required for service in their jurisdiction; ensuring completion of audits of the accounts within a year, with audits to be conducted by the Comptroller and Auditor-General (CAG) of India or the CAG to lay down accounting standards for the panchayats and municipalities. If carried out, these recommendations will have far-reaching positive consequences. The state governments also continue to amend their Acts from time to time for better implementation of the Constitutional provisions.

Empowering the citizens socially throughout the country is not an easy task for India, where illiteracy, superstition, the grip of religious fundamentalism, poverty, criminalisation of politics, community divides and deprivations of all kinds exist in a big way. Special measures have to be taken to invest in people and in their education in order to enhance their capabilities and to break away from patron-client relations, which are

<sup>30</sup> The National Commission to Review the Constitution was set up by the Government of India in February 2000. The Commission submitted its report on 31 March 2002.

<sup>31</sup> Although functions are demarcated by the Constitutional Amendments to the local bodies and State Finance Commissions are in place, the local government institutions, both rural and urban, are not receiving adequate funds. The budgetary allocations for local government institutions from the Union (federal) budget is only about 10 per cent. Only in the state of Kerala is about 45 per cent of the budget allocated to local governments as untied funds. The states of Gujarat, Maharashtra and Karnataka allocate approximately 25 per cent of their respective state budget to local bodies. The Government of India has plans to give incentives to states to provide funds directly to local bodies.

deep-rooted in Indian society. The sure way to change the social character of the gram sabhas and panchayats at all three levels is to concentrate on education and awareness-building (political education) and bring into the system those sections of society that have suffered exclusion until the present day.

The political parties have a major role in confronting the challenges facing the local government system in India today. West Bengal and Kerala provide the best examples. The Left parties in these states have shown the political will for strengthening the local government institutions and this has strengthened their roots in the rural constituencies. The positive impact of this has been the eradication of the type of clientelism in these states which we witness in the most backward regions of India.

We have emphasised that control from below is of great significance because the thrust of our argument is for democratic decentralisation. In the early stages of democratic functioning, control from below is important, which is not, of course, to devalue the controlling instrumentalities created by the Constitution and subsequent legislation. In fact the constitutional bodies have to be independent, autonomous institutions of integrity. Wherever any violations of these principles occur, there is great pressure from civil society to see that they are brought to meet expected standards and made strong. The judiciary, the election commissions at central and state level, the Comptroller and Auditor-General in India have a reputation for independence. The essential conditions for the interplay between the people at the lower level and bureaucracy and officialdom at the state and central levels are: (a) less political interference in the functioning of the constitutional bodies as well as other departments of government; (b) autonomy in their areas of activity; (c) people-oriented policies and programmes; and (d) measures to ensure transparency and accountability.

In spite of norms set by legislative measures there is a tendency among the officials at the higher levels to stick to their old work culture of appeasing their 'bosses', which quite often goes against the people's interests by twisting the existing laws and rules. Therefore pressure from below is a must at this critical stage in the transformation of India's polity, economy and governance.

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# Bolivia's Popular Participation Law: An Undemocratic Democratisation Process?

David Altman with Rickard Lalander<sup>1</sup>

## 1. Introduction

Bolivia, one of the poorest and most socially diverse countries in the Western Hemisphere, began in the mid-1990s the most comprehensive political reforms in the field of decentralisation in Latin America in the last twenty years. The Popular Participation Law, *Ley de Participación Popular* (LPP), approved in Congress on 20 April 1994, subdivided Bolivian territory into 314 municipalities, which were each given a per capita share of national resources. Known as the principle of *coparticipación* (co-participation), twenty per cent of national state expenditure is now disbursed among the local governments (municipalities) on a per capita basis. Indigenous, peasant communities (*campesinos*) and neighbourhood organisations gained legal status as formal representatives of their constituent populations through Grassroots Territorial Organisations (OTB). The OTBs from a single canton elect representatives for a municipal Vigilance Committee (*Comité de Vigilancia*, CV), whose role is to oversee municipal expenditures and budgets.

Citizens directly elect their *alcalde* (mayor) and *consejales* (councillors) who sit on the municipal council and run the day-to-day operations of the municipality with the responsibility of coordinating most local needs, such as education, sanitation, infrastructure, irrigation and sports facilities (Centellas, 2000). Each municipal government must prepare a five-year Municipal Development Plan (PDM) based on the Manual of Participatory Municipal Planning developed by the Vice Ministry of Popular Participation, and must also draw up an Annual Operative Plan (POA). In short, these reforms have been so radical that they have hardly left anyone indifferent: for their promoters, the reforms have been “revolutionary”, for their critics the reforms are almost the work of the devil and they have been reviled as “damned” (Blanes, 1999).

The aim of this study is to assess the relationship between decentralisation reforms and the improvement of local governance. We are, of course, aware that “support for decentralisation tendencies is more closely related to existing specific institutional arrangements, and to the degree to which it is expected to influence one's own position, than to its intrinsic merits”

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(De Vries, 2000: 193). There is therefore an ongoing debate to identify the real intentions of those who fostered decentralisation and the results of these very original reforms. It is not surprising that there is as yet no agreement on the achievements of these reforms owing to the short period of time that has elapsed since they were introduced and the fact that their impact has varied. What is true is that the reforms were rapidly implemented, without a clear idea of the potential problems they might pose, based on the optimistic ideal that participation develops and fosters the very qualities necessary for it, and that the more individuals participate, the better able they become to do so (Pateman, 1970: 42).<sup>2</sup>

All these reforms came about in a very diverse milieu. At the very heart of South America, Bolivia has an area of almost 1.1 million square kilometres (equivalent to the size of Spain and France combined) and just over eight million inhabitants (similar to that of Sweden). Bolivia is the country in the region with the largest indigenous population; more than 50 per cent of its population are directly descended from native Americans. It has four official languages (Spanish, Quechua, Aymará, and Tupiguaraní), and only 40 per cent of the population speak Spanish as their mother tongue.<sup>3</sup> It is considered the Tibet of the Americas with more than 30 per cent of its territory lying over 3 000 metres. If urbanisation is considered one measure of economic development, it is interesting to note that 36 per cent of Bolivians live in communities of less than 250 inhabitants (Molina Saucedo, 1997: 34). It is possible to grasp the rural-urban gap through a series of basic indicators. To name just a few: while infant mortality in the urban areas is 50/1000, in the rural world this index rises to 90/1000; the illiteracy rate is 5.3 per cent in urban areas but 33.7 per cent in rural regions; indigence accounts for 21.6 per cent of urban areas and an astonishing 58.8 per cent in the countryside. Finally, a typical citizen in urban areas has almost nine years of formal education, while in rural regions the figure declines to three years (Muñoz, 2001; Programa de las Naciones Unidas para el Desarrollo, 2002).

Iván Arias, current Vice-Minister of Popular Participation, describes the LPP as a painful process: "We have experienced 170 years of backwardness and we are not going fill the gap in only eight years. This is our tragedy: we have given huge amounts of resources and money to the municipalities, but our poverty is bigger than that. We have designated over USD 1 200 million to municipal governments, but I am also talking about 170 years of misery, of forgetfulness, so despite this, in eight years we have achieved something".<sup>4</sup> Arias' statement makes sense. By almost any measure, Bolivia is the poorest country in South America and one of the poorest in the world (over 65 per cent of its population lives below the national poverty line).

<sup>2</sup> Promoters of the reforms have also pointed out other intellectual support for the decentralisation. Included among these are Tiebout (1956), Oates (1972), Terrazas (2000).

<sup>3</sup> <http://www.ceprobol.gov.bo/infbolivia/infobol.htm>

<sup>4</sup> Interview, March 12, 2002. All interviews were held in Spanish. Translations by the author.

**Table 1. Bolivia's human development index in a comparative perspective**

	World rank	Life expectancy (at birth, in years)	Adult literacy rate (% aged 15 and above)	Combined primary, secondary and tertiary gross enrolment ratio (%)	GDP per capita (PPP USD)	Human Development Index (HDI) Value
Argentina	34	73.4	96.8	83	12 377	0.844
Chile	38	75.3	95.8	78	9 417	0.831
Uruguay	40	74.4	97.7	79	9 035	0.831
Costa Rica	43	76.4	95.6	67	8 650	0.82
Mexico	54	72.6	91.4	71	9 023	0.796
Panama	57	74	91.9	74	6 000	0.787
Colombia	68	71.2	91.7	73	6 248	0.772
Venezuela	69	72.9	92.6	65	5 794	0.77
Brazil	73	67.7	85.2	80	7 625	0.757
Peru	82	68.8	89.9	80	4 799	0.747
Paraguay	90	70.1	93.3	64	4 426	0.74
Ecuador	93	70	91.6	77	3 203	0.732
Dominican Rep.	94	67.1	83.6	72	6 033	0.727
El Salvador	104	69.7	78.7	63	4 497	0.706
<i>Bolivia</i>	<i>114</i>	<i>62.4</i>	<i>85.5</i>	<i>70</i>	<i>2 424</i>	<i>0.653</i>
Honduras	116	65.7	74.6	61	2 453	0.638
Nicaragua	118	68.4	66.5	63	2 366	0.635
Guatemala	120	64.8	68.6	49	3 821	0.631
Haiti	146	52.6	49.8	52	1 467	0.471

Source: United Nations Development Programme, 2002.

Although in recent years, Bolivia has had one of the best economic performances in Latin America with an average growth of 3.8 per cent in the past five years (Economic Intelligence Unit<sup>5</sup>), it stills ranks very low in the UNDP Index of Human Development (see Table 1).<sup>6</sup> The gender gap too is one of the broadest in the western world. For instance: 10.1 per cent of legislators are women, and on average, women receive 62 per cent of men's salary. They account for 14.9 per cent of municipal councillors and, as we will see, they are systematically marginalised. Nor is Bolivia immune to huge amounts of corruption and heavy bureaucracies. Regarding perceived corruption, it ranks 89th in a survey of 102 countries made by

<sup>5</sup> <http://db.eiu.com>

<sup>6</sup> Although growth has been important in the late 1990s, some consider it an "artificial" construction given the extensive resources injected into Bolivia's economy due to privatisations.

Transparency International in 2002 and is, after Paraguay, the worst placed of seventeen Latin American countries.<sup>7</sup>

Bolivia also has one of the heaviest bureaucracies in the world. For instance, a Bolivian entrepreneur needs over USD 2 600, and must overcome more than twenty different stages of red tape and wait at least 82 days before starting a business (*La Razón*, 13 December 2001). Nonetheless, despite all the aforementioned difficulties, elections in Bolivia are free and fair, and as O'Donnell (2001: 601) argues, Bolivia has succeeded in the transition from being one of the most unstable regimes in the continent to a fully integrated member of the club of democracies in the region.

This account is organised into seven sections. The next section describes the Bolivian process of democratisation since 1982. The second section describes the motivations behind those who approved the Law on Popular Participation in 1994 and those who opposed it. In the third section, the major institutional features of the LPP are depicted, and in the following section some examples are presented of how this new institutional setting works in practical terms. After reviewing the “real” experiences in the field, in section five we discuss the most important institutional shortcomings of the LPP. In section six we review some of the ideas on what factors might affect the prospects of municipal success. Finally, some conclusions are drawn from this experience of the LPP, suggesting some possible areas of support from the development assistance community.

## **2. Democratisation, municipalisation, and participation since 1982**

Economic chaos, including high levels of hyperinflation, and problems of political legitimisation characterised the first post-authoritarian government of Bolivia (1982–1985). Hernán Siles Zuazo from the MNR-I (MNR<sup>8</sup> de Izquierda) party faced severe obstacles in his attempts to stabilise the impoverished economy of Bolivia, whose hyperinflation rate reached 26 000 per cent in 1984–1985. As a symptom of this instability, during his term of office over eighty individuals served in the cabinet (Gamarra, 1997). Siles Zuazo did not enjoy the broad coalition that the following governments were able to build and economic turmoil forced him to resign one year before his mandate expired.

It must be said that although Bolivia has a presidential regime, it presents a unique feature that differs from other presidential regimes. If no presidential candidate wins more than fifty per cent of the valid votes, instead of having a runoff, it is the legislative assembly that elects a president

<sup>7</sup> [http://www.transparency.org/pressreleases\\_archive/2002/dnld/cpi2002.pressrelease.en.doc](http://www.transparency.org/pressreleases_archive/2002/dnld/cpi2002.pressrelease.en.doc)

<sup>8</sup> *Movimiento Nacionalista Revolucionario*. See Appendix for a list of all Bolivian parties with parliamentary representation 1982–2002.

from the two front-runners of the first election (before the reform of 1995, it was from among the three front-runners). Presidential candidates usually have to survive three distinct coalition-forming stages. “First, they have to form an electoral coalition able to win the elections and thus to obtain a secure position for the critical second round. The next stage is a round of manoeuvring and coalition-building in Congress in order to elect a president. When the Congress has finally elected a chief executive, the coalition breaks down as presidents scramble to form a governing coalition” (Gamarra, 1997).<sup>9</sup>

Paz Estenssoro from the MNR received the support of the right wing ADN<sup>10</sup> to sign the *Pacto por la Democracia* in order to become president for the period 1985–1989.<sup>11</sup> Very early on in his government (29 August 1985) Paz Estenssoro approved the Decree *Nueva Política Económica* (NPE) – New Economic Policy (Decree 21060). This decree meant a liberalisation of the economy, the “ascendance of the private sector as the central actor in economic development, recuperation of state control over key state enterprises that had been captured by factional cliques and labour groups” (Gamarra, 1997: 373). As Mayorga states, it is interesting to note that the Decree 21060 was the first structural adjustment programme in Latin America to be carried out under democratic conditions (1997: 146).

Jaime Paz Zamora from the centre party MIR<sup>12</sup> was elected president for the period 1989–1993. In an unlikely electoral coalition, in alliance with ADN, his government signed the agreement *El Acuerdo de Todos* (Everyone’s Agreement). During Jaime Paz Zamora’s government the first attempts at decentralisation were made, albeit unsuccessful given the strong veto players (the unions, several political parties departmental authorities, etc.). Nonetheless, the first coherent programmes for municipalisation arose from the centre left party CONDEPA<sup>13</sup>, and from the MNR. But the government, instead of having a proactive attitude to advance its agenda was more concerned with reacting to the ceaseless drain of legitimacy of its regime.<sup>14</sup> During Paz Zamora’s administration, the major op-

<sup>9</sup> For some authors, the Bolivian political system gives the president the legitimacy of a parliamentary system and the strong powers (avoiding votes of no-confidence and fragmentation) of a presidential system (Centellas, 1999). Mayorga (1997) terms this regime as “presidentialized parliamentarism” and Gamarra (1997) terms it “hybrid presidentialism”.

<sup>10</sup> *Acción Democrática Nacionalista*

<sup>11</sup> A secret addendum, signed by the MNR and ADN in May 1988, provided for rotation of the presidency between the two parties given that the MNR pledged to support the former dictator Banzer’s candidacy in the 1989 general elections (Gamarra, 1997). The definitions of the ideological placement of political parties are based on Coppedge (1998) and Alcántara Saez (several years).

<sup>12</sup> *Movimiento De Izquierda Revolucionaria*

<sup>13</sup> *Conciencia de Patria*

<sup>14</sup> Zamora became president, like Allende in Chile in 1971, as the third candidate in the presidential election.

position candidate and then president, Gonzalo Sánchez de Lozada (MNR) organised a think-tank called *Fundación Milenio* for the advance of an electoral and constitutional reform, where decentralisation occupied a key place (Molina Monasterios, 1997: 124). By the end of Paz Zamora's administration, in August 1992, several political parties and the Bolivian Confederation of Private Entrepreneurs agreed on constitutional reform. During the same year, a massive demonstration in La Paz – the “March for Territory and Dignity” – changed the government's understanding of the ethnic question. Sánchez de Lozada, in a clever political move, appointed Víctor Hugo Cárdenas (from the feeble highland indigenous party known as the MRTKL-Katarista Movement, dating from the 1970s) as vice-president. Sánchez de Lozada claimed: “We need to include Indians, otherwise we risk a movement such as the Shining Path in Peru” (Lee Van Cott, 2000a: 144).

Gonzalo Sánchez de Lozada (MNR), forming an alliance with the centre-left *Movimiento Bolivia Libre* (MBL) and the populist *Unión Cívica Solidaridad* (UCS), was elected president for the period 1993–1997. His electoral platform was called *Plan de Todos* (Plan for Everyone) where he promised a “social market economy” alternative to the rigid continuity of the New Economic Policy. The plan included seven pillars: attracting investment, creating jobs, ensuring economic stability, improving health and education, encouraging popular participation, changing the role of the government, and combating corruption (Gamarra, 1997: 385). It was during this administration that the laws concerning popular participation (LPP) and administrative decentralisation (LDA) were approved. Knowing that congressional affairs might be an inconvenience for advancing his political agenda, “Sánchez de Lozada named an independent cabinet made up of technocrats and businessmen and left Congress in the hands of the MNR's old guard” (Gamarra, 1997: 386).

During his administration the *Unidad de Participación Popular* (UPP) was created, then called the *Comisión Nacional de Participación Popular* (CNPP), which eventually came to have a pivotal role in the decentralisation process. Sánchez de Lozada's innovation was his willingness to incorporate existing ideas and popular practices into public policy. What was remarkable is, as Lee Van Cott argues, that “only a few years earlier the same ideas had been considered subversive, unconstitutional, and even communist” (Lee Van Cott, 2000a: 160).

The process of reform, explained in greater detail below, lacked a comprehensive debate including the most relevant civil society organisations. Some consider this was so, given the mistrust that most of the UPP's social scientists and Sánchez de Lozada himself showed towards each of other sectors (i.e. *comités cívicos*, labour, and political parties). The *comités cívicos* were seen as representing exclusively elite urban interests. “The labour sector (and particularly the Bolivian Workers Central Union) still clung to a



traditional corporate, hierarchical and Marxist paradigm of political organisation. This solution had proved unmanageable during the 1982–1985 economic crisis. Finally, the political parties were seen as making up a separate class in itself. This class was strengthened by the electoral system (which requires that all political office-holders be members of political parties) and a familial system of state-patronage sharing” (Centellas, 2000).

Once the former dictator General Hugo Banzer had been elected President of the Republic for the period 1997–2002, he halted the municipalisation and decentralisation reforms. As long as he was president, until 2001<sup>15</sup>, municipalisation did not occupy a top position on the agenda, although he promised during his electoral campaign to maintain and expand the LPP (for example, to increase co-participation to 25 per cent). As a matter of fact, most of the staff of the SNPP, the former CNPP, were fired or resigned. “The secretariat itself was downgraded to a low-priority vice-ministry in the Ministry of Sustainable Development and placed under the direction of the NFR, a coalition partner with a regional base in Cochabamba. According to USAID staff, the SNPP is politically isolated and lacks technical capacity” (Lee Van Cott, 2000a: 210). Moreover, “other functions were distributed to three separate ministries, threatening the fluid coordination of rural, urban, and institutional development . . . Professionalism and institutional continuity have been sacrificed to political patronage: Staff turnover attributable to the change in government” (Lee Van Cott, 2000a: 211).

Given that Banzer dominated all departments in political terms but lacked major support at the municipal level, he shifted the emphasis of the programme from the municipal to the departmental level. Although for the former ADN administration (1997–2002) the Law on Popular Participation is good so long as it is a tool for poverty alleviation, nothing more, it is expected that municipalisation programmes will once again occupy a central place on the agenda with the re-election of Sánchez de Losada as the President of the Republic (2002–2007).

### **3. The 1551 Law on Popular Participation**

We must go back in time in order to understand the approval and implementation of the Law on Popular Participation. After the return to democratic governance in 1982, political elites began to suggest constitutional reforms to respond to the severe crisis of governability and economic stability that accompanied the difficult transition to democracy. Nonetheless, “cases of devolution such as that in Bolivia have proven difficult to explain

<sup>15</sup> He left office for health-related reasons and maintained his role in the ADN until just before his death on 5 May 2002.

particularly since decentralisation's beneficiaries had virtually no influence whatsoever in national politics" (Barr, 2001). Neither was it, as noted by Dillinger, "a reluctant and disorderly series of concessions by central government attempting to maintain political stability" (Daniere and Marcondes, 1998). As Donna Lee Van Cott asserts, "the exclusionary, managed, top-down process of democratisation can be attributed to the fact that there was no coherent political movement for the radical transformation of state-society relations from below, apart from the weak indigenous organisations and the writings of politically impotent intellectuals" (Lee Van Cott, 2000a: 150).

Then why would a government promote a bill that undermines its capacity for pork barrel distribution and erodes many of its niches of electoral clientelism? What is the rationale behind this move? Who were the major opponents of the LPP and how did they react to the bill? Whose interests were threatened? Before answering these questions, let us take a look at the very first article of the LPP that describes the spirit of the reforms:

The present Law acknowledges, promotes, and consolidates the process of Popular Participation, incorporating the indigenous communities, indigenous peoples, rural communities and urban neighbourhoods in the juridical, political and economic life of the country. It is aimed at improving the quality of life of Bolivian women and men, through a fairer distribution and better administration of public resources. It strengthens the political and economic means and institutions necessary for perfecting representative democracy, incorporating citizens' participation in a process of participative democracy and guaranteeing equality of representation at all levels between women and men (Government of Bolivia, 1994. Author's translation).

On the one hand, the authors of the LPP described their effort as aimed at improving the quality of democracy in Bolivia. For some scholars, the goals of political or fiscal administrative efficiency were only secondary (and often sacrificed to the goal of intensifying democracy) and a way of asserting the territorial presence of the Bolivian state through new means (Centellas, 2000; Gray-Molina, 2001). In this way, the process of electoral competition ought to be extended all the way down from the national to the municipal level of government, bringing, as Whitehead says, "public-policy decisions much closer to the people" (Whitehead, 2001a: 8). On the

other hand, other scholars claim that the LPP was the only way of consolidating the structural reforms of the early 1990s (Blanes, 1998).<sup>16</sup> “More significant than the level of economic growth or administrative efficiency achieved by the Law on Capitalization and the LPP, is that the two combine to support a neoliberal agenda that aims to guarantee transnational firms access to low-cost Bolivian natural resources and labour while also creating the social stability those firms need to operate” (Kohl, 2002: 17).

In other words, one of the main goals of the transfer of responsibilities from the central government to the municipalities was to weaken and even break unions.<sup>17</sup> Also, others would claim that “by supporting the municipalities, the central state was able to neutralise the autonomist tendencies of regional elites while promoting the participation of civil society in municipal government” (Goudsmit and Blackburn, 2001: 587–88). In this way, decentralisation was conceived as a tool to overwhelm the pseudo-federal ideas of some departments, of which Santa Cruz played a significant role.

International donor institutions indicated that the LPP would also serve as a targeted poverty-alleviation programme, although this concern is not “directly addressed by Popular Participation” (Gray-Molina, 2001: 73). Some actors of the former ADN government claim that the LPP and LDA were both included as fundamental instruments of the overall poverty reduction strategy (Behrendt, 2002: 6). The decentralisation and popular participation reforms were introduced with the ambition of creating better conditions to combat poverty at the local (municipal) level, *inter alia*, through a more efficient municipal administration, as well as a more sustainable and less dependent financial situation for municipal governments.

Sánchez de Losada had good reasons to believe that a programme of decentralisation using the departments as decentralised units could seriously undermine the pivotal role that the MNR has in Bolivian politics. Given that the MNR bases of support are supposed to be concentrated in small businesses and among agricultural workers, and that parties other than the MNR dominate departmental capitals, a departmental decentralisation

<sup>16</sup> As Kohl argues, “privatizing state-owned enterprises has fragmented Bolivia’s labor movement, as each group of workers must negotiate with different employers rather than with the government” (Kohl, 2002: 6).

<sup>17</sup> This is not new in the region. For instance Castiglioni considers that decentralisation in Chile under Pinochet’s rule had two guiding principles: decentralisation was promoted mainly so that (a) the beneficiaries of social services could participate in the decision-making process and (b) to insulate the state from social conflicts. As she says (2001: 55), “the first objective was never achieved (and probably never sought). However, the second goal was attained in the health care and educational sectors by removing the state as the main target of collective action.” Castiglioni interviewed Mercedes Cifuentes, former Chief of Budget, Ministry of Health in Chile, who said that the main goal behind transferring responsibilities to the municipalities “was to break unions, because prior to these reforms, teachers would go on a national strike and would deal with the minister (the same was true with doctors). But when you distribute responsibilities among municipal governments, the employer is the mayor, so instead of having a national union you have 350 small unions” (Ibid.).

would have been negative for the MNR. Also, Sánchez de Losada was afraid that Bolivian departments would become like Argentinean provinces, where provincial governors did not have any trouble forcing the national executive to adopt certain measures. He wanted to avoid the possible collective action of the nine departmental bosses, whereas with over three hundred leaders, his possibilities of breaking an eventual coalition increased.<sup>18</sup>

There is no clear consensus on the 'real' motivation for the reforms, but certainly each of the aforementioned reasons is plausible. Along these lines, Toranzo categorises the structural and political pressure for constitutional reform in Bolivia as an accumulation of problems.<sup>19</sup> These consisted of rapid, unplanned urban migration and the concurrent depopulation of rural areas (see also Peirce, 1997); the economic and political marginalisation of the 42 per cent of the population that continued to reside in rural areas; the lack of a national economic market to integrate producers and consumers; the absence of state services and authority in the majority of the territory; the fragmentation, clientelism, weak institutionalisation and lack of representativity of the political party system; as well as the second highest poverty rate in the Western Hemisphere (Lee Van Cott, 2000a: 134).

Furthermore, the diffusion of ideas played an important role for popular participation and decentralisation and Bolivia served as an important testing ground for international organisations (Kohl, 2002). In this way, several prestigious organisations and individuals helped with the drafting of the LPP (Lee Van Cott, 2000a: 291).<sup>20</sup> "Strengthening civil society and democracy by promoting NGOs, the new gospel actively promoted by international development agencies, has spawned a debate on the politics of civil society building and tensions between state and non-state actors" (Nederveen Pieterse, 2001: 409). As a matter of fact, "the costs of implementing the reform – particularly of establishing the decentralised authorities and furthering their institutional development – have so far been financed almost entirely by cooperation agencies" (Thévoz, 1999: 171).

Disagreements with the LPP were not at all insignificant and still remain. The subtle and almost secret way in which this law was designed and approved yields the basic seed of its opposition. First, opposition came from those groups excluded from the drafting process who believed that they had the right to participate. "The most vociferous supporters of decentralisation in Bolivia had always been the regional elites who clamoured for more resources and the devolution of power to the nine Departments

<sup>18</sup> Interview with Centellas, 28 April 2002.

<sup>19</sup> Interview, 28 February 2002.

<sup>20</sup> Among these institutions and people we find the National Endowment for Democracy, Carlos Santiago Nino, Juan Linz, Bolívar Lamounier, Carina Perelli, and Arturo Valenzuela. It is clear that the parliamentarian inclinations of Valenzuela and Linz played a significant role in the draft, particularly regarding the constructive vote of non-confidence.

which make up the country” (Goudsmit and Blackburn, 2001: 587–88). These groups never had any interest in decentralisation and democratisation within their respective departments, however.<sup>21</sup> But opposition also came from those groups whose interests were threatened: *comités cívicos*, the labour sector, or political parties (including many members of the governing MNR itself). Anthropologists argued that the indigenous cultures would be destroyed if any criteria with respect to gender roles in community authority structures of planning practices were imposed on them (Lee Van Cott, 2000a: 163). For others, “when revenue sharing was first proposed, critics suggested that popular participation would simply ‘decentralise corruption’” (Kohl, 2002: 14). Parties other than the MNR considered the LPP to be an MNR conspiracy to dominate municipal governments.

Everyone showed some opposition, but given that the objectives were very precious, nobody would frontally oppose them . . . Workers' and farmers' unions were also opposed since they were used to negotiating directly with the minister at the central level. With this reform we were creating 315 ministers and they would thus have to channel their demands in other ways. The political parties were also all against the LPP, even those belonging to the governing coalition. It was only the will of the president that allowed the project to proceed.<sup>22</sup>

Regardless of the strong opposition, Sánchez de Losada had enough political resources to approve the law and since then, there has been a spectacular growth in the transfer of funds to municipal government. From 1993 until 1997, the total funds transferred to the country's municipalities increased by over 350 per cent (USD 52 million in 1993 to USD 184 million in 1997). Moreover, if only rural regions are included, the growth in the transfer of funds becomes impressive, over 2 000 per cent in less than three years (from USD 4 million in 1993 to USD 83 million in 1995) (Thévoz, 1999).<sup>23</sup> In the following section the major institutional features of the LPP will be described.

#### **4. The institutional structure of the LPP**

The LPP involved the creation of new institutions that are absolutely unique in the region, although some of them were based on experiences in other countries, such as the Colombian or Cuban municipalisation pro-

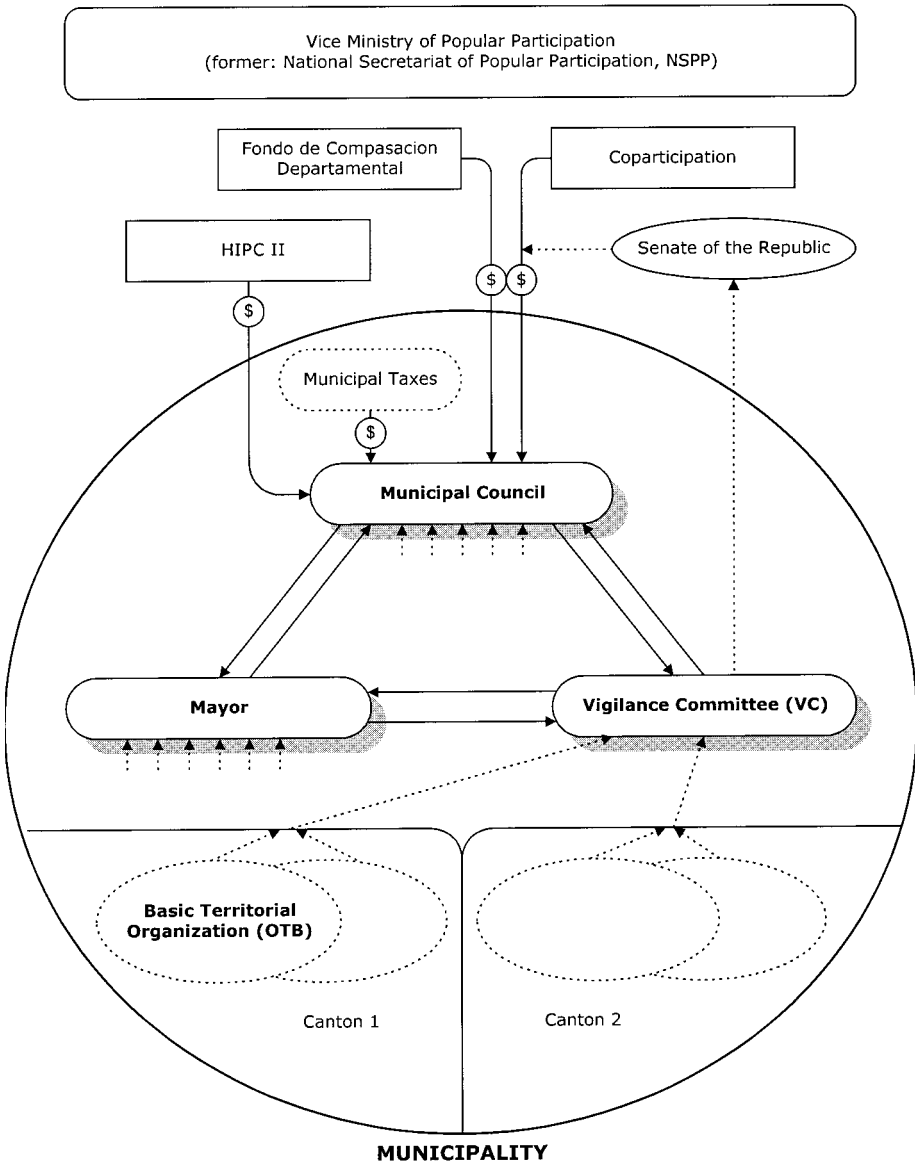
<sup>21</sup> Interview with Molina Saucedo, 26 February 2002.

<sup>22</sup> Ibid.

<sup>23</sup> For a detailed account of the sums transferred from the central government to municipal governments, see Faguet (2000), and Ministerio de Desarrollo Sostenible y Planificación, (2000b).

grammes,<sup>24</sup> and were the inspiration of reforms in other parts of the region. Figure 1 presents a simplified scheme of a municipality, its institutions and the basic external environment. The bold line represents a given municipality in Bolivia; within which are four major institutions: OTBs, the municipal council, the mayor and the Vigilance Committee.

**Figure 1: Institutional features of municipal governments**



<sup>24</sup> Interview with Moulina Saucedo, 26 February 2002.

Each municipality has a government composed of the municipal council and its mayor (*alcalde*), who are elected directly by the citizens. The municipal council has between five and eleven remunerated members depending on the population of the municipality. To be nominated as councillors, these people must run under the umbrella of a political party and a system of proportional representation is used to account for distribution among parties. To be mayor, it is also necessary to belong to a political party and to receive more than 50 per cent of the votes of the citizens in the municipality, otherwise the municipal council elects the mayor from among its members, which is normally the case. Article 201 of the new Constitution allows for a “constructive censure vote”, which means that if a mayor has not been elected directly by citizens, he or she can be censured by three-fifths of the municipal council and any councillor can replace him or her in the position.

Geographically, each municipality is divided in cantons, which is the smallest Bolivian territorial unit. Within cantons, there are Grassroots Territorial Organisations (OTB), the very basic unit of social representation (recognised by Decree 23858, September 1994). After years, maybe centuries, of indifference by central authorities, *campesinos* and indigenous communities, as well as other types of local social networks gained legal status through the creation of over 14 000 Grassroots Territorial Organisations nationwide.<sup>25</sup> Acknowledgement by central authorities is straightforward but must fulfil one condition: there can be no geographic overlap.<sup>26</sup> Each OTB belongs to a single municipality and elects only one representative to the CM. The law recognises the following tasks of OTBs:

To identify, set priorities, participate and cooperate in the implementation and administration of projects for the public welfare, giving preferential attention to formal and informal education, the improvement of housing, health care, the widespread practice of sports, and the improvement of the methods of production. b) To participate and cooperate, working together in the implementation of public works and the administration of public services. c) To cooperate in the maintenance, safeguarding and protection of both municipal and communal public facilities. d) To inform the community of actions undertaken on their behalf. e) To coordinate administrative and judiciary resources to defend the rights acknowledged by this Law. f) To promote the equal access and representation of

<sup>25</sup> By 1997 there were 14 879 OTBs registered (11 585 *campesino* communities, 2 766 urban neighborhood committees, and 528 indigenous communities). Lee Van Cott, 2000a: 184.

<sup>26</sup> One councillor from the municipality of Cotoca, also of the Santa Cruz Department, complained from the very beginning of the problems arising from the implementation of the LPP. For instance the way in which municipal borders were traced produced a series of conflicts, “when they drew the municipalities on the Bolivian map, the pencil line on the paper was a kilometre wide in real life . . . We do not know where our jurisdiction begins and where it ends” ( Interview with Franco, 15 March 2002).

women and men at all levels (Law 1551: article 8. Author's translation).

Each canton nominates one person to the Vigilance Committee (CV). A CV is a local watchdog organisation that oversees municipal expenditures and budgets, and also reviews and approves the local budget and annual action plan, and proposes new projects. It has the ability to trigger a mechanism that suspends all disbursements from central government to the respective municipal governments if it deems that such funds are being misused or stolen. By law, those who form the CV do not receive any form of economic or material compensation.<sup>27</sup>

Each municipality has three major sources of funding: co-participation, departmental compensation funds (*Fondo de Compensación Departamental*), and municipal taxes.<sup>28</sup> The backbone of decentralisation in Bolivia is the automatic and permanent transfer of twenty per cent of national resources from national taxes to municipalities on a per capita basis and used for public services, known as we previously mentioned, as co-participation. These funds may be suspended by a mechanism that the CV may activate.

Overall, the co-participation procedure has drastically increased the income of municipal governments (see Table 2). While in 1993, the three major cities (La Paz, Cochabamba and Santa Cruz) received over 90 per cent of the share of revenue, in 1997 their share had decreased to barely 40 per cent.

<sup>27</sup> The provision reads: I. An Oversight Committee shall be formed for each Municipal Government for the purpose of linking the Grassroots Territorial Organisations and the Municipal Government in the exercise of the rights and duties established in this Law. The Oversight Committee shall be composed of a representative from each Canton or District in the jurisdiction, and shall be elected by the respective Grassroots Territorial Organisations and have the following attributions: a) To ensure that the municipal resources for Popular Participation are fairly and equitably invested in the urban and rural population, acting as a liaison to ensure that the Grassroots Territorial Organisations exercise the rights acknowledged by this Law. b) To ensure that no more than fifteen per cent of the Popular Participation resources are assigned for the Municipal Government's regular expenses. c) To give opinions with respect to the budgeting of Popular Participation resources and the submission of reports of expenses and investments carried out by the Municipal Government. These opinions should be made public using whatever means of communication, with a copy to the Executive Authority such that this authority acts in accordance with the responsibilities recognised by the Political Constitution of the State. II. In the municipal jurisdictions where there is only one Canton, the Grassroots Territorial Organisation shall elect three citizens to form the Oversight Committee, and where there are two Cantons, each one of them shall elect two representatives. III. The Oversight Committee shall determine its own organisation and work, as well as the election of its directors (Law 1551: article 10).

<sup>28</sup> Given that Bolivia qualified for substantial debt relief from the World Bank, there is a fourth source of income, that is the World Bank's "Highly Indebted Poor Countries" (HIPC) programme. For information about the programme, see: <http://www.sns.gov.bo/indicahipic8.htm>.



**Table 2. Revenue-sharing before and after the reform (USD thousands)**

	1993	1994	1995	1996	1997
Capital cities	48 056	44 672	53 360	62 747	71 299
	(92.1%)	(52.1%)	(39.0%)	(39.0%)	(38.8%)
Rest of the country	4 103	40 948	83 390	98 314	112 339
	(7.9%)	(47.8%)	(61.0%)	(61.0%)	(61.2%)
Total	52 158	85 620	136 50	161 061	183 638
	(100%)	(100%)	(100%)	(100%)	(100%)

Source: Gray-Molina, 2001, p. 70.

Although each municipality has to draw up an Annual Operating Plan (POA) based on a fixed pattern given by the Vice-Ministry of Popular Participation, each of these local governments may dispose of any resource and taxes transferred to them as it sees fit. The only restriction is that a limited percentage of municipal resources be used for municipal administration activities (Thévoz, 1999). When the Law was approved, up to fifteen per cent of the co-participation funds could be utilised for current expenses (salaries, wages, light, water, telephone, etc.). Apparently this amount was insufficient – under the argument that salaries were low and it was impossible to hire competent professionals – and in 2001 this stipulation changed to allow up to twenty-five per cent of municipal income to be used for municipal administration.

## 5. Some experiences of the LPP reform

During our field stay in Bolivia, we had opportunities to study the situation and experiences of three municipalities and the ways in which they functioned, namely the principally Quechua-dominated *Cliza* and *Tarata* of the Cochabamba department and the ethnically more mixed municipality of *Porongo* in the Santa Cruz department. All three are considered to be relative success stories in their contexts, where clear changes in municipal government and economic activity have been observed in a relatively short time.<sup>29</sup> In Tarata, the first rural municipality we visited, we managed to interview the Mayor, Johnny González, Councillor Hermógenes Ortiño, and the President of the Vigilance Committee, Raúl Mamani, all three of whom came from different political parties.<sup>30</sup> All the informants of this municipal government, including the representative of the VC,

<sup>29</sup> Population figures show that Cliza has 17 509 inhabitants, Tarata 8 406 inhabitants, and Porongo 8 272 inhabitants, according to statistics from an amendment to the Popular Participation Law by supreme decree No 24202, 23 December 1995.

<sup>30</sup> Tarata consists technically of both rural and urban areas and the population is dominated ethnically by Quechua and mestizos.

agreed that, despite its shortcomings, the LPP has resulted in an overall positive change for the municipality. First of all, the budgetary aspect was emphasised: from zero to a substantial amount. Tarata used to be a poor municipality, but the LPP has meant an economic base support. The Mayor exemplifies this in the following way: before the LPP and LDA reforms, the municipality had an income of Bolivianos (BOB) 120 000 per year and now this figure is over BOB 300 000. Nonetheless, their larger ambition is to become economically sustainable.<sup>31</sup>

Although since 1994, conflicts between the CV and the mayors have dominated relationships with the present municipal government, collaboration between the mayor, the CM and the CV normally functions well. When evaluating this process, Raúl Mamani explains: "It is a bit sad, but in general our experiences are more negative than positive. Our staff have not been sufficiently competent in administration. The fact that the politicians and technicians are elected politically and that the members of the Vigilance Committee do not receive a salary is an important factor. We will need to make clear the function of each public official. The Law [LPP] is good, but we are not 100 per cent satisfied."<sup>32</sup>

In the second of the studied Cochabamba municipalities, Cliza, with a seemingly more mixed population than that of Tarata, and evidently of a more commercial character, we received corroboration on some of the feelings towards the LPP that were exposed in Tarata. Several of the municipal councillors in Cliza expressed criticism of the LPP and the way it functions in reality. Although they recognise the LPP as a formal provider of instruments for power division, and the importance of the guaranteed financial contribution to the municipal level, they still hold that not enough resources are transferred to this level. They argue that the ministries and departmental *prefecturas* receive the major proportion of the money. Furthermore, Tito Jaldín Delgado, Vice-President of the Tarata Municipal Council, points out contradictions between the LPP, the national judicial system and the National Law on Dialogue – LDN – (*Ley de Diálogo Nacional*) that, according to him, open the door for corruption.<sup>33</sup>

As for the OTBs and the CVs as channels for demands, another municipal councillor, David Vocal Gragada, compares the situation with that of a child begging to be given something, e.g., "I want, I want, I want etc. to eventually not receiving anything", a situation that soon becomes indefensible. He emphasises the need for more resources for capacity-building of the CV members, and the importance of the relationship between the CV and the CM. Regarding the OTBs, David Vocal suggests that they ought to learn to meet their own responsibilities as well, and not only to keep demanding.<sup>34</sup>

<sup>31</sup> Interview with González, 2 March 2002.

<sup>32</sup> Interview, 2 March 2002.

<sup>33</sup> Interview, 2 March 2002.

<sup>34</sup> Interview, 5 March 2002.

Of all the Bolivian municipalities, the peasant district of Porongo in the Santa Cruz Department of Southern Bolivia is probably the internationally (and domestically) most well-known success story regarding decentralisation and popular participation. The current mayor of Porongo, British born Mike Bennett, has received a lot of credit for this success. This has been accomplished through, among other things, the development of projects aimed at attracting investors, such as a road project that aims at connecting Santa Cruz with Brazil. Porongo thus enjoys a relatively advantageous strategic situation, and besides, as Bennett explains, it also forms part of a National park, which could contribute to making the area even more attractive. One project aims at building an artificial lake, together with municipal companies. During our interviews with Bennett in Santa Cruz and Porongo he presented some personal experiences of how municipal politics have worked in practice after the LPP and decentralisation reforms. First of all, like our previous informants, he underlines the importance of the LPP and the fact that the practical transfer of money to the municipality signified that the citizens viewed that the mayor now had money.

Bennett himself was elected in 2000, and initially he met with forceful resistance, primarily from a group led by the former mayor. Recently elected, he describes how, on occasions he had confronted aggressive crowds demanding his resignation, and how he had once had to defend himself by speaking for 14 hours to a crowd of 500 people (who had come with protest boards and even threatened him with dynamite). He also comments on the fact that at first the CVs did not function and had worked in two distinct camps. For Bennett, a major problem is that CV members do not receive a salary. In comparison, municipal policemen receive free lunch from the municipality budget, despite this not being funded in the official budget. Here too, the existing political party system is part of the problem, with forces within the large parties that resist possible salary reforms. Furthermore, many municipalities seem not to have understood that they have to struggle to achieve a generation of economic flow and projects at the local level, and not just wait for the transfer of capital from the centre. As Bennett argues, the system has not yet matured sufficiently and the fragmentation of the political system is one source of that situation. At the same time, though, he recognises that Porongo, for one, has enjoyed important economic assistance from international donors.<sup>35</sup>

Another field to be studied in order to be in a better position to review the possibility of smoother political leadership in the municipality lies in the political composition of the municipal council (CM). When the mayor has the support of the majority in the CM, governing and projects become

<sup>35</sup> The fact that Porongo received a large infusion of foreign assistance might be used to claim that this municipal government is unrepresentative for the purposes of this research. Nonetheless, its reception of international assistance is in itself a consequence of sound economic and social programmes.

easier, but with weak representation in the CM, this situation constitutes a clear bottle-neck. With regard again to the CVs, in many municipalities they understand their own function as a breaking mechanism. As for other existing problems related to the LPP, possibilities exist, for example, in building schools, but one cannot be sure about the availability of teachers. The low salary of teachers is another problem, particularly in rural areas.<sup>36</sup>

We also had the opportunity to interview seven leaders from one of the most excluded groups in Bolivia: the indigenous Guaranís. In addition to giving some suggestions for party and electoral reforms, the Guaranís expressed doubt on the LPP for three major reasons: a) lack of consolidation of the law itself, b) lack of distribution of information, and c) lack of capacity-building among local community leaders. These seven leaders, belonging to the Guaraní People's Assembly, the APG (*Asamblea del Pueblo de Guaraní*), were very explicit about a number of problems and weaknesses of the LPP and the political system at local levels.<sup>37</sup>

At the neighbourhood level, one fundamental problem is that the OTBs in small villages lack organisational abilities. This and their lack of economic resources and often inferior position *vis-à-vis* the mayor, results in the Vigilance Committees being considered too weak. To confront this situation, Guaraní activists try to change the LPP financing system which they consider to be political manipulation. Several meetings have been organised with municipal councils and CVs. An illustrative example of the lack of political Guaraní representation and power is that, of all the municipalities in the Bolivian Guaraní zone, only one mayor is of Guaraní origin. At the same time, there are around thirty Guaraní councillors. The Guaraní People's Assembly expressed a feeling that they have been out-manoeuvred by the political parties, and they lack confidence in them. They do not feel that any of the national political parties could represent their interests and therefore the Guaraní Assembly would welcome the possibility to present candidates in political elections without having to go through the national political parties.<sup>38</sup>

Summing up the arguments and disappointments, they primarily feel that the national level sets up the political rules, which makes it difficult for the grassroots to be heard, especially for a minority like them. They are therefore inclined to consider the LPP project as a kind of Utopia.

The above-mentioned examples illustrate some experiences of mixed urban-rural municipalities, and through our informants we generally gained the impression that, despite criticism, decentralisation and the LPP have functioned better in such areas than in urban municipalities. Adam

<sup>36</sup> Interview with Bennett, 27 February 2002.

<sup>37</sup> Interviews, 7 April 2002.

<sup>38</sup> They argue further that the political movement of *el Mall'ku* (Felipe Quispe) does not function as an attractive alternative for them, since it mainly takes the interests of Aymara, another native group, into consideration. They maintain that the Guaranís are organisationally different from Aymaras and Quechas, in that, for example, they are not unionised.

Behrendt describe some of the difficulties and advantages of implementing the LPP in urban areas (basing his findings on a study of La Paz and Santa Cruz). It is argued that the LPP and decentralisation were originally oriented towards smaller rural areas, and initially not even perceived as useful for urban areas. It is important to consider the recent urbanisation of Bolivia that has taken place (a 57-per cent urban population according to the statistics used by Behrendt).

The size of a municipality is, as argued, decisive for the probable outcome of ambitions to introduce and develop the LPP, and the larger the municipality, the more complex becomes the scenario: “[S]ocial complexity and political intervention and corruption often completely circumvent the procedures and processes mandated by law. Due to the higher levels of resources and larger size of the operations, there are far more opportunities for rent-seeking and the payment of political favours, as well as outright embezzlement, than in smaller rural governments” (Behrendt, 2002: 8–9).

Anthropologist Lesley Gill has studied the situation in the large city of El Alto, on the periphery of La Paz and her experience is that the LPP and the new governmental unit that was introduced through decentralisation are confronting a series of problems. Even if the defenders of the LPP hold that El Alto is relatively favoured by the reform due to its size and that it would thereby receive a larger share of the co-participation funds than smaller cities, other voices are more sceptical. Privatisation and decapitalisation of the state can contribute to confusion as to whether the twenty per cent of state revenues really go to improvements for El Alto. One of the most critical neighbourhood leaders expressed the following in late 1994:

[The Popular Participation Law] goes against the interests of the popular classes. Why? Because we have confederations at the national level. We have federations that are departmental or regional in the case of El Alto. And we have the *Central Obrera Boliviana* [Central Bolivian Union Confederation]. And the unions and the *juntas de vecinos* group themselves around these national and departmental entities that make pronouncements and organise pressure tactics. But what happens with the Popular Participation Law? Each neighbourhood committee is empowered to make its own arrangements with the state without consulting any overarching organisation. The intentions of the government are to divide and rule. It intends to debilitate the main organisations by putting local leaders in charge of small areas and [tying them directly to the state]. This guarantees that there are no solid institutions that question the government. It reduces the power of the popular movement (Gill, 2000: 49).

## 6. Shortcomings of the LPP

In this section some of the most relevant problems in the structure of the LPP are tackled. First, we analyse the relationships between the mayor, the municipal council and the Vigilance Committee, relationships that sometimes seem unbalanced. We then focus on the existing structural problems of corruption, gender, and political parties. It is extremely unlikely that the LPP will disappear from the horizon in any foreseeable future and our findings show that no political party proposed the abolition or a major restructuring of the LPP during the 2002 or even the 1997 presidential elections.

The reason might be, as Lee Van Cott asserts, that “anyone trying to dismantle the LPP would encounter stiff resistance in rural areas, where the law has brought dramatic improvements in living conditions, if not political participation” (Lee Van Cott, 2000a: 205). As the reforms were undertaken at different levels of society and the state, their problems are also many and at distinct levels. Again, Arias’ words describe this climate: “we have quite new municipal governments, very weak institutionalisation, huge disparities between large and small municipalities, and the structure and rules are not suitable for handling these disparities. We have tremendous instabilities; bureaucrats have not yet acquired professional skills. We are experiencing the consequences of a significant illiteracy rate and the forgetfulness that existed regarding certain areas of the country.”<sup>39</sup>

### 6.1 *The imbalance in relationships between the municipal council, the mayor, and the Vigilance Committee*

As we saw in the previous sections, in the event that no candidate receives more than fifty per cent of the vote, the municipal council elects a mayor from among its members. This mechanism has been over-exploited even in cases where the mayor has indeed received more than fifty per cent of the vote and it is popularly known as *pasanaku*, i.e. the systematic utilisation of no-confidence votes in the CM. It is known that the national leaders of political parties encourage council members to censure opposition parties if they are in power. The newspaper *La Razón* calculated that this resulted in 248 censures during 1999.<sup>40</sup> Sometimes discrepancies in political coalitions in the same municipal council produced a *bicephalous alcaldía* over a period of six months as in the municipality of *Viacha* (Sánchez Serrano, 2001: 271).<sup>41</sup>

<sup>39</sup> Interview, 12 March 2002.

<sup>40</sup> <http://www.cedib.org/cgi-bin/>

<sup>41</sup> By bicephalous *alcaldía*, Sánchez Serrano means that two different groups of communal leaders claimed authority of the municipal council at the same time.

There are three main problems associated with *pasanaku*. The first is the obvious instability that they give to municipal programmes over time. The second is the administrative discontinuity that prevents municipal governments from creating bureaucratic cadres. A third problem is that municipal governments, in order to retain power, distribute resources in a particularistic way, opening the door for corruption. "If the goodies of governing cannot be enjoyed in an exclusive manner, the most rational behaviour is to alternate the power in a civilised manner: one mayor per year, one party per year, one coalition per year..." (Ministerio de Desarrollo Sostenible y Planificación and Popular, 2000c: 9). As the Vice-Minister of Popular Participation argued: "it is fine as a principle, it might work well in Germany or Sweden, but here in Bolivia, instead of producing political stability it created a hell of a lot of instability".<sup>42</sup>

In the context of a fragmented party system with weak roots in society, the kind of power-sharing that is sometimes applied by means of circulation of posts between parties breeds corruption as it implies that there is no opposition. Every party has the opportunity to dig in for a short period of time. Hence, a vital opposition, which is still absent in the Bolivian context, seems to be one important means of transparency and control.<sup>43</sup>

The LPP created the Vigilance Committee, a powerful institution, to scrutinise the municipal government and the mayor. There are a number of factors that prevent the CVs from functioning efficiently. The first is that over 85 per cent of OTB leaders are functionally illiterate (Lee Van Cott, 2000a: 186). The second is that the LPP did not provide resources for the CVs to act in an effective manner. They continuously claim that CMs do not provide enough information or even material resources for them (such as offices) to accomplish their tasks (Lee Van Cott, 2000a: 185). Of course, the political establishment in the communities is well aware of this situation and takes advantage of the weaknesses of the CVs.

In contrast with the CV, the mayor has everything. The CV lack logistical support. They must monitor every project which is without doubt a monumental task. The law does not give much power to the CVs and mayors know this very well. If they give something with this hand, they take it away with the other. . . . The mayor has his killers. Sometimes they beat CV members, sometimes they want to kill them, and sometimes simple threat is enough. In Tapacarí for example, such violence occurred several times because the CV questioned the mayor on a regular basis.<sup>44</sup>

<sup>42</sup> Interview, 12 March 2002.

<sup>43</sup> This has been one of the strongest arguments against implementation of parliamentary regimes in the region: Without strong political parties, parliamentarism would result in a *Mafioso* style of government.

<sup>44</sup> Interview with Zambrana, 5 March 2002.

As pointed out in the introduction to this chapter, corrupt behaviour clearly exists in Bolivia, making it one of the most corrupt countries in the 2002 survey carried out by Transparency International. The question is whether the new institutional framework helps to minimise this phenomenon or worsen it. Our informants clearly testified that with the current institutional procedures specified by the LPP at the municipal level, it is very hard to control corruption.

There is a lot of corruption over here. Everyone has heard of the famous “10 per cent” for example. Let us say that a municipal government makes a call for a tender. The NGO that wants to compete knows that it must give 10 per cent of the budget to the municipal government. I believe that this was not anticipated in the LPP and that the bribery has already been institutionalised. This is lamentable and I am sure it occurs in over 90 per cent of all municipalities. I’ll give you an example; if you give 10 per cent of the budget and the work costs 50 000 dollars, you are giving 5 000 dollars to the government. If they receive 5 000 dollars, how are you going to control that NGO? It’s even worse because the contractor has to recoup the money it gave to the mayor and municipal council and usually does so by lowering the quality of the work. This is a constant problem that leaves the communities with a bunch of bad work. Work that shows cracks even before inauguration. This is very difficult to deal with, and the CV lacks the resources to confront it and to avoid this phenomenon.<sup>45</sup>

If the CV wants to suspend the flow of money from the co-participation to the CM, it has to put its case before the National Senate, which is the institution authorised to approve the suspension. There are two problems associated with this mechanism. The first is that the outcome of this procedure is highly contingent on the political colour dominating the Senate and that dominating the CM.<sup>46</sup> If they match, it will be extremely difficult for the CV to be successful in stopping the co-participation. Second, this institutional mechanism does not allow the possibility of suspending part of the co-participation flow, just a total embargo of it.

For instance, the CV may suspect that there are some irregular procedures in the assignation of a public service from the municipal government to a private enterprise. If the CV wants to suspend the co-participation and succeeds before the Senate, the total flow of money is suspended. The suspension affects all the funds going to the CM, not only the resources for

<sup>45</sup> Ibid.

<sup>46</sup> The LPP in its Article 11:3 stipulates that “if the National Senate agrees with the denunciation, the revenue sharing disbursements for Popular Participation, corresponding to the Municipal Government denounced, shall be suspended. Until the National Senate resolves the situation definitively, the co-participation resources shall continue to accumulate in the account of the Municipal Government in question.”



the specific public service and presumed act of corruption, but also for water, electricity, salaries and other basic expenses. Some CVs are therefore reluctant to trigger the process because of the high costs involved, not only in going to the Senate in La Paz, but also the collateral damage to the community.

One of the limitations of the LPP is the process of freezing funds [co-participation]. In Tacopaya the CV did everything to freeze funds and the mayor laughed ironically. The CV had to go to the Departmental Council, where the majority of members belonged to the mayor's party [ADN]. Obviously, the claims did not get to the Senate. Even assuming the claims had arrived at the Senate, nothing would happen because the ADN dominates the Senate itself. Then, what happens? This guy from the CV comes to this strange world and he is told, "go to La Paz". . . . Only once did I witness the freezing of funds. It was in the municipality of Chimoré. What happened there? Well, the municipal government belonged to an opposition party. That is the policy: if you are not from the ruling party you are already frozen, otherwise nothing will ever happen. It is a great limitation. If you follow all the steps to trigger this mechanism you will never be able to freeze funds, it is impossible.<sup>47</sup>

The General Accounting Office (*Contraloría General*) prepared a report that shows that of the USD 404 million used by the municipal government between 1994 and 2001, over USD 12 million were misused (over three per cent). The most common irregularities that account for these misused millions included: appropriation of the state's assets, per diems for people who did not turn up where they should have, Christmas presents, alcoholic beverages, etc. (*Los Tiempos*, 6 March 2002). Of course, this does not mean that the USD 12 million are the full total of misused funds. As mentioned above, although CVs are aware that some resources are misused, they do not trigger the mechanism to freeze the funds because of the consequences for the community as a whole. Also during the aforementioned period, only 229 of 314 municipalities were checked (72 per cent).

So far it is too early to assess whether the new institutional framework will help to minimise the phenomenon of corruption. The fact that municipalities have access to a fixed twenty per cent of the national budget helps to control the allocation of resources from a national perspective. Nonetheless, this does not necessarily mean that corruption has been reduced. In a way, as Zambrana argues, corruption has been democratised.

<sup>47</sup> Interview with Zambrana, 5 March 2002.

## 6.2 Political parties and decentralisation

As observed, the fact that political parties dominate the institutions of the LPP has a tremendous impact on the way in which the system, as designed by the law, functions as a whole. In more general terms, one of the most crucial variables in understanding the relationship between decentralisation and democracy is the nature of the party system (Gordin, 2002). In view of the highly fragmented party system in Bolivia (see Appendix), Gamarra and Malloy consider that the parties are the origin of the difficulties in governance, but that they are also the only real source of a political solution (Gamarra and Malloy, 1995: 399). Institutional features such as centralisation of nominations and vote-pooling help Bolivian political parties to maintain an impeccable discipline in Congress (Crisp, 2002). Nonetheless, they are weakly organised internally, where the most important institution is personal loyalty. This centralisation of political parties and their failure to include social demands on their agendas has prevented the parties' establishment of roots in society, which is a critical dimension of party system institutionalisation (Mainwaring and Scully, 1995).

Given that political parties interfere in nominations and in policy-making at the local level, several voices at the municipal level argue in favour of a more locally anchored nomination process. Of course, the free nomination of independent candidates to any of the municipal elective positions would not be a panacea; and may bring about the development of local *caudillos* (strongmen) that would not necessarily behave more democratically than national parties. Ivan Arias reflects on this issue, arguing that: "this is one of several criticisms that are made by theorists. Look, I agree that we must break the monopoly of political parties. But let me say that this monopoly in Bolivia is already broken. It works two ways. Not only do the political parties go to the local level to find candidates to run with their ballot, but also the candidates place conditionalities upon the political parties."<sup>48</sup>

Moreover, so far we cannot draw the conclusion that the LPP has tended to favour the parties that had approved the law. On the contrary, we can say that the law has not been strong enough to maintain their electoral capital. As Gray-Molina argues, political parties that were antagonistic to the reform in 1994 succeeded in increasing their representation to an extraordinary degree (2001: 67). "Despite predictions by opposition parties that the MNR would contrive to buy the elections through its control over the distribution of co-participation funds, the MNR actually garnered fewer votes than in 1993, prevailing mainly in areas of historic strength. The autonomy of the LPP mechanisms had equalised the ability for political parties to manipulate the LPP for electoral ends" (Lee Van Cott,

<sup>48</sup> Interview, 12 March 2002.

2000a: 187). As can be seen in Table 3, the political parties that were the most zealous supporters of the LPP did not capitalise from the reform.

For example, in 1999, the MNR, the presidential party, lost over 34 per cent of the municipalities it had held in 1995. The MBL<sup>49</sup>, a close ally of the MNR, lost almost 70 per cent of the municipalities between the election of 1995 and those of 1999. The largest opposition parties did capitalise in terms of municipal control between the municipal elections of 1995 and 1999. While the ADN showed a growth of over 200 per cent, the MIR succeeded in improving its municipal positions in an impressive +300 per cent. Therefore, the idea that the MNR would contrive to buy the elections through its control over the distribution of co-participation funds is at best a mistake.

**Table 3. Total municipalities obtained by political parties**

Party	1995 *	%	1997	%	1998	%	1999 *	%
MNR	121	(38.91)	108	(34.73)	84	(27.01)	80	(25.48)
ADN	38	(12.22)	48	(15.43)	61	(19.61)	78	(24.84)
MIR	18	(5.79)	22	(7.07)	33	(10.61)	61	(19.43)
UCS	39	(12.54)	42	(13.50)	37	(11.90)	32	(10.19)
NFR	-	-	1	(0.32)	1	(0.32)	14	(4.46)
MBL	45	(14.45)	44	(14.15)	47	(15.11)	14	(4.46)
CONDEPA	26	(8.36)	20	(6.43)	23	(7.40)	4	(1.27)
MSM	-	-	-	-	-	-	13	(4.14)
MAS-U	-	-	-	-	-	-	10	(3.18)
FRI	2	(0.64)	2	(0.64)	2	(0.64)	2	(0.63)
PBC	-	-	-	-	-	-	4	(1.27)
PS	-	-	1	(0.32)	1	(0.32)	1	(0.31)
MRTKL	5	(1.63)	5	(1.61)	6	(1.93)	-	-
FSB	-	-	-	-	-	-	1	(0.31)
IU	11	(3.54)	11	(3.54)	11	(3.54)	-	-
EJE	2	(0.64)	4	(1.29)	2	(0.64)	-	-
MPP	1	(0.32)	2	(0.64)	2	(0.64)	-	-
MKN	-	-	1	(0.32)	1	(0.32)	-	-
Indep.	3	(0.96)	-	-	-	-	-	-
TOTAL	311	(100)	311	(100)	311	(100)	314	(100)

\* Municipal elections

Source: Ministerio de Desarrollo Sostenible y Planificación (2000a: 14)

<sup>49</sup> *Movimiento Bolivia Libre*

Although decentralisation may foster citizen participation, measured in voter turnout, citizens' disaffection with certain characteristics of local institutions might eventually work otherwise, discouraging citizens from participating (O'Neill, 2002). By way of illustration, "the turnout in the municipal elections of 1999 was smaller than the 1991 local contests that were restricted to the largest cities and towns in the country" (O'Neill, 2002: 19). See Table 4.

**Table 4. Voters' turnout**

Elections	1989	1991	1993	1995	1997	1999	2002
	National	Municipal	National	Municipal	National	Municipal	National
Voter turnout	73.60%	N.a.	72.20%	63.56%	71.40%	59.44%	63.4%

Source: Author's data and Centellas at [http://www.centellas.org/politics /data.html](http://www.centellas.org/politics/data.html)

Another problem relates to the fact that sometimes municipal government programmes, translated into the Annual Operative Plans (POAs), are automatically accepted without significant revision. The POAs must have the approval of the prefectures. Each departmental government contains a department responsible for approving POAs called the "Department of Municipal and Community Strengthening". Nonetheless, in many departments bureaucrats are appointed because of their political loyalties and competence plays no role. As Zambrana stated, "since they don't want any problems, they automatically approve the POAs".<sup>50</sup>

After the LPP had been launched and was in force, Sánchez de Lozada suggested that a coordination mechanism would be needed in order to avoid "fragmentation and atomisation of municipal development" (Lee van Cott, 2000a: 173). The Law on Administrative Decentralisation (LDA) and Decree 24206 on the organisation of the executive power at departmental level were passed in 1995 to accompany the LPP and to clarify previous doubts on the respective roles of the distinct political-territorial authorities. One statement of the fifth article of the LDA notes that a task of the Prefectures is to: "Promote Popular Participation, and to channel the requisitions and relationships with indigenous, peasant, and neighbourhood organisations through the corresponding instances of the executive power."<sup>51</sup>

Furthermore, according to the supreme decree on the organisation of executive power at the departmental level, every Department has its official Secretariat of Popular Participation. The general functions of the Secretariat are, *inter alia*, to execute the processes of popular participation

<sup>50</sup> Interview, 5 March 2002.

<sup>51</sup> Author's translation

(guided by the National Plans of Municipal Strengthening and peasant communities, indigenous people and neighbourhood associations). The Secretariat is also intended to “identify the units, organisations, and financial resources that contribute to institutional strengthening of the municipal governments, peasant communities, indigenous people and neighbourhood associations” (Article 18:a–b).

In the light of these aspects, as Donna Lee van Cott asserts, the LDA can be considered more a law of *deconcentration* than of decentralisation. No autonomous decision-making powers were transferred to the departmental level. The LDA has also made some clear positive contributions regarding the rationalisation of administrative functions of departmental and national governments *vis-à-vis* the municipalities. It has also helped to eliminate previously corrupt and inefficient departmental development corporations. At the same time, the municipalities also have political representation at the departmental level. The LDA established the institutionalisation of Departmental Councils, with municipal councillors (elected by his/her colleagues) from each province. The Departmental Council is supposed to play both a consultative and a watch-dog role. Still, with the maintenance of the system of nominated Prefects, the departmental political-territorial level will fail to develop into a new autonomous sphere of political expression, as advocated by the civic committees (Lee van Cott, 2000a: 173–74).

### 6.3 The gender gap and decentralisation

As previously mentioned, the gender gap in Bolivia is one of the widest in the western world. Although several measures for gender equality, such as affirmative action in party electoral nominations, have been adopted in recent years, traditional machismo prevails, which twists the law for its own purposes. For instance: the law stipulates that at least twenty per cent of the parties’ candidates must be female. Parties do indeed place twenty per cent of female candidates on their lists, but they do so at the very end of the lists or as substitute candidates. Although women constitute 14.9 per cent of the titular councillors, they account for 70.8 per cent of the substitutes (487 men and 1182 women). Women also account for eleven per cent of the OTB representatives (Ayo Saucedo, 1999: 97). As Lee Van Cott suggests, “women were the clear losers in the 1995 elections, as the new powers and resources assigned to municipalities attracted more male candidates”. As seen in Table 5, in 1993, 229 of 858 municipal councillors were female (26.7 per cent); “in 1995 only 135 of 1624 (8.3 per cent) were female. . . . Campesino and indigenous women fared even worse. They won only 22 out of 135 female council seats in 1995, and only 2 mayorships” (2000a: 187–188).

**Table 5. The gender gap 1993–1999**

	1993		1995		1999	
	No:s	%	No:s	%	No:s	%
Mayoralships			311	100	314	100
Women mayors	19		11	3.5	23	7.3
Indigenous and campesino men (mayor)			464	28.6		
Indigenous and campesino women (mayor)			2	0.6		
Municipal councillors	858	100	1624	100	1685	100
Municipal councillors total women	231	26.9	135	8.3	252	14.9
Indigenous and campesino women (councillors)			22	1.3		

*Source:* Author's calculations based on Ministerio de Desarrollo Sostenible y Planificación (2000a), Ayo Saucedo (1999), Lee Van Cott (2000a).

But women's representation is not the only problem to be faced. Traditional societies are very male-oriented and women are not only marginalised from any sort of communal decision-making, but also violence against women is a common phenomenon. "Until now abuse of women exists. For instance, you are carrying the baby, going to plant potatoes, taking care of the animals, and still a man comes and shakes you, beats you, mistreats you . . . I have seen much of it in Bolivia".<sup>52</sup>

There is major disagreement regarding the origins of machismo in Bolivia. Iván Arias, the Vice-Minister of Popular Participation told us, "we have advanced considerably as far as legislation is concerned but very little in our cultural patterns of behaviour. Listen to me, not everything coming from the original cultures is good. Our original culture is tremendously male-oriented, and tremendously with a big T".<sup>53</sup> Women are systematically excluded from communal decisions. Nonetheless, there are a few opportunities to include women and other excluded groups in planning processes and communal decision-making. Johnny Zambrana led one of these projects in the Cochabamba region.

As it was impossible to make women participate with men in planning for community needs or petitions, we carried out an experiment. We decided to separate women on the one hand and the men on the other in order to draw up a list of their needs. Women give priority to drinkable water, then irrigation, then forest, etc. We studied the demands of the separate groups and they did not match. For example the men's first priority was a soccer field. Overall, the needs of the sexes were similar but they occupied very different places in their respective preference lists. We decided to gather both

<sup>52</sup> Interview with Colomi Montaña, 5 March 2002.

<sup>53</sup> Interview, 12 March 2002.

groups together and open the discussion. At this point, women spoke without vacillation. So we asked the women why they gave top priority to water, and they said, “because we waste lots of time going so far to get it” (sometimes they had to go more than a kilometre). We asked the men the same question and they answered “because we want to have something to do after work.” I said, fine, now you have to settle this matter among yourselves: what is more important: water or the soccer field? . . . After much discussion the men accepted. The soccer field was reduced to fourth place and the creation of a forest entered second place. . . . The discussion was very interesting and maybe the most positive experience is that men are slowly realising that women's participation is positive and that they should organise themselves.<sup>54</sup>

But discrimination against women is also of a structural nature. To name a few indicators: women's illiteracy rates are 22 per cent while the male rate is 10 per cent (Calla Ortega, *et al*, 2000: 67). Women's income is also significantly lower than that of males: in urban areas they earn 67 per cent of the average male income, and in rural regions, 36 per cent of men's salaries (*La Razón*, 3 Aug. 2002). Angelica Colomi describes the situation:

Well, I did not know the laws, what the laws were, or how I should deal with this matter of being a union leader. Nor did I know what an institution was, or the meaning of “the institutions”. . . . I did not know what politics were either, what is that I asked myself. . . . One weakness of women is that they do not know how to read or write. . . . It is on these occasions that men take advantage of us. Some of them are professors, some have become qualified, others have been in politics and some have entered as mayors or councillors. Here is our weakness; here is where the great inequality is. We need higher qualifications, more education . . . We need to know the laws and how to handle them, and we need to know where the money comes from.<sup>55</sup>

However, it is not only structural factors, such as illiteracy rates, that undermine women's capacity to shape their future, the behaviour of men does not help to improve their situation. In the words of Johnny Zambrana:

They look for excuses. They do not tell them straight out to resign their office but in fact they do so. They continuously isolate them. For example, when the councillors arrange a meeting in the capital of the municipality, they tell women: “let's meet at seven and we'll go together”, but then, in fact, they leave at six. When a woman misses

<sup>54</sup> Interview, 5 March 2002.

<sup>55</sup> Interview, 5 March 2002.

more than a certain number of meetings, men have an excuse to kick her out from the council . . . Here in Cochabamba the situation is terrible, right at the beginning they say to the women that they do not want them there and that they prefer their male substitutes. In Arque things are very different, they appreciate women. But this is the point: it is like this here because the mayor and the president of the council technicians prefer it that way. They have gone through university, they have studied, and they say that “this woman must stay in her place”.<sup>56</sup>

By extending the quota system to the electoral municipal level, the LPP attempted to reduce gender inequalities by increasing women's representation. Although women won some terrain in political terms, the inertia of machismo is not eliminated by executive decrees and this is one of the aspects in which the LPP shows serious deficits.

#### 6.4 Other relevant factors with an impact on municipal success

It would be naïve to think that comprehensive reforms like the LPP and LDA would be implemented without major obstacles in a country like Bolivia. Any reform package of that kind would meet with problems, and “effective decentralisation requires strong leadership and effective bureaucracies staffed with honest and competent professionals, conditions not met in most lower-income countries” (Kohl, 2002: 4). The Vice-Minister for Popular Participation, Iván Arias, argues that the factor determining municipal success is “whether there is a culture of engaging in a dialogue or whether there is the culture of confrontation. Engaging in a dialogue brings confidence, confidence brings agreements, and when you reach agreements these are not only legal but also legitimate. This virtuous circle also has consequences for economic growth.”<sup>57</sup>

Obviously, engaging in dialogue is not the only key for achieving success at the municipal level. Like Behrendt (2002), Molina Saucedo considers population a critical independent variable in determining prospects for municipal success. For Molina Saucedo, in Bolivia a municipality that,

does not have an urban population of more than 3 000 inhabitants is not economically sustainable in the medium term. An urban population of over 3 000 inhabitants (regardless of the size of the rural population) has a critical number of people that generates significant economic activity and allows for tax collection and the like. At this population threshold, there is normally a physician. If there is a physician, somebody will open a pharmacy, the physician prescribes medicines, . . . there is also a lawyer and where there is a lawyer,

<sup>56</sup> Interview, 5 March 2002.

<sup>57</sup> Interview, 12 March 2002.



there is usually another lawyer to fight with. To summarise: there is a professional chain that ends up with a dentist. If there is a resident dentist, this is a sign of the generation of an economic surplus that allows people to go to the dentist. It seems that this is the last thing people do. . . . Economic sustainability exists in a municipality when production is a function of the region, where the mayor is not a *caudillo* but a manager between the public and the private spheres. . . . The municipalities that constitute a *mancomunidad* are advancing institutionally much faster than those that do not, they are taking off.<sup>58</sup>

Nonetheless, many communities show a persistent lack of institutional capacity, which is more evident among indigenous groups and is detrimental to community development. Some communities are obsessed with the construction of buildings but less so with the contents of these buildings. As Zambrana states:

The LPP has had many positive results. Nonetheless, in many places we lack a vision of the future, something that you can find in Arque but not in the other communities. For example, the fact that you build a nice little school or a modern polyclinic does not improve education or health. It does make a difference when you improve the curriculum, give people technology and make teachers study, but none of these things have improved, and it seems that we are in the very same situation as before. For example, the economy of the farmer has not improved at all, and many of the public works remain white elephants. I believe those who have written that the LPP has not thought in these terms. Education is still paralysed. Teachers have not been trained to apply the educational reform . . . it is a shame! The quality of life has hardly improved at all. Perhaps the only sector in which there have been small improvements is health, where people already go to visit physicians.<sup>59</sup>

Of course, for some people, the LPP is no more than a major strategy to strengthen the status quo. In the words of Felipe Quispe, the *Mallku* (Aymara leader):

Our slayers, our enemies created that famous Law on Popular Participation, and I curse it. . . . That popular participation is only destined for the towns so that they can build monuments of Simón Bolívar and Sucre, catholic churches, and that's all. The rest of the money has gone into the pockets of councillors and mayors. Nothing, absolutely nothing, comes into our communities. From this per-

<sup>58</sup> Interview, 5 March 2002. Two or more municipalities in joint action constitute a *mancomunidad*.

<sup>59</sup> Interview with Zambrana, 5 March 2002.

spective, this famous popular participation has failed, and I believe that over time the failure will become worse.<sup>60</sup>

At this early stage of the popular participation project, social capital seems to be an important factor in producing municipal development (Sánchez Serrano, 2001: 272). Nonetheless, from an institutional perspective, there are several possible twists to the law that might improve popular participation.

I believe that the key to a municipality's success is some sort of balance between the technical and practical worlds and the *campesino* one. In Arque we find this combination. When technicians are from the same place things work better. In Arque the mayor is a physician, and the president of the council is a sociologist, and the others are *campesinos*. Their education is crucial. In addition they guide the others. When *campesinos* are alone, the likelihood of confrontation among them is high, since there is no vision of the future. The only thing they are interested in are public works, public works, and more public works. In Arque on the other hand, they analyse the curriculum of educational programmes, they control the health system, and essentially they are asking themselves where are we going, what are we doing, are we going to have more professionals, what do we need now, and what will we need eventually? So far, it is not like it is in Arque in Tapacarí and Bolívar.<sup>61</sup>

In a recent report on decentralisation and its achievements and shortcomings for the Swedish Development Cooperation Agency, Sida, the research team concluded that the formal legal framework is necessary but not sufficient. Likewise they stated that:

Without a serious and systematic strengthening of the capacities of civil society groups and the development of democratic citizenship and culture throughout the fabric of Bolivian society and institutions, the decentralisation process will fail to achieve its desired potential in terms of development and poverty reduction and will continue to produce situations of exclusion (Behrendt, 2002: i).

## 7. Conclusions

The overall package of reforms on decentralisation and popular participation (including the LPP, LDA and LDN) opens up a new set of alternatives and avenues of participation, and may increase democracy at different levels through the empowerment of citizens. Political authority and decision

<sup>60</sup> Interview, 12 March 2002.

<sup>61</sup> Interview with Zambrana, 5 March 2002.

making are transferred to the municipal government, thereby increasing popular participation. Municipalities that had previously had no access to public goods, now have a fixed twenty per cent of the national budget at their disposition. These new institutions provide opportunities for previously excluded citizens and groups, especially indigenous people and women, in setting public policy priorities, producing a more representative local government.

Nonetheless, many municipalities are characterised by weak institutional capacity. Some confusion exists regarding the division of responsibilities between the distinct political-territorial levels (national, departmental, and municipal) and leads to the undermining of municipal institutional development. The complexity produced by the various parallel reforms contributes to inter-institutional confusion and problems in coordination and leadership at the different levels. Departmental *prefectos* are still nominated by the President of the Republic and tend to privilege municipalities with the “appropriate” party colour.<sup>62</sup> Departmental institutions are characterised by an inefficient functioning without any accountability mechanism towards the electorate.<sup>63</sup>

The jury is therefore still out regarding the impact of the LPP, leaving many scholars undecided. For some, “while Bolivia has substantially restructured its formal institutions of representation and governance to make them more citizen-friendly, neither citizens nor officeholders are yet convinced that these institutions have established a truly consensual framework for policy making, or become the ‘only game in town’” (Whitehead, 2001a: 14). Moreover, “in stratified societies with unequal distributions of land, wealth, income and access to human capital, developing power from the centre may only pass it on to powerful local elites who are even less responsive to the needs of their people. Without fundamental land reforms and universal education, local governments become an instrument of oppression in the hands of influential elites” (Nederveen Pieterse, 2001: 414). Rowland too, explicitly rejects the idea that “Bolivia has overcome one of the most often-cited dangers of decentralisation outside, the concentration of power in local political bosses or elites who use their posi-

<sup>62</sup> *Ley de Descentralización Administrativa*, Article 4. In the fifth article of the Administrative Decentralization Law, it is stated that a task of the Prefect is to “formulate and execute the departmental plans of economic and social development, in agreement with the norms of the National System of Planning; in coordination with the municipal governments of the Department and the Ministry of Sustainable Development and Environment, within the scheme of the General Plan of Economic and Social Development of the Republic.” Author’s translation.

<sup>63</sup> See for example the following statement by Arias (12 March 2002): “If we have undertaken an admirable reform at municipal level, we have failed at the departmental level. The prefectures interfere with municipal competencies, and instead of being arteries of communication, the prefectures act as arteries of obstruction. They do not fulfil their role, they are terribly politicized, and they do not assist municipal governments. In short, the greatest criticism of the decentralisation process is the failure of the departments. To a certain extent, the *mancomunidades* are the cause of deficiencies at the departmental level”.

tions to tyrannise and exploit residents” (2001: 1384). As Domingo (2001) argues, unless social exclusion and inequality are addressed, the viability of representative politics or democracy, in a comprehensive way, would be in doubt.

Bearing in mind the magnitude and scope of the reforms, it is expected that perceptions of the reforms vary significantly. While some of the respondents state that “the quality of life has hardly improved at all” or that “nothing comes into our communities”<sup>64</sup>, others claim that the reforms have “brought dramatic improvements in living conditions” (Lee Van Cott, 2000a: 205) or that “the LPP has contributed a good deal”.<sup>65</sup> This is simply because in some respects the reforms have had a positive impact, in others, negative or nil, and in the remainder, it is too early to assess.

Grindle (2000) argues that one of the temptations of advisors for these reforms is to expand the number of procedures in order to increase transparency and accountability. However, if the bottom line of these reforms is to augment the autonomy and responsibility of municipal governments, maybe we should try the reverse. Instead of adding procedures we should let municipal governments and communities do things in their own way, although, of course, not all municipal governments are ready to take such a step. However, we can assume that municipalities that have performed well in the last five years in terms of institutional stability and economic sustainability should have enough human and economic resources to manage themselves. These municipal governments should therefore be made accountable by using only *ex post facto* controls and not saturating them with bureaucratic procedures.

Bolivian political parties must transform and democratise themselves and there is no way in which Bolivia could institutionalise these reforms without competent political parties. Political parties are the only solution for a political culture that favours direct action. In Bolivia forms of protest such as strikes, blockades, work stoppages, hunger strikes, marches, and take-overs are daily events. “[Y]ears of such behaviour have led civil society to believe that these are the only valid forms of participation” (Peirce, 1997: 3–4; see also Whitehead, 2001b).<sup>66</sup> Yet, popular participation cannot advance further until political parties understand what they indeed are: parts and not the whole. Nonetheless, as Lee Van Cott clearly shows, “the LPP was in part a response to the failure of the political parties to integrate society and to aggregate and channel its demands” (2000b: 170).

<sup>64</sup> Interview with Quispe, 12 March 2002.

<sup>65</sup> Interview with Zambrana, 5 March 2002.

<sup>66</sup> As a matter of fact, this is one of the actions that most concerns the political elite of La Paz. Indigenous communities have traditional ways of holding public meetings and even resolving communal issues through popular assemblies, which at times include the adoption of measures or punishments that from a Western perspective would constitute gross violations of human rights.

At the municipal level, several reforms might help the functioning of popular participation and decentralisation. The LPP should allow individuals to run for mayor and the municipal council independently of political parties. A possible way to allow for this might be to require that the candidate be backed by at least five per cent of the citizenry in his/her community, i.e. by gathering the signatures of at least five per cent of registered voters. If we expect the members of the CVs to perform a serious and responsible job, the LPP should allow them to receive economic compensation. Given the partisan motivations of the Senate, some other institution should be responsible for the decision of whether or not to freeze co-participation funds; this role might fall to the General Accounting Office or the Office of the Ombudsman.

Of course, there is no guarantee that these independent auditing organs are politically independent and/or corruption free. Although the Comptroller General has a good reputation as exponent of modern public administration (Gray-Molina, 2001), there is also evidence that some of its external controls are counter-productive or ineffective (Sánchez de Lozada, 2001). Also, in the event of activation of the mechanism of suspension of funds, it would be beneficial if only parts of the co-participation funds were subject to the mechanism, giving the CV something like a line-item veto.

Given the lack of coordination of different levels of political aggregation and the existing pockets of corruption, development assistance from the international community should go directly to the municipal level. Education, especially for women, is critical if Bolivia is not only to develop economically but also to reconcile itself with its extremely rich and diversified traditions. This capacity-building is essential to improve the socio-economic conditions of citizens. Reading and writing are of course crucial, but equally crucial is the need for Bolivian citizens to understand that they are entitled to rights and that they also have obligations. During our stay in Bolivia we noticed in the dark rooms of ministries and public offices hundreds and hundreds of pamphlets, and other printed material that was aimed at explaining the LPP. One could legitimately ask why they were there, and also, why a written campaign was undertaken when there is such a high degree of illiteracy. The use of mass media rather than printed matter, especially radio and television, might be a better tool for ensuring citizen participation, explaining citizens rights, and the functioning of the LPP.<sup>67</sup>

<sup>67</sup> It is interesting to note that powerful economic cliques, that are mainly concentrated in the metropolitan areas of La Paz, Cochabamba, and Santa Cruz, dominate the mass media in Bolivia. In addition to this axis, there is hardly any local or significant mass media in the country. Assistance from the international community should also consider the approval of seed-money and resources to the development of regional and local media in the language that the majority of the population of the region understands (Aymará, Quechua, Guaraní, etc.).

Of course, as we write this, we recall our meeting with a young Aymarán woman who, a few years ago, was not able to read and write and had no idea what an institution was. Today she is able to analyse a POA and to complain about the low quality institutionalisation of the popular participation programme. Thus, despite its problems, we should not underestimate the impact of the decentralization project in Bolivia.

## Appendix

### Party composition of Chamber of Deputies in Bolivia (percentages, 1982–2002)

	Party	1982	1985	1989	1993	1997	2002
Mov. Nac. Revolucionario	MNR	26.50	33.08	* 30.77	40.00*	20.00	27.69*
Acción Democrática Nacionalista	ADN	18.80	31.54	* 29.23*		24.62*	3.85*
Mov. De Izquierda Revolucionaria	MIR		11.54	25.38*		17.69*	20.00*
Unión Cívica Solidaridad	UCS				15.38*	16.15*	3.85
Nueva Fuerza Republicana	NFR						19.23
Movimiento Indigenista Pachakuti	MIP						4.62
Movimiento al Socialismo	MAS						20.77
Conciencia de Patria	CONDE-PA			6.92	10.00	14.62*	
Izquierda Unida	IU			7.69		3.08	
Movimiento Bolivia Libre	MBL				5.38*	3.85	
Partido Socialista-Uno	PS-1	8.55	3.85				
Falange Socialista Boliviana	FSB	2.56	2.31				
Unidad Democrática Popular	UDP	36.75*					
Fr. Democrático Revolucionario	FDR	3.42					
Revolucionario Autentico	PRA	1.71					
Mov. Indio Tupaj Katari	MITKA	0.85					
Mov. Indio Tupaj Katari Uno	MITKA-10.85						
MNR de Izquierda	MNR-I		6.15				
MNR Vanguardia	MNR-V		4.62				
Frente del Pueblo Unido	FPU		3.08				
Partido Demócrata Cristiano	PDC		2.31				
Tupac Katari de Liberación	MRTKL		1.54				
Eje de Convergencia Patriótica	EJE				0.77		
Acuerdo Patriótico	AP				26.92		
Alianza Renovadora Boliviana	ARBOL				0.77		
Alternativa del Soc. Democrático	ASD				0.77		
	Total	100.00	100.00	100.00	100.00	100.00	100.00

\* Denotes governing coalition.

Source: Authors' data and Miguel Centellas, 1999.

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# Local Government in South Africa: Political Decentralisation, Party Centralisation, Corruption and Maladministration

*Robert Cameron*<sup>1</sup>

## 1. Introduction

This study focuses on local governance in South Africa with respect to corruption, clientelism and mismanagement. The objective is to examine the local government system to see to what extent corruption, clientelism and mismanagement exist. It also looks at the strategies and reforms that are in place for combating such misconduct. Two case studies were used for the purposes of this study, one in DA-controlled Cape Town and the other in ANC-controlled Ekurhuleni. Arising out of these case studies, some generalisations are made about the prospects of controlling such corruption and misadministration at local level.

The first part of this inquiry provides a theoretical framework for decentralisation. The main forms of decentralisation, along with its advantages and disadvantages, are discussed. The role of party politics is also examined. The next section traces the history of local government in South Africa and provides an overview of the current system. It looks at the role of the two major political parties in South Africa, namely the African National Congress (ANC) and Democratic Alliance (DA), in local government.

This is followed by an account of the two case studies. In Cape Town, the DA Mayor, Peter Marais, got embroiled in a street-naming saga and was ultimately fired by the DA national leadership. In Ekurhuleni, Bavumile Vilikazi, a free-spending and inefficient mayor, was redeployed by the ANC leadership. The study next looks at the mechanisms for control of corruption and maladministration that exist in South Africa and then applies the relevant mechanisms to the case studies. It concludes that there are a number of provisions in place for dealing with local corruption and maladministration. Many of these measures are, however, imperfect and need to be improved.

The new South African local government system came into effect after the December 2000 elections. The system had only been operating for a year when this project was conceptualised, which made comprehensive

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evaluation difficult. Two well-publicised incidents of mismanagement and corruption were used as pilot studies of the new system.

A qualitative research method was adopted. More specifically, two case studies were used. They are instrumental case studies whereby the subject matter is used to gain greater insight into the research topic. Interviewing was the primary data collection method used. Face-to-face interviews were conducted with fourteen respondents consisting largely of politicians and officials from Cape Town and Ekurhuleni.<sup>2</sup> The interviews were largely unstructured, with respondents being given free reign to discuss the topic. The interviews were supplemented by secondary literature including council documents and press cuttings.

It needs to be noted that one of the characteristics of qualitative research is that the results are unlikely to be representative or generalisable. Nevertheless, there are some preliminary general observations that can be and were extrapolated from the case studies. (McNabb, 2002: 89–94, 285–300; Sayer, 1984: 222)

## 2. A framework for decentralisation

There is little conformity amongst various authors on the meaning of the term decentralisation. One of the most commonly accepted distinctions is to regard decentralisation as a blanket term encompassing a number of sub-categories, i.e. devolution (or democratic decentralisation), deconcentration and delegation.

*Devolution* (democratic decentralisation) is the most extensive form of decentralisation. It is the “conferment of rule-making and executive powers of a specified or residual nature on formally constituted sub-national units” (Vosloo, *et al*, 1974: 10). Devolution/democratic decentralisation generally has the following characteristics (adapted from Mawhood, 1993: 9–10):

- Local government should be separate constitutionally from central government. It should be responsible for a significant range of services.
- Local authorities should have their own treasury, a separate budget and accounts, and their own taxes to produce a significant part of their revenue.
- Local authorities should have the right to allocate substantial resources, which should include the power to decide over expenditure, to vary revenue and to appoint and promote staff.

<sup>2</sup> The respondents were guaranteed anonymity, as this – but in one case – was a precondition for agreeing to be interviewed. Only the author, the editor and the EGDI secretariat are informed about their identities.

- Policy should be decided by local councils, consisting predominantly of elected representatives.
- Central government administrators should play an indirect, advisory and inspection role only.

*Deconcentration* is usually the least extensive form of decentralisation. It often involves the transfer of workload from the central government head offices to regional branches. Field staff may have limited discretion to perform functions within the constraints of central government policy. Effective control over major policy decisions resides at central level (Rondinelli, 1981: 137).

*Delegation* entails the transfer of broad authority to plan and implement decisions concerning specific activities to organisations such as local government that are technically and administratively capable of exercising them (Rondinelli, 1981: 138). Although delegated power is usually controlled by the imposition of conditions by the delegating body, this form of delegation can lead to the exercise of a certain amount of judgement and discretion on the part of the local authorities.

The right of local representatives to make local policy is the bedrock of local democracy. Councillors are elected by local citizens and ultimately should be accountable to local voters. However, decentralisation is meaningless unless local governments have sufficient financial resources to exercise their functions. As Manor (1999: 7) points out, democratic decentralisation will flounder if there are not concomitant financial resources. The lack of financial resources is a major problem facing many local governments in low-income countries (Mawhood, 1993).

### 3. Party politics and decentralisation

This framework is a useful starting point for analysing political decentralisation. It is however a necessary but not a sufficient condition. An over-reliance on legal intergovernmental relations sometimes obscures the real nature of power at local government level.

South African constitutional academics are often guilty of an overemphasis on legal intergovernmental provisions at the expense of political relationships (see Steytler, 2001). For example, Migdal (1988) argues that although many Third World states ascribe huge powers to themselves, they are often extremely weak and unable to implement their own legislation. This means that a nominally centralised country, at least outside the national capital, in practice, could be rather decentralised by default in that the state apparatus lacks capacity in rural areas.

The role of party politics in gauging the extent of political decentralisation is also very important. Elazar's argument (1968: 37) that the existence of a non-centralised party system is perhaps the most important element

in a decentralised system may still be valid today. Some of the distinctive features of party politics at local government level are:

1. Candidates are selected by the party.
2. A distinct policy programme is formulated for a local party group.
3. A party election manifesto, to which all party candidates are expected to adhere, both during the election campaign and once elected, is produced.
4. An attempt is made to implement the manifesto in the event of the party winning a majority of seats on the council.
5. Councillors are organised into party groups for the purposes of allocating committee places and other positions of leadership and responsibility, to develop and co-ordinate party policy, to determine strategy and tactics, and to ensure group discipline.
6. Group leadership, comprising an individual leader and usually a committee of group executive officers, is elected by the members of the group.
7. Pre-council and pre-committee party group meetings are convened to enable party group members to agree on policy and plan their debating and voting tactics (Wilson and Game, 1998: 267).

In many countries, there has been greater party politicisation at the local government level, particularly in larger cities. Some of the advantages of party politics are:

- There are more candidates and fewer uncontested areas in local elections.
- There is clarification of the issues, as the parties are challenged by their opponents to defend and justify their arguments and assertions.
- Citizens have more awareness of and interest in local government, which is generally reflected in a higher electoral turnout.
- Change and initiative are stimulated, as parties, with their underlying principles and collective resources, develop policies to put before the electorate.
- There is enhanced accountability as the parties collectively and their candidates individually make public commitments and promises, which, if they are elected, they must seek to implement and for which they will subsequently be called to account.
- Government coherence is achieved through the existence of a majority party, clearly identifiable by the electorate and officers alike, which is able to carry out the policies on which it was elected.
- Democracy is enhanced through the existence of electorally endorsed policies and programmes, which reduce the potential policy influence of unelected and unaccountable officers (Wilson and Game, 1998: 279).



On the other hand, the disadvantages and pitfalls of party politics in local government would include the following:

- There are more party candidates and fewer independents as the major parties, with their institutional resources, make it increasingly difficult for minority party candidates and independents to get elected.
- There is a narrower debating of issues, with party rhetoric playing a major role.
- There is less public involvement, as many citizens not wishing to join a political party are excluded from areas of local community life.
- There is nationalisation of local elections, as supposedly local campaigns focus much of their attention on national issues and personalities.
- There is reduced representation on councils, as the winning party takes all positions of responsibility and seeks to implement its policies to the exclusion of all others.
- There is excessive party politicisation of issues, with the parties feeling obliged to adopt adversarial positions on subjects that might more satisfactorily be approached consensually.
- There is reduced local democracy, as councillors are disciplined into voting with their party regardless of their personal convictions or judgements.
- Professional advice is excluded, as all effective decisions are made by party groups, usually without the benefit of professionally trained and experienced officers in attendance (Wilson and Game, 1998: 280; see also Craythorne, 1990; Gyford, *et al*, 1989).

#### **4. Decentralisation: a double edged sword?**

Political decentralisation to local government is favoured for a number of reasons. Some of the more important arguments are that it enables minorities to avail themselves of government power, it can keep power close to citizens, it can prevent arbitrary central government rule, it can promote political participation and it ensures more efficient delivery of local government services (Maass, 1959; Sharpe, 1970; Grindle, 2000; Wunch and Olowu, 1990).

There is a 'motherhood and apple pie' version of decentralisation that views it almost as a synonym for democratisation. This view was particularly associated with early public choice theory (Ostrom, 1973). However, decentralisation has not always achieved the desired results of its proponents. Indeed, decentralisation has often been associated with political clientelism, corruption and mismanagement (Migdal, 1988). Appointment of staff is an important ingredient of local autonomy. However, extensive local government control over local staffing without the central impetus of ensuring sound personnel practices can lead to corruption and

nepotism. This was pointed out as far back as the 1960s by the United Nations (1962). Appointment of staff is an important area for patronage. Often newly empowered city politicians want to hire their own employees, for political as well as efficiency and loyalty reasons (Grindle, 2000: 188).

In the United States, the strong mayor system was historically associated with large-scale patronage. A newly elected mayor could dispense with a large percentage of existing staff. With the modernisation reforms in the United States, the extent of patronage has greatly declined (Svara, 1995). However, such systems persist in other parts of the world. For example, in Latin America, municipal employment is not regarded as a means to the end of delivery services to communities. Conversely, it is regarded as an outcome in its own right – a just reward for favours rendered or to be rendered (Nickson, 1995).

## **5. A history of local government in South Africa**

Up to the 1990s, South African local government was characterised by segregation and apartheid. While there were theoretically different local government structures for the so-called racial groupings, i.e. White, Black, Coloured and Asian, only White local governments could be characterised as being democratic and having a sufficient source of revenue. Various advisory structures were set up for Black areas with limited powers and sources of revenue. In the 1980s, Black local authorities were established but they were ineffective partly due to their poor tax base and partly because they were seen as politically illegitimate. The level of services that was provided in many of these Black areas was extremely poor (see Kane-Berman, 1979; Welsh, 1971; Heymans and White, 1991; Swilling, *et al*, 1991).

In the early 1990s, the new Constitution for South Africa was negotiated primarily by the then National Party (NP) government and the ANC. A quasi-federal constitution was established, which consisted of three levels of government, namely national, provincial and local levels. It was decided to go for a two-phased approach to democratisation with the inclusion of a number of power-sharing mechanisms to include minority rights. What the Interim Constitution makers did agree upon were thirty-four fixed Constitutional Principles, which both the Interim and Final Constitution makers had to adhere to, and which had to be certified by the Constitutional Court.

While the national and provincial transformation was a two-stage process, the local government democratisation process was divided into three phases:

- *The pre-interim phase*, which was intended to cover the period from after the country's first democratic national and provincial elections in April 1994 until the first democratic local government elections, which took place in 1995/96.<sup>3</sup>
- *The interim phase*, which began with the first local government elections and ended with the implementation of the final constitutional model at local government level.
- *The final phase*, which began with the final constitutional model, although some of the constitutional provisions only took effect after the 2000 local government elections (Cloete, 1995; Cameron, 1996, 1999).

### 5.1 *The pre-interim phase*

The pre-interim phase of local government involved the creation of local forums. Forums had to be established on a 50-50 basis between statutory and non-statutory organisations. The statutory side consisted of members of existing apartheid government bodies and the non-statutory side comprised those who were not part of a statutory forum in the political restructuring of local government, most notably the ANC. The major function of these forums was to establish transitional local councils (also on the 50-50 basis) as a holding operation until the first local government elections could be organised (Cloete, 1995; Cameron, 1996).

### 5.2 *The interim phase*

The Interim Constitution contained a number of power-sharing provisions at local government level. The major provision was at the electoral level: 40 per cent of councillors were elected through proportional representation, while the remaining 60 per cent were elected on a ward basis. The 60 per cent ward representation was further divided: half of the councillors represented traditional White local authority areas (including Coloureds and Asians); the other half represented Black local authority areas.

This formula was a power-sharing arrangement reached to overrepresent whites on a non-financial basis, particularly in the former Transvaal and Orange Free State provinces, where in some areas, they formed only 5-10 per cent of the electorate. However, in the Western Cape provinces, black people were the beneficiaries of this clause and accordingly were overrepresented (see Cloete, 1995; Cameron, 1996).

Because of this formula, the ANC (for whom most Blacks voted) became the ruling party in many municipalities in the Western Cape, includ-

<sup>3</sup> The country's first democratic elections were supposed to take place on the same day in 1995. However, because of protected boundary disputes, the elections in metropolitan and rural local government in the Western Cape took place in May 1996, and the whole of Kwa-Zulu Natal in June 1996.

ing the City of Cape Town, on a minority of the vote. The other significant power-sharing provision was that of weighted decision-making, which involved the following:

- Budgetary decisions had to be taken by a two-thirds majority of all council members.
- Town planning decisions had to be taken by an absolute majority of all council members.

In addition, there was power sharing in the composition of the executive committee. Parties (or ratepayers' federations) had to be constituted on a proportional basis. Decisions had to be taken by consensus or, alternatively, by two-thirds of all the committee's members (Cloete, 1995; Cameron, 1996). The 1995/96 elections were managed provincially with each province organising its own local government elections.

### *5.3 The final phase*

By the terms of the power-sharing arrangement, a final constitution had to be negotiated within two years. The Final Constitution was certified in December 1996 and came into partial effect on 4 February 1997. This new national framework has had profound effects on local government.

Provision is no longer made for levels of government, but rather there is a three-sphere system of government in which the spheres are distinctive, interdependent and interrelated. The principle of cooperative governance underpins intergovernmental relations. The Constitution states that all spheres of government must:

- respect the constitutional status, institutional powers and functions of government in these spheres;
- not assume any power or function except those conferred on them by the terms of the constitution;
- exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere;
- cooperate with one another in mutual trust and good faith; and
- avoid legal proceedings against each other.

This concept of cooperative governance was not included in the Constitution. Although borrowed partially from the German experience, it is a unique attempt to develop South Africa's approach to intergovernmental relationships. The term 'sphere' is meant to indicate a less hierarchical system of intergovernmental relations.

Theoretically, this has uplifted local government from a subordinate level of government to a significant sphere in its own right. South Africa has historically had a centralist form of local government with provincial governments controlling the scope of local government through provincial ordinances which defined their functions and powers. Local government legislation also had to be approved by provinces. (Cameron, 1995).

Chapter 7 of the Constitution deals with local government. Section 151(3) states that a municipality has the right to govern, on its own initiative, the local government affairs of the community, subject to the national and provincial legislation as provided for in the Constitution. Section 151(4) asserts that national or provincial government may not compromise a municipality's right or ability to exercise its powers or perform its functions. Section 156(1) gives municipalities executive authority and the right to administer the local government matters listed in part B of Schedule 4 and part B of Schedule 5 of the Constitution (Republic of South Africa, 1996).

What this means is that local government has constitutionally guaranteed functions, and although national government and provincial government may regulate it, this must be done in a way that does not compromise its ability or right to govern. Provinces, the traditional overseers of local government, are now confined to performing a technical support role and to improving municipalities' capacity (Section 155(6)). Provincial governments can only intervene in local government affairs if a municipality fails to fulfil an executive obligation<sup>4</sup> and even then only for a limited period. A more general limitation of provincial powers is that they have a constitutional right to support the capacity of local government.

As pointed out, the functions of local government are enshrined in the Constitution. The most important services include the provision of water, sanitation (and sewerage disposal systems), roads, stormwater drainage (including solid waste disposal), electricity reticulation and municipal health services. The promotion of economic and social development is an object of local government. The role of local government has to shift from the traditional role of local service delivery and administration towards the promotion of local socio-economic development. Facilitating the economic development of local small businesses is an important goal in this regard (Yacoob, 1996; Cameron, 1999, 2001; Pimstone, 1998). Unlike in many Western European countries education and social welfare are not local government functions.

The Final Constitution gives local government the right to impose rates on property and surcharges on fees for services provided. Although other sources may be assigned in national legislation, local government may not impose income tax, value-added tax, general sales tax or customs duties

<sup>4</sup> The Court ruling in the *Fedsure* case (1997) was that legislative decisions were an exclusive local government responsibility.

(National Treasury, 2000: 10). It also gave local government the right to a division of the equitable share raised nationally to enable it to provide services and perform the constitutional functions allocated to it.

Local government's own revenue is obtained through property taxes, service charges and fees and business taxes. South African local government is largely self-financing. Own revenue covers more than ninety per cent of the operating income of local government as a whole. The remaining revenue comes in the form of the equitable share (determined on a needs-based formula) and conditional and unconditional grants from central government. In the 2002/03 budget, local government was allocated ZAR 8.6 billion in equitable share out of a total budgetary allocation of ZAR 287.9 billion.<sup>5</sup> In reality the bigger cities and towns have sufficient revenue to provide services. Most rural local governments lack sufficient income to provide basic services (see Cameron, 2002b).

Section 155 of the Constitution makes provision for the following categories of municipalities:

- *Category A* is a municipality that has exclusive municipal executive and legislative authority in the area.
- *Category B* is a municipality that shares municipal executive and legislative authority in its area with a *Category C* municipality within whose area it falls.
- *Category C* is a municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

*Category A* municipalities are metropolitan unitary authorities. From 1994 until 2000, there were six two-tier metropolitan authorities in South Africa. They were replaced by six unitary-tier metropolitan structures in 2000 (see Cameron, 2000). *Category B* and *C* municipalities are the lower- and upper-tier bodies, respectively, of the non-metropolitan local government system.

Provision is also made for subcouncils and ward committees. Subcouncils can get delegated powers from councils while ward committees have advisory powers and are intended to be a vehicle for local participation and democracy. Only metros can have subcouncils while both metros and *B* municipalities can have ward committees (Cameron, 2000). An important difference is that the chair of a subcouncil receives a competitive salary and is hence an instrument for party patronage, while ward committee members are not remunerated.

Each local government in South Africa is currently a separate employee and appoints its own staff. There are however moves to create a single public service. The motivation is not yet clear but it appears that efficiency

<sup>5</sup> This sum is equal to approximately 36 billion USD (April 2003).

concerns and the need to transfer central public servants to rural local governments are behind the move.

In the 2000 local government elections 50 per cent of the councillors were elected on a ward basis and the other 50 per cent on a proportional basis. Unlike the 1995/96 elections, the 2000 local government elections were organised by the Independent Electoral Commission, which is an independent entity established by the terms of the 1996 Constitution. The 1996 elections were relatively free and fair. The turnout in the 2000 municipal elections was 48.07 per cent, compared to the turnout of 89.3 per cent in the 1999 national elections. There were a substantial amount of Black ANC voters who stayed away from the polls. The interpretation of this stayaway was that it was a protest against poor service delivery by the government.

## 6. Executive systems

What is also important for the purposes of understanding the dynamics of the case studies are the different types of executive systems. The White Paper on Local Government (Provincial Affairs and Constitutional Development, 1998) had indicated a clear preference for a stronger executive. This was in line with global trends in many countries that have moved towards stronger executives at local government level. Part of the trend involved councillors assuming responsibility for strategy and policy. There was a need to move executive councillors away from detailed administration and financial control. To run more efficiently, there was a need for strong executives with ordinary councillors having little involvement in the day-to-day affairs of the council.

These reforms were intended to move away from extensive councillor involvement in the day-to-day administration, which led to the blurring of the executive and legislative functions and delays in decision-making. Stronger executives were intended to ensure that cities functioned efficiently and innovatively and were not to be tied down by bureaucratic red tape (see Cameron, 2000). Legislation in the form of the Municipal Structures Act (RSA, 1998) embodied this goal of stronger executives.

The two main types of executive systems are:

1. *The collective executive system* allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested. Provision is made for a mayor, although he/she is only one member of the collective executive.
2. *The mayoral executive system* allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee.

Both forms of executives have similar types of powers, which are cabinet-type functions and include the right to determine service delivery strategies, oversee service delivery, monitor and review. Provision is also made for delegation of the powers of councils to these structures. The Provincial Minister of Local Government decides on the type of local government structure. The ANC-controlled provincial governments chose the executive mayor system, while the two opposition-controlled provinces chose the collective executive system.<sup>6</sup>

The collective executive must be composed in such a way that the parties represented in the municipal council are represented in the executive committee in substantially the same proportion that they are represented in council. The executive mayor may appoint a mayoral committee to assist him/her to whom he/she may delegate specific responsibilities. He/she is, however, under no obligation to appoint this mayoral committee on a proportional basis. The idea was that this would be a cabinet-type structure where the mayor was free to choose his/her own appointees to the committee. The DA contested this issue in court but it lost the case.

The executive mayors are however not typically big boss mayors of the American variety. Big boss mayors have large-scale powers such as the preparation of budgets and control of the administration, which includes the right to hire and fire certain staff (Svara, 1995). For a start, the South African mayor is not elected directly. The major parties nominate their mayoral candidates before elections and the victorious party simply elects its mayor (whether of the executive or non-executive type) at the first council meeting. Secondly, even the executive mayors' powers are not as great as those of the American mayor and he/she does not have powers to determine the budget and control administration.

## **7. Party politics in South African local government**

As pointed out, only White local authorities could have been construed as properly constituted local government. With the exception of Johannesburg, there was no history of party political contestation in the major cities.<sup>7</sup> Candidates were elected as independents. A study of Cape Town in 1986 (Cameron, 1986) revealed that although candidates were backed by certain members of the political parties and sometimes even unofficially by the party itself, there were no party funds involved. There was no party caucus or party whip to enforce discipline.

However, there was substantial behind-the-scenes involvement by political parties and even factions of parties. Some candidates, though pro-

<sup>6</sup> KwaZulu Natal is controlled politically by the Inkatha Freedom Party (IFP), while the Western Cape Province was at the time controlled by a NP/DP coalition.

<sup>7</sup> This trend was changing by the end of apartheid rule. For example, in the 1988 municipal elections, the NP had party political candidates in a number of cities (Schlemmer, 1988).



fessing to be standing on non-political lines, wore rosettes or used posters in the colours of various political parties. In many parts of the country “independent” ratepayers’ associations were in effect unofficial NP candidates. This era of “non-political” councils was also characterised by strong bureaucratic power. Most policy originated in the respective departments. The 1986 study cited above revealed that bureaucrats wielded excessive control over policy compared with councillors.

The pre-interim forums introduced party-politics into local government. Both the forums and transitional local councils were dominated by political parties, most notably the NP, the ANC and the smaller liberal Democratic Party (DP). The first democratic local government elections took place in 1995/96. Local government elections were fought largely on party political lines. For example, in the Cape Metropolitan Area elections, only seven independent candidates were elected in the 172 wards. The ANC became the dominant political party in most municipalities in the country.

The electoral system that was put in place in the interim phase favoured political parties, as 40 per cent of councillors were elected on a proportionate list that was determined by political parties. The other 60 per cent were elected on a ward basis. If a proportional candidate defected from a political party, he/she would lose his/her seat and be replaced by another candidate. However, if a ward candidate defected, he/she would retain his/her seat. In the case of Tygerberg, the second biggest municipality in the Western Cape, a couple of ward defections led to political control passing from the NP to the ANC.

The Municipal Structures Act, Municipal Systems Act, Municipal Demarcation Act and Electoral Act laid the foundations for the final phase of local government. Most power-sharing mechanisms have been removed from the statute book and majoritarian principles largely apply. There are few constraints on the decision-making powers of majority parties. Half of the councillors are elected on a ward basis and the other 50 per cent on a proportional basis. The intention of the policy-makers was to organise local government on party political grounds. There are a number of clauses in legislation that support this view. Unlike the interim phase, which had separate ward and proportional representation provisions, the electoral system for the final phase was a hybrid model.

The quotas for seats set by the Municipal Structures Act means that although there are ward seats, proportionality must prevail. For example, if a party gets 60 per cent of the overall vote, yet only 40 per cent of the ward seats, the formula will ensure that it will get 60 per cent of the total seats on the council (ward and proportional votes). Another consequence of this formula means that unless independent candidates organise themselves into a federation of some sort, they are marginalised in terms of the proportional vote.

In addition, the Municipal Systems Act overtly recognises party political affiliation through its definition of “political office bearer” (the speaker, executive mayor, mayor, deputy mayor or member of the executive committee) and “political structure” (the council, any committee or other collective structure of a municipality (chapter 1)).

- Section 53(1) of the Act places an obligation on the municipality to define the specific role and area of responsibility of each political structure, political office bearer and municipal manager.
- Section 53(2) states that the respective roles and areas of responsibility of each political structure and political office bearer must be defined in precise terms and must be acknowledged and given effect in the rules, procedures and policy statements of the municipality.
- Section 53(3) requires municipalities to determine the relationship among political structures, political office bearers and the municipal manager in defining their respective roles and areas of responsibility.

All these provisions confirm that the intention of the legislature was to ensure that policies and development plans at local government would be in accordance with the policy and objectives of the ruling political party in this sphere of government (De Swardt, 2001). Unlike during the interim phase, there is now complete party control over candidates. Not only will proportional candidates that defect lose their seats, ward councillors would do likewise. The one difference is that proportional candidates would be replaced by another member from the party list, while wards rendered vacant would be contested in by-elections.

### *7.1 The role of the ANC in local government*

The ruling party in South Africa, the ANC, has never viewed itself as just a political party. It was a liberation movement committed to the creation of a democratic South Africa. It has historically been a centralised organisation. In the 1980s, it was supportive of a highly centralised state. It envisaged delegation of powers from central to local government for the purposes of more effective administration and democratic participation only (*South*, 6–12 July 1989). After the ANC was unbanned, it formulated a more comprehensive local government policy that made provision for autonomous local governments (Centre for Development Studies, 1990). However, it still favoured a relatively centralist vision of local government. Extensive devolution was seen as a mechanism to protect white privilege and to prevent the redistribution needed to redress the inequalities caused by apartheid (Cameron, 1996: 35).

The 1993 local government negotiations were largely between the ANC's centralist vision and the NP's decentralised view that strong local

government could protect minority rights, and the interim model was a compromise between these two contending positions (Cloete, 1995; Cameron, 1996). However, after the 1994 elections, a strong pro-local government lobby developed within the ANC and was highly influential in ensuring a new elevated role for local government by the terms of the Final Constitution. What were the reasons for this?

Firstly, the fear of white-controlled local authorities becoming the last bulwark of apartheid had largely dissipated with the creation of non-racial boundaries and an ANC victory in most of the major municipalities. Secondly, cities were seen not merely as service delivery agents, but rather as dynamic areas for economic and social development. In order to be globally competitive, cities should largely be in control of their own destiny to enhance competitiveness and should not be shackled by unnecessary provincial controls. The third reason was that strong local government was seen as a way of empowering people. The Constitution lays a major emphasis on participatory governance. Local government, being the sphere of government closest to the person in the street, was best suited to perform this role. The Municipal Systems Act makes provision for extensive public participation in policy (Cameron, 2001).

The system of local government that was negotiated largely reflected the ANC's view. It has loosened higher-tier controls and vested extensive powers in local government. However, as pointed out, the system has placed political control over local government in the hands of party leadership. It has been argued that the ANC is becoming a modern centralised social democratic party, with power in the centre (*Sunday Independent*, 15 October 2000). Already centralisation by the ANC has been occurring in various ways. Provincial premiers are no longer appointed by provincial congresses of the ANC, but by the President. There is a National Deployment Committee, so a party member may be deployed to senior management positions within the public service or parastatals. Similar structures exist at provincial levels in respect of provincial and local management appointees. As Migdal (1988: 217) points out, appointing top state agency officials with deep-seated loyalties to the state leaders is a common phenomenon in developing countries, although not uniquely so.

How then does the ANC choose its local government candidates? The ANC party system is as follows. The National Executive Committee (NEC), consisting of the senior national ANC office bearers, is the highest decision-making body of the ANC. Annually it appoints a National List Committee for the selection and adoption of candidates for the national parliament. Provincial structures for the adoption of candidates also have to report to the National List Committee.

The Provincial Executive Committee (PEC), consisting of the senior provincial office bearers, appoints a provincial list and a candidates committee, which will identify regulations for the drawing up of the provincial

list of candidates for national lists, provincial elections and the selection of candidates for local government elections. The PEC has to report to the NEC and is bound by the recommendations of the National List Committee. Each province in turn is broken down into Regional Executive Committees (RECs). At regional level there are list committees that report to the RECs, who in turn make recommendations to the provincial list committee. Each region in turn consists of branches.<sup>8</sup>

One former province list committee member argued that although this establishes party control at local government level, this has been done at provincial rather than national level (which is contrary to the centralised view of the ANC).<sup>9</sup> The rule of the national committee is confined to setting standards and quotas, e.g. gender and union representation, and dealing with appeals. Even then, the appeals are largely about seeing that this list is representative rather than dealing with the merits of the candidates who are included in or excluded from the list. The actual management of the list is done at provincial level.<sup>10</sup> The mayoral candidates of the six metropolitan governments in the country are, however, appointed by the President of the country and the National Working Committee (which is a committee of the NEC). Mayors of non-metropolitan areas are appointed by the PEC.

This system has centralised enormous powers in the hands of party leaders. Mayors and councillors owe their positions to the party bosses who put them on the list rather than those who voted for them. Whether it is national or provincial leadership does not really seem to matter, as accountability is still upwards rather than downwards. This is similar to the Venezuelan situation, where local politicians court the favour of party leaders for a position on the list rather than the voters at local level (Grindle, 2000: 39).

Prior to the list nomination process, the ANC announced that it was carrying out a performance audit of its local government elections as a first step towards weeding out underperformers at all levels of government (*Cape Times*, 14 July 2000). President Thabo Mbeki subsequently announced that corrupt councillors who do not serve their community properly would be removed (*The Argus*, 9 October 2000). The government had already put an anti-corruption programme in place in 1997 and the removal of corrupt councillors must be seen as part of this initiative.

However, it did not work according to plan. There was major controversy in some provinces in the 2000 local government elections. The problem was that in some provinces the PEC consisted of only interim leadership, since the elected leadership had been disbanded by the national leadership. The

<sup>8</sup> <http://www.anc.org.za/ancdocs/history/const/constitution98.html>

<sup>9</sup> This information was obtained from Mike Sutcliffe who was a former member of the ANC's KwaZulu Natal's list committee.

<sup>10</sup> <http://www.anc.org.za/ancdocs/history/const/constitution98.html>

ANC Secretary-General said that some of these elected leaders joined the ANC “with the sole aim of furthering their personal careers and using access to state power we have as a ruling party to enrich themselves” (*Argus*, 13 July 2000).

The interim PEC members in some provinces had put their cronies or even themselves on the list. For example, some good existing councillors were removed from the list and incompetent councillors put near the top of the list. There were accusations that the lists were used to settle political scores in provinces such as Gauteng, the Free State and North West. There was also a great deal of concern about regionally nominated mayoral candidates that were not accepted by provincial leadership, or, in the case of the metropolitan mayors, the President and National Working Committee (“ANC faces revolt over imposed local candidates”, *Sunday Times*, 12 November 2002). Some of these axed councillors stood as independents, but were mostly defeated. In fairness to the ANC, the rationalisation of municipalities in the country from 843 to 284 meant that there was a substantial reduction in the number of councillors. No matter who was chosen as councillors, there were always going to be embittered ex-councillors who have had their primary source of income taken away from them.

## *7.2 The role of the Democratic Alliance in local government*

The DA was an amalgamation between the DP and the New National Party (NNP), which in its NP guise ruled South Africa from 1948 to 1994. Originally seen as a vehicle for promoting White Afrikaans interests, the NNP did later attract White English and eventually Coloured and Asian support. It has tried to shed its apartheid past by positioning itself as a European-type Christian Democratic Party.

Its support base amongst Whites waned significantly between 1994 and 1999. It won 20.4 per cent of the vote in 1994 but only 6.87 per cent in 1999. It continued, however, to obtain significant support from Coloured voters in the Western Cape (where they are the majority grouping), which enabled it to govern the Provincial Administration of the Western Cape (PAWC) in alliance with the DP. The DP was a small liberal anti-apartheid group that had been a shrill critic of apartheid during the days of White rule. Its support base has traditionally been English-speaking Whites, but it attracted significant Afrikaner White, Coloured and Asian voters in the 1999 elections, where it increased its support from 1.7 to 9.56 per cent.

The DP had done market research that showed that most opposition voters would prefer to vote for one single party. The DP and NNP entered into negotiations that culminated in the formation of a single party, which contested the 2000 local government elections under a single DA banner. However, because of legislation preventing the crossing of floor by public representatives, the DP and NNP had to stay separate political parties at national and provincial levels until the 2004 elections.

The party was guided by an interim constitution. Its highest decision-making body was the National Management Committee (NMC). This was constituted nationally on a representative basis, with ten DP members, seven NNP members and one member from the minuscule Federal Alliance. When it came to the nomination of councillors for the 2000 local government elections, the DA still operated as a sum of its parts rather than a coherent political party. By the terms of Section 14 of the DA's interim constitution, the relative strengths of the parties in the 1999 national and provincial elections determined how many seats they would be allocated. The NNP was the dominant party in the Western Cape and it was allocated seats on an approximate 7:3 basis. The DA won 107 of the 200 seats in Cape Town: 70 were NNP representatives and 37 were DP representatives.

DA councillors were chosen at provincial branch level (by the NNP) and regional branch level (by the DP) on the basis of this relative strength formula. The DA national leadership did not have the power to veto any of the NNP or DP candidates, unless there were questions of probity. Likewise, the mayoral candidates were also chosen on this relative strength basis and NNP Provincial Minister Peter Marais became the DP candidate and ultimately mayor for Cape Town. All DA candidates had to sign a performance undertaking, which gave the party leadership the right to fire them for failing to perform their duties competently and honestly.

In hindsight, this was a bad system. Besides not creating a single party with common criteria for the selection of candidates, from the point of view of the DP component of the DA, it allowed some NNP candidates of dubious quality and others with a history of patron-client relationships to become councillors.

The DA was also faced with a revolt by NNP councillors in the Western Cape who did not make the list and stood as independents. These disaffiliated councillors accused the DP of having taken control of the DA (*Business Day*, 23 October 2000). The independents were largely unsuccessful. The point that was made about ANC councillors can be repeated here, i.e. that these councillors relied on the local state to accumulate income and their reaction to being excluded from the list was motivated largely by self-interest.

The DA local government manifesto emphasised that good management and fighting corruption would be major points in its manifesto, which stated: "The DA is committed to stamping out all corruption in local government by tightening up control systems, increasing security and vigorously pursuing corrupt officials and councillors" (DA, 2000: 131).

The DA was relatively successful in the 2000 local government elections, particularly in the Western Cape, where it won control of a number

of municipalities from the ANC.<sup>11</sup> Its flagship victory was in the metropolitan City of Cape Town. The ANC still won the overwhelming majority of the 284 municipalities, including five of the six metropolitan municipalities.

## 8. The roots of patronage

The NP, using ethnic mobilisation, captured control of the state in 1948 and used it as an instrument to advance White Afrikaner interests. The public service and parastatals were used as instruments of patronage. The state was also used to promote the development of Afrikaner capitalist interests through, for example, procurement. A sophisticated patronage system was developed down the years, which was in many ways more akin to high-income rather than low-income countries. This patronage was also the bedrock of the NP's political support. (O'Meara, 1983). The NP did, however, become bogged down in corruption scandals in its latter years in power.

The South African state effectively excluded its poorer citizens, i.e. Blacks, Coloureds and Indians, from full political citizenship. There were collaborationist bodies for Blacks, such as nominally independent homelands, and from 1984 onwards, Black Local Authorities (BLAs). However, these bodies, being apartheid-based, lacked political support and, certainly in the case of BLAs, resources. While the South African state had been used after 1948 to promote Afrikaner interests, the effective exclusion of its poorer citizens from political structures meant that the typical type of state-based patron-client relationships found in developing countries did not really develop in South Africa. Black local authorities elected on negligible polls were, however, often seen to be corrupt (Heymans and White, 1991).

The overwhelming majority of post-1994 Black councillors did not participate in BLAs. Most of them are from anti-apartheid movements, in particular civics or exiles. However, many Coloured and Indian councillors cut their teeth in apartheid local government structures.

In 1983, a tricameral parliamentary system was put in place, which made provision for limited political representation for Coloureds and Asians. This involved the creation of separate parliamentary chambers for Whites, Coloureds and Asians, i.e. the Houses of Assembly, Representatives and Delegates, respectively. The major political parties in the Coloured and Indian houses fought elections for Management Committees, i.e. advisory local government structures, and Local Affairs Committees

<sup>11</sup> This was somewhat deceptive in that the power-sharing provisions of the Interim Constitution had over-represented Blacks. The ANC had won some towns with minority votes in 1995. In addition, there were new demarcated constituencies combining towns with DA-supporting rural areas.

(LACs) in the 1980s (these were advisory local government structures to White Local Authorities) on party political grounds (Cameron, 1991).

The Coloured House of Representatives was tightly controlled by the majority Coloured party – the Labour Party. Indeed, many national MPs were also simultaneously Management Committee members. Although such bodies did not have formal decision-making powers, White Local Authorities (WLAs) relied heavily on resources from the Coloured (and Indian) National Ministers of Local Government for Housing, for housing and urban upgrading. For example, the Coloured Minister of Local Government and Housing withdrew money from WLAs that did not involve their Management Committees in its planning, construction and allocation of housing.<sup>12</sup>

Many WLAs delegated powers to Management Committees, including the allocation of business licenses, the allocation of houses and eviction of tenants, and the approval of planning for new housing schemes. Some WLAs delegated these powers to Management Committees/LACs. This formed the basis of the allocation of resources on the basis of patronage, particularly in the Western Cape where Coloureds are in the majority.

Many of these Coloured Management Committee members, including Peter Marais, became prominent councillors in post-1994 South Africa. Although separate coloured political parties are defunct, many Coloured Management Committee members joined the NP, which from 1994 to 2000 was the dominant political party in the Western Cape provincial and local government.

## **9. Case study 1: The city of Cape Town. The street naming saga**

### *9.1 Background*

Cape Town, in the Western Cape Province, is an area of 2 475 km<sup>2</sup>. One third of the city's population lives below the poverty line. Population growth via influx is estimated at around 1 000 a week. There is a housing backlog of 230 000 units. Cape Town produces 75 per cent of the province's Gross National Product and 11 per cent of South Africa's Gross National Product (City of Cape Town, 2002).

<sup>12</sup> This threat was carried out in at least one case when the development of Blue Downs, a Coloured residential area, was withdrawn from the City of Cape Town and given to private developers.



**Table 1. Demographic data: Cape Town**

<i>Summary data</i>	
Geographical size	2 497 km <sup>2</sup>
Population	2 563 612
Density	1 026 per km <sup>2</sup>
<i>Population by race</i>	
African	644 229
Coloured	1 240 033
Indian	37 924
White	543 696
Other	97 730
<i>Economic analysis</i>	
Number of households	526 965
Average annual income per household	ZAR54 794
Income per capita	ZAR11 263

*Source:* Municipal Demarcation Board, 2000.

Cape Town is governed by a single unitary-tier structure. Between 1996 and 2000 there was a two-tier system of local government consisting of a Metropolitan Council and six Metropolitan Local Councils (MLCs). The NNP had won control of all of these administrations, except for the City of Cape Town, the most prosperous of the MLCs, which was won by the ANC.

At the 2000 local government election, the DA won overall control of Cape Town. In terms of provincial legislation, the city established sub-councils (a grouping of the 100 wards into 16 subcouncils across the city), to promote public participation and to facilitate service delivery. However, because of a technical hitch in their establishment, these have thus far only received delegated powers.

The Mayor Peter Marais had a history of involvement in apartheid government structures. He was formerly a Management Committee member, having been chairman of Matroosfontein Management Committee from 1976 to 1979. He had also been a House of Representatives member (Gastrow, 1985). He joined the NP and became Provincial Minister of Local Government in 1994. He became embroiled in a major local government boundary controversy when he attempted to gerrymander districts in 1995 (Cameron, 1995). He was narrowly defeated in the race for the Western Cape Provincial Premiership and was subsequently embroiled in a number of clashes with the NNP leadership. He had good oratorical skills and was seen to be a major voter-catcher amongst working class Coloured voters. He was highly flamboyant and tended to 'shoot from the hip', having made a number of controversial public statements in the past.

What came out of the interviews was that the majority DP component of the DA leadership did not trust Marais from the outset, but because of the representativity clause in the DA's Interim Constitution, they were in effect lumbered with him.

## 9.2 *The street naming initiative*

The Mayor designed a proposal to change the names of the streets in the Central Business District as part of a reconciliation programme, i.e., Adderley Street to Mandela Avenue, and Wale Street to F W de Klerk Avenue. The Mayor's initiative was seen as a way to promote reconciliation between races.

The Mayor had taken this proposal to the DA national leadership, who said that they were not opposed to the idea in principle, but further negotiations were needed. According to the DP component of the DA party leadership at any rate, the Mayor had already discussed this issue with both ex-Presidents, who had supported his initiative. This, it was alleged, influenced his approach towards public participation, which was to legitimise what he regarded as a *fait accompli*.

The formal consultation process began in April 2001. The Collective Executive Committee approved the process, and in line with the requests of party leadership, it was published for public comment. In May, a multi-party committee was set up to handle the street-renaming process and, in the words of the Mayor, to make the process "transparent". There was large-scale opposition to this street-naming process as expressed by the public in the media. At a Cape Town Press Club meeting on 24 May the Mayor nevertheless announced that there was overwhelming support for his street-name plan. He said (on 20 May) that those in favour outnumbered those against by 2.5 to 1 (*Saturday Argus*, 9/10 June 2001).

The tenuous links between the NNP and DP components of the DA then began to unravel with ex-DP councillors being openly critical of the Mayor's determination to push through with the process irrespective of public opinion. The Mayor in turn argued that the public participation process was a consultative process, not a referendum (*Cape Times*, 29 June 2001).

There was a secret meeting of DP councillors of Cape Town on 8 May 2002, headed by the Deputy-Mayor, in which, according to the NNP interviewees, a decision was taken to sabotage the Mayor's pet project. After this, the DA began to disintegrate. The NNP got wind of this meeting and became even more determined to push through the street-naming exercise. The DP interviewees accused the NNP of using their traditional patronage-based electoral machine to solicit backing for the Mayor's plan. NNP interviewees said that this support was pushed by individuals with little overall co-ordination.

### 9.3 The controversy

The controversy initially broke in the *Mail and Guardian*, where it was claimed that there were several lists of alleged forged signatures in favour of the Mayor's plan. There were petitions in favour of the street-naming process allegedly with some 300 entries signed by the same person (*Mail and Guardian*, 8–12 June 2001). A number of people whose names appeared on the list were never approached and said that the signatures were not theirs.

The Cape Town committee that was set up to handle the street-naming process subsequently found that eighty per cent of the respondents were against the renaming (*Cape Times*, 27 June 2001). Subsequently, a senior advocate, Joe van der Westhuizen was appointed as a one-person commission of inquiry into alleged fraud. This commission was supposed to both examine the integrity of the public participation process as well as possible misconduct within the administration, including the leaking of documents (*Cape Times*, 29 June 2001). However, it had no powers of *subpoena* and had to rely on people volunteering information. When the commission held its first meeting, nobody made any presentations (*Cape Times*, 24 July 2002).

Next came the political bombshell. A senior legal adviser in Cape Town, Victoria Johnson, wrote an affidavit in which serious allegations of fraud and misconduct were made against two senior officials who were administratively handling the street-naming process (Johnson, 2001). This affidavit was sent to the Van der Westhuizen Commission. However, a copy was sent to the Deputy-Mayor, Belinda Walker, a DP stalwart who subsequently took it to the national DA party leader, Tony Leon. Tony Leon immediately made the affidavit public (despite a specific request from its author not to make it public).

There was then a meeting of the top DA leadership including Leon, NNP leader Martinus van Schalkwyk, NNP Provincial Premier Gerald Morkel, NNP Provincial Minister of Local Government Pierre Uys, and the Mayor. It was agreed that:

1. The Mayor asks the Provincial Minister of Local Government to set up a committee of inquiry under Section 106 of the Municipal Systems Act to investigate the allegations. Advocate Heath was asked to set up such a commission.<sup>13</sup> This commission did have *subpoena* powers.

<sup>13</sup> Judge Heath was employed by the ANC government as head of the Special Investigating Unit to investigate corruption. He claimed massive success in recovering money and soon became the darling of the White opposition to the government. However, government spokespersons, including the Minister of Finance, disputed that he had recovered the amount of money that he claimed. In some cases, he took credit for recovering money that had not been stolen (see 'The Return of Heath is upon us', *Mail and Guardian*, 14-20 September 2001).

2. The Mayor asks the City Manager to put the two senior officials on immediate suspension.
3. The Mayor withdraws his proposal to rename Adderley and Wale Streets (*Cape Times*, 26 July 2002; *Business Day*, 26 July 2001; *Argus*, 26 July 2001).

#### 9.4 The Heath Commission

The Heath Commission subpoenaed the major stakeholders. The Mayor strenuously denied any wrongdoing at the Heath hearings (*Sunday Times*, 12 August 2001). However, political tensions between the two major alliance parties increased considerably during this period.

NNP interviewees argued that the clandestine DP caucus meeting in May was a sign of bad faith. They also had strong evidence to suggest that the *Mail and Guardian* leak was orchestrated by senior DP leadership in the Province. It was also felt that the DP did not want to honour F W de Klerk, the last apartheid president. There was also a view amongst NNP and even more disinterested interviewees that the DA had used Marais to capture the Coloured vote and planned to get rid of him as soon as possible after the election. In particular, NNP interviewees accused the DP of being a party of well-heeled English Whites who could not stomach Marais's flamboyant if crude style of mobilising Coloured support.

DA interviewees said that the NNP was just as corrupt as they had been when they were in power as the NP. One DP senior member was quoted as saying that "these people are corrupt as ever and that's not going to change" (*Sunday Times*, 12 August 2002). James Selfe, the chairperson of the DA's National Management Committee (NMC), its highest party structure, admitted that in terms of corruption and maladministration, this offence ranked rather low. However, in line with its manifesto he said that, "the Democratic Alliance is setting an example of how we will deal with corruption – no matter how big or small – in any administration controlled by our party" (*Cape Argus*, 10 August 2001).

However, a more fundamental reason for the DP antipathy towards Marais was that while he may have been good for attracting Coloured votes (although the DA says its market research suggests that is not true)<sup>14</sup>, he was bad for attracting donor money. Telemarketing was a key component of DA fundraising and this had been severely damaged by donors' views of Marais. In fact, the DA was forced to close down its telesales fundraising office in the Western Cape. The Cape Town Chamber of Commerce and

<sup>14</sup> Survey results revealed that 28 percent of the respondents were favourably disposed to Marais and 24 percent approved of the job he was doing. White respondents rated him at 48 per cent and 44 per cent respectively, while the corresponding figures for Coloureds were 24 per cent and 15 per cent (*Mail and Guardian*, 12–18 October 2001). Since the research was organised by Ryan Coetzee, Leon's adviser, who had been placed in the Marais office by Leon and then fired by Marais earlier in the year, these results must be treated with caution.

Industry had indicated that 94 per cent of the 3 300 members they had surveyed were against the proposal (Heath, 2001: 77).

This internecine struggle was also fought against the backdrop of the party's annual conference. At the heart of the struggle was a clash between two different parties with different cultures. The NNP was traditionally a decentralised party and wanted the DA's first contribution to reflect representation in terms of signed-up branch or regional members. However, the DP favoured representation in terms of electoral support won in the last election. The NNP, although it had received fewer votes than the DP in the last election, had managed to sign up large numbers of Coloured voters in the Western Cape and Northern Cape.<sup>15</sup> There was a danger that the NNP would swallow up the DP when it came to party positions (*Sunday Times*, 5 August 2001). The DP's view was that it went into this merger because it thought that its values would become those of the DA's and it became increasingly alarmed when it looked as if the reverse was happening before this conference. The street-naming issue must thus be seen as the symptom rather than the cause of the NNP-DP conflict (as it was often portrayed in the media).

### *9.5 The departure of the Mayor and the demise of the Democratic Alliance*

The Heath report was submitted to the Member of the Executive Committee (MEC) for Local Government in the Western Cape, Pierre Uys. Heath found that "Marais had misinformed the media" and that "he was also misinforming the public to whom he is accountable". He also found that he had "not performed the functions of his office in good faith, honesty and in a transparent manner", was "not acting at all times in the best interest of the municipality" and in fact "compromised the credibility and integrity of the council" (Heath, 2001: 71–82).

Heath also found evidence of fraud on the part of two DA councillors in respect of the fraudulent filling in of the petitions. The two senior officials were found guilty of maladministration (Heath, 2001: 63–71). In the case of fraud by the councillors, it was recommended that the issue be sent to the police for a recommendation. Disciplinary action was recommended against the two officials as well as the Mayor (Heath, 2001: 82). Heath's report also went to party structures in the form of a three-person DA committee.

The MEC for Local Government then set up a special committee (under retired Judge King) to investigate whether Marais had breached the Code of Conduct for councillors, and to make recommendations on whether he should be suspended or removed as mayor. In the interim, he was put on

<sup>15</sup> There were also accusations that the signing of members was rigged. It was said that the NNP used traditional methods of signing up members and paying their subscriptions.

special leave by the council at the behest of the Premier (*Argus*, 31 August 2001; *Cape Times*, 31 August 2001).

There was then a court judgment in Theewaterskloof municipality, which in effect meant that any investigation of a breach of conduct should be made by the relevant council itself. This made the King investigation into whether the Mayor had breached the Code of Conduct null and void.

Cape Town subsequently established a rules committee to deal with the transgression of the Code of Conduct, which found the Mayor not guilty of breach of contract (*Saturday Argus*, 6/7 October 2001). Meanwhile, in the previous month, the Mayor had been elected deputy provincial leader of the NNP, which was an indication of how divisive the issue had become in the DA.

The Premier then announced that Marais would “not be allowed to return to work until the political processes” were completed. This was thought to refer to the three-person DA committee investigating whether the Mayor had broken party rules (*Sunday Times*, 7 October 2001). However, this DA committee was overtaken by other party processes.

Party leader Tony Leon had unsuccessfully attempted to get Martinus van Schalkwyk to fire Marais (remembering that the NNP component had appointed Marais). When this failed, Leon sent a letter to Marais calling on him to resign and saying that a motion to this effect would be put to the DA’s NMC on Friday of the next week (*Sunday Argus*, 13/14 October 2002).

Three grounds for his dismissal were raised in this regard:

- The applicant had failed to lead in a manner that united rather than divided the executive and caucus.
- Under his leadership, the public image of the DA had impacted negatively on its ability to mobilise support in Cape Town and elsewhere in the country.
- He had failed to establish a sound working relationship with the Province (Marais vs. The Democratic Alliance, 2001: 8).

He was publicly opposed by DA deputy leader Martinus van Schalkwyk, who supported Marais and accused Leon of being unprincipled, unfair, not following due process and holding a kangaroo court to get rid of Marais (*Sunday Independent*, 14 October 2001; *Saturday Argus*, 13 October 2001). The NNP’s highest decision-making body unanimously adopted a motion backing van Schalkwyk’s position that Marais should not go (*Cape Times*, 16 October 2001).

At the National Management Committee (NMC) meeting Marais was not only stripped of his mayoral chain but was booted right out of the DA. Despite the protests of the Mayor’s lawyer that the meeting should have been a disciplinary meeting, the DP majority in the NMC ruled that Ma-

rais's sacking as mayor was a purely political decision, which was Leon's right as DA leader after losing faith in his ability to lead the city (*Weekend Argus*, 20 October 2001).

Tony Leon then turned his sights on Martinus van Schalkwyk and planned to take disciplinary action against him for his role in supporting Marais and criticising Leon publicly (*Sunday Independent*, 21 October 2001). Van Schalkwyk then dropped another bombshell by withdrawing the NNP from the DA alliance (*Sunday Argus*, 26 October 2001). The NNP subsequently announced that it would go into alliance with the ANC.

At national and provincial level, this was not a problem as the DA and NNP were separate parties. The problem for the NNP at local government level was that the DA was registered as a single party. NNP councillors who withdrew from the DA were set to lose their seats. After negotiations between the NNP and ANC, it was announced that legislation was to be fast-tracked through Parliament allowing crossing of the floor, which would allow DA councillors to return to the NNP (*Sunday Independent*, 28 October 2001).

In the meantime, Marais challenged the NMC decision both to fire him as mayor and expel him from the DA in the Cape High Court. The judge questioned the fact that the DA's three-person commission, which was supposed to investigate the matter, had apparently been dispensed with when the matter had been referred to the NMC.

The Court ruled on 21 November that in terms of the Municipal Structures Act, only the relevant municipality has the power, by resolution properly taken, to remove an executive mayor from office. The NMC's decision to fire Marais as mayor was accordingly *ultra vires* ("beyond powers"). The judge said that it was difficult to avoid the conclusion that the NMC had devised a scheme to yield a pre-determined outcome. It ultimately ruled that the decision of the NMC to fire Peter Marais as mayor be set aside with immediate effect (*Marais vs. The Democratic Alliance*, 2001). The Mayor returned triumphantly to his chambers that day and then subsequently resigned from the Council.

The Provincial Premier, Gerald Morkel, was suspended from the NNP for rebelling against party leadership to go into alliance with the ANC. Peter Marais was elected leader of the Western Cape NNP (*The Argus*, 1 November 2001). Morkel himself challenged the decision to remove him as premier and was then reinstated (*Weekend Argus*, 2 November 2001). Morkel subsequently resigned as premier and decided to stay with the DA (*Sunday Times*, 11 November 2001).

The withdrawal of the NNP from the DA alliance led to a change of power at provincial level. The NNP went into formal alliance with the ANC and the new premier became Peter Marais. At local government level, the NNP advised its councillors to stay within the DA fold until cross-

ing the floor legislation was enacted in 2002. The Premier of the Province, Gerald Morkel, subsequently became DA Mayor in Cape Town, which meant that the Premier and Mayor had reversed roles.

The crossing the floor legislation was passed by parliament but is currently being challenged in the Constitutional Court. The indications are that enough DA councillors will return to the NNP fold to enable the NNP and ANC to rule Cape Town with a clear majority.

Allegations of corruption continue to haunt Cape Town. Mayor Gerald Morkel has since been implicated in a controversy that he received money from a German conman awaiting extradition. These charges are currently being investigated and are indeed far more serious than anything of which Marais was even accused. Morkel is currently fighting for his political life. Peter Marais subsequently resigned as Premier of the Western Cape after accusations of serious sexual harassment. He was replaced by NNP leader Martinus van Schalkwyk.

## **10. Case study 2: Ekurhuleni. 'Mr. Big Spender'**

Ekurhuleni Metropolitan Council is in the Gauteng Province. It is located on the eastern side of Johannesburg. The historical underpinnings of the area lie in the gold mining industry. However, since the 1950s, manufacturing has gradually supplemented mining as the major economic activity in the area. Ekurhuleni in fact represents the biggest concentration of manufacturing in South Africa. It also has Johannesburg International Airport, the biggest airport in Africa within its jurisdiction. (Ekurhuleni, 2001).

Ekurhuleni consists of eleven previously independent local authorities, which were amalgamated for the December 2000 local government elections. It is highly urbanised and has the highest amount of informal settlement in Gauteng. Despite the housing shortage of 130 000 houses, there is little land for future development (Ekurhuleni, 2001).

The ANC comfortably won control of the East Rand Metropolitan Council (as it was then known) in the 2000 local government elections. In Gauteng province, the ANC opted for the executive mayor system with mayoral committees. In Ekurhuleni they have also established the ward participatory system.



**Table 2. Demographic data. Ekurhuleni**

<i>Summary data</i>	
Geographical size	1 924 km <sup>2</sup>
Population	2 026 807
Density	1 053 per km <sup>2</sup>
<i>Population by race</i>	
African	1 477 671
Coloured	56 490
Indian	28 402
White	450 522
Other	13 722
<i>Economic analysis</i>	
No. of households	424 298
Average annual income per household	ZAR 42 920
Income per capita	ZAR 8 985

Source: Municipal Demarcation Board, 2000.

### 10.1 Appointment of the Mayor

This case study is less tortuous than the Cape Town soap opera. Bavumile Vilikazi was appointed by the President along with the National Working Committee to be the mayoral candidate of the East Rand. Because of factionalism between regions, the ANC rejected all candidates from the existing East Rand region and brought in an outsider to resolve this internecine conflict. However, the new Mayor did not have a power base in the region, which contributed to his downfall.

The Mayor was a political activist in the Vaal Triangle area in the 1980s and 1990s and was a founder member of the Vaal Civic Association. He was tried for treason by the apartheid government. Prior to his redeployment he was a MP in the National Assembly, where he was a party whip.

His selection as mayoral candidate was shrouded in controversy when even before the election it was revealed that he headed an allegedly debt-ridden excavation company that was thrown off a big municipal contract for failing to deliver (*Business Day*, 1 August 2001). He was apparently a sub-contractor to a large business and failed to complete the work because it ran out of cash. He weathered the storm and became the Mayor of East Rand. He appointed a ten-person mayoral committee to assist him.

## 10.2 *The Mayor's performance*

The municipality soon changed its name to Ekurhuleni, which means place of peace in Tsongo. However, the first ten months were anything but peaceful in the municipality and the Mayor soon ran into one controversy after another, which ultimately led to his removal. He was committed to fighting corruption amongst both the councillors and council officials, stating: "I wish to recommit the ANC government on the East Rand in fighting corruption in the council and if we find any of our councillors corrupt, we shall remove them" (*Tembisan*, 2 March 2002).

However, it was his own actions that soon came under scrutiny. Ekurhuleni ran into an early storm when it was alleged that the acting manager gave an instruction that credit control measures such as cut-offs should not be implemented in Black areas but in Coloured, White and Indian areas only. This was labelled as racist by the opposition DA (*The Star*, 30 January 2000). The Mayor spent ZAR 500 000 on his inauguration party.<sup>16</sup> This was slammed by the opposition DA as a waste of money given that poverty was rampant in the area (*Alberton Record*, 1 March 2001).

The next problem was the Mayor's Mercedes. In fairness to the Mayor this problem had its roots in an attempt to deal with crime. The East Rand is known as the crime capital of Gauteng. The Mayor announced that fighting crime was a major priority of the council and that a metropolitan police force would be established soon (*Alberton Record*, 1 March 2001). Because of the concern that he would be targeted by criminals, he procured an armour-plated Mercedes Benz worth ZAR 560 000. This was seen as extravagant expenditure and led to an outcry amongst the public. He also ignored a council resolution to sell off redundant mayoral cars before buying a new vehicle (*Sunday Times*, 24 June 2001). As a result of the opposition to his purchase of the Mercedes, he was forced to reverse the decision by the ANC provincial leadership (*Sunday Times*, 7 October 2001). The car was subsequently sold.

He also splashed out ZAR 430 000 to improve his office in Germiston Civic Centre (*Sunday Times*, 7 October 2001). He proposed a new ZAR 12 million Council Chambers at Germiston, although there were already nine civic centres in Ekurhuleni, some of which had been built in the 1990s. According to the Mayor, none were big enough to accommodate the 175 councillors. However, it was pointed out that it would be substantially cheaper to upgrade some of the existing accommodation (*Die Beeld*, 30 May 2001). There were also concerns raised about the high cost of salaries paid to staff in his office administration (*The Citizen*, 21 May 2001).

This extravagant expenditure led to him being dubbed 'Mr Big Spender' by the press. There were also allegations of corruption. He had delegated ceremonial powers to his wife and provided her with an office on council

<sup>16</sup> This sum corresponds approximately to 63 000 USD (April 2003).

premises. There was also the problem that the council could not approve major sewerage and stormwater projects because companies that Vilikazi had been involved with before becoming mayor were bidding for contracts. If the contracts were awarded to these companies, there was concern they would be challenged on the basis that there was a conflict of interest (*Sunday Times*, 7 October 2001).

There was also a grassroots revolt against his leadership. He had constantly ignored requests by the civic movements to deal with their grievances, most notably the Mayor's spending spree against the backdrop of non-delivery of services (*Citizen*, 31 July 2001). There were accusations that the Mayor was living a life of luxury while the council evicted residents who could not pay for services (*Sowetan*, 12 July 2001).

Ekurhuleni always had a difficult task combining eleven different administrations with different cultures, service networks and billing systems into a single unit. This task would require skilled leadership. The problem was that the Mayor had both an arrogant and antagonistic leadership style and interfered in administration. For example, he did not listen to his mayoral committee, many of whom had served as mayors during the interim period of local government. The luxury car was bought against the express wishes of the mayoral committee. He did not take advice from the Mayors Forum of Gauteng either.

He also ran Ekurhuleni as if it was his personal fiefdom. He used to have meetings with heads of departments individually without the presence of the manager or mayoral committee members. The result was a totally uncoordinated approach to management. Certainly, members of his erstwhile mayoral committee who were interviewed were extremely critical of his poor management style. This was aggravated by his bombastic personality, which alienated fellow ANC councillors, opposition DA councillors, management and labour alike. Ironically enough, he could however be extremely charming on a one-to-one basis.

All this contributed to complete paralysis and non-decision making within the mayoral committee. There was also slowness in putting a new management team and organogram together. This contributed to poor staff morale as staff were uncertain about their future. This in turn affected the ability of the council to deliver services to its constituency, particularly to poorer committees that needed substantial service improvement.

### *10.3 The role of party politics*

The East Rand was a hotbed of Black resistance to the apartheid government in the 1980s and 1990s and since 1994 has been an ANC stronghold. In recent years, the ANC East Rand has become particularly faction-riddled amongst the various regions. In 2000, the entire Gauteng provincial executive was disbanded due to factionalism.

One ANC faction came from Kempton Park/Tembisa and the Khayalami Metropolitan Council. This faction had fought tooth and nail against the Municipal Demarcation Board's proposals to disband Khayalami Metropolitan Council and include a portion of it in Johannesburg and a portion of it in the East Rand. The Board was of the view that Khayalami was an artificial construct that did not correspond with socio-economic interdependencies. A major problem for the strong men of Kempton Park/Tembisa was that this demarcation split the power base of the Kempton Park/Tembisa region into two municipalities. The other major faction within the East Rand came from Germiston and surrounding areas.

The Mayor had to contend with these various factions and the way he initially dealt with the problem was by ensuring that a balance of the various factions were represented on his mayoral committee. However, according to some interviewees, instead of leading to a balance between the factions, the result was that they united to undermine him. A couple of interviewees argued that even before the Mayor started making serious political mistakes, there was a plot to get rid of him because he was seen as an outsider who had been imposed on the area by the national leadership.

The Mayor of course gave his enemies plenty of political ammunition. The decision to make Germiston the seat of the new administration particularly enraged the Kempton Park/Tembisa faction. When he decided to crack down on rent and service arrears, he not only faced a grassroots revolt, but also had little support from his mayoral committee. This left him politically isolated and the mayoral committee paralysed by these decisions.

#### *10.4 The removal of the Mayor*

As with the Western Cape, it took party rather than state structures to deal with the problem. Section 106(1) of the Municipal Systems Act gives the MEC for Local Government the right to intervene when there is non-performance and maladministration. The Cape Town situation has shown that this was a rather weak form of intervention and it was not used in this case.

The mayoral committee consisted of powerful East Rand strongmen who complained to the Gauteng interim provincial leadership (this was a caretaker body installed in 2000 when the provincial executive was disbanded). The Mayor had apparently been rapped over the knuckles on a number of occasions, but to no avail. Eventually the interim provincial leadership wrote a report to the ANC National Working Committee (who with the President had appointed him in the first place), recommending his removal. This recommendation was approved by the Committee (*Sunday Times*, 7 October 2001).

The Mayor announced on 5 October 2001 that he would resign on 1 November, 10 months after he took office. According to newspaper reports, which were corroborated by interviews, he was given an ultimatum by the provincial leadership to resign.

Mayor Vilikazi departed, but not gracefully. He accused his mayoral committee of undermining him and claimed that he was not guilty of any corruption in the council (*The Star*, 12 October 2001). He was subsequently redeployed as ambassador to Uganda. He was replaced by ANC MP Duma Nkosi and according to interviewees, Ekurhuleni is functioning more efficiently under his leadership. The new Mayor has a more accommodating management style than his predecessor, which is contributing to better governance. Nkosi was subsequently elected regional head of the ANC East Rand, which enabled him to consolidate his mayoral position with party control. Vilikazi had never had a strong position within the party structure.

The grounds for Vilikazi's dismissal were never made public. Various reasons were cited in newspapers and by interviewees. The non-performance of Ekurhuleni was certainly the major factor in his dismissal. His poor leadership and management style had contributed to this non-performance. His extravagant spending in the face of non-delivery of services was another factor. It was also suggested that the fact that he owned a waste management company prior to his appointment, which was trying to do business with the council, was another contributory factor. The ANC was concerned that if projects were approved, they would be challenged on the basis that there was a conflict of interest (*Sowetan*, 8 October 2001).

## **11. Mechanisms for control of corruption and mal-administration**

### *11.1 The Constitution and relevant legislation*

The 1996 Constitution has created a strong ethical framework for governing the behaviour of both politicians and officials (RSA, 1996). Section 195(1) of the South African Constitution contains a number of provisions of relevance and importance in setting out the principles that must govern Public Administration, including: A high standard of professional ethics must be promoted and maintained (Section 195(1)(a)).

The cornerstone of the Constitution is the Bill of Rights, which enshrines the democratic rights of people in South Africa. The Bill of Rights applies to all law and binds the legislature, the executive, the judiciary and all organs of state. The Bill of Rights also binds natural or juristic persons to the extent required by the nature of these rights. The state is required to respect, promote and fulfil the rights in the Bill of Rights. Of particular importance to this study are:

*Freedom of Expression*

- Section 16(1)(a). Everyone has the right to freedom of expression which includes freedom of the press and other media.

*Access to Information*

- Section 32(1). Everyone has the right of access to: i) any information held by the state, and ii) any information that is held by another person and that is required for the exercise or protection of any rights.

*Just Administrative Action*

- Section 33(1). Everyone has the right to administrative action that is lawful, reasonable and procedurally fair. (2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.

The Promotion of Access to Information Act, 2000 (RSA, 2000a) gives effect to the constitutional right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. A requester must be given access to the records of a public body, although there are certain exemptions such as the minutes of the Cabinet and its subcommittees.

The Promotion of Administrative Justice Act of 2000 (RSA, 2000b) gives effect to the constitutional right to administrative action that is lawful, reasonable and procedurally fair and the right to be given written reasons for administrative actions. Administrative action which materially and adversely affects the rights or legitimate expectations of any person must be procedurally fair. Any person may institute proceedings in a court or a tribunal for the judicial review of an administrative action.

The Protected Disclosures Act of 2000 (RSA, 2000c) makes provision for procedures by the terms of which employees in both the private and public sector may disclose information regarding unlawful or irregular conduct by their employees. This is the so-called Whistleblower Act which provides for occupational protection of employees who may make a disclosure under this Act. The Act defines such disclosures such that protected disclosure must be for example, to a legal adviser, an employer or a member of the executive council. It does not include all disclosures, and most notably not cases when an employee commits an offence by making a disclosure.

Chapter 9 of the Constitution deals with state institutions supporting constitutional democracy. A number of such institutions have been created, including the Public Protector and Auditor-General. The Public Protector has the power to investigate alleged corruption in public administration, report on its action and take remedial measures (Section 182). The Auditor-General must audit and report on the accounts, finan-

cial statements and financial management of national, provincial and local government (Section 188).

Despite these provisions, the South African government has had a number of corruption cases in the past few years, the most high profile being an arms procurement deal and the unauthorised funding of an HIV/AIDS play. The Transparency Corruption Perception Index ranked South Africa joint 36th out of 102 countries rated in its 2002 survey. South Africa's score slipped from 5.0 to 4.8 out of 10.<sup>17</sup>

Anti-corruption is a major thrust of the national government. A National Anti-Corruption Forum was established in June 2001 to deal with the serious nature and extent of the problems of corruption in South Africa. Its objectives were:

- To contribute towards the establishment of a national consensus through the co-ordination of sectoral strategies against corruption
- To advise the government on national initiatives for the implementation of strategies to combat corruption
- To share information and best practices on sectoral anti-corruption work
- To advise sectors on the improvement of sectoral anti-corruption strategies (National Anti-Corruption Forum, 2001).

Another state institution supporting constitutional democracy is the Independent Electoral Commission. This has ensured that elections in all spheres of government have been relatively free and fair.

### *11.2 Anti-corruption measures at local government level*

In addition to these general provisions, there are specific anti-corruption measures at local government level.

There is a Code of Conduct for councillors in Schedule 5 of the Municipal Structures Act of 1998 (RSA, 1998) for all elected councillors. Clause 2 requires councillors to (a) perform the functions of office in good faith, honesty and in a transparent manner, (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Municipal staff members are in turn regulated by their own Code of Conduct, which is found in Schedule 2 of the Municipal Systems Act, 2000 (RSA, 2000d). Clause 3 of the Code, headed "commitment to serving the public interest", reminds public officials of their duty to:

- Foster a culture of commitment to serving the public and a collective sense of responsibility in terms of standards and targets.

<sup>17</sup> [www.transparency.org/cpi/2002/cpi2002.en.html](http://www.transparency.org/cpi/2002/cpi2002.en.html)

Clause 2 of the staff code states *inter alia* that a staff member of a municipality must at all times:

- Loyally execute the lawful policies of the municipal council.
- Perform the functions of office in good faith, diligently, honestly and in a transparent manner.
- Act in the best interests of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

It has been pointed out that local government now has constitutionally guaranteed functions and that the higher spheres of government have limited powers to intervene in local government affairs. Provinces do have the right to intervene under the Municipal Systems Act which in the case of suspected maladministration, fraud, corruption or any other serious malpractice, allows the Provincial Minister of Local Government to investigate or designate a person to investigate the matter (Section 106(1)).

## **12. Application of mechanisms for control of corruption and maladministration to the case studies**

In this final section an analysis will be made of the application of the relevant provisions for control of corruption and maladministration to the two case studies. As indicated, the findings of the case studies are not necessarily representative or generalisable. Nevertheless, there are some general pointers that can be extrapolated from the case studies.

### *12.1 The role of political parties*

The role of political parties was an important factor in dealing with corruption and maladministration in both Cape Town and Ekurhuleni. The DA's view of party boss involvement in local government (with reference to the street-naming saga) was expressed by the then NMC chairperson, James Selfe, who in an interview said: "nationally, provincially and locally we are one indivisible family. We sink or swim together".<sup>18</sup>

The DA's view as expressed in the party's manifesto was that all forms of corruption, no matter how small, had to be weeded out. Its speedy and transparent process in dealing with corruption is to be commended. It is true that the NP had a long tradition of patronage. There was undoubtedly foul play in the drawing up of petitions, although the charge of misconduct against the Mayor was never proved. It is a pity that the King Committee was not allowed to complete its work, which would have undoubtedly been of a more sober quality than the work of Heath, who had developed

<sup>18</sup> Interview, 22 March 2002.



a reputation when head of the Special Investigating Unit as a loose cannon, liable to find corruption when none existed.

The DP national leadership viewed itself as a modernising force, set to sort out local corruption. Because of the weakness of state structures in dealing with perceived corruption (as evidenced by the abortive King Commission and the Mayor's subsequent exoneration by the rules committee, which consisted of his supporters), party control was needed to ensure good governance and accountability at local level.

However, the DA national leadership did not come out of this saga smelling of roses either. The Court judgment made a damning indictment of Leon's leadership, saying that he had not acted in good faith and that the NMC had devised a scheme to yield a pre-determined outcome, i.e. the dismissal of Marais. Leon's arrogant leadership style clearly alienated the federalist NNP.

Of course, the whole saga was played out against the background of the fight for the soul of the DA. The street-naming saga became a means to this end. One of the reasons why the NNP backed Marais so strongly was that he was not caught stealing money or committing fraud. This was seen as a way of weakening the NNP before the first conference. About the only issue that DP and NNP interviewees agreed on was that there was no proper foundation for the development of a common party vision and culture. Section 14 of the DA's interim constitution in particular was criticised for not putting a common process in place for selecting councillors.

As with Cape Town, it took party rather than state structures to sort out maladministration in Ekurhuleni. There were accusations of corruption at any rate, but because there was no governmental investigation into the Mayor's conduct, corruption was never proved. As in Cape Town, the party was seen as the modernising force.

However, the one major difference between Cape Town and Ekurhuleni is that Peter Marais was expelled from the DA, while Vilikazi was redeployed. Admittedly, Marais refused to resign while Vilikazi agreed to be redeployed. This does water down the impact of the government's anti-corruption programme, if errant politicians are first rapped on the knuckles and then given diplomatic postings. As discussed, the ANC is a broad liberation movement rather than a political party and it does not always use Western norms of accountability in dealing with misbehaving politicians. Such politicians are still part of the ANC family and are sometimes given fancy postings (although the lively independent Kampala press will keep Vilikazi on his toes). Recalcitrant politicians are sometimes regarded as impotent in ANC party structures. An example is Mayor Faku in Nelson Mandela Metropolitan Council, who has also been shrouded in spending controversy. He has retained his mayor's post but has lost his party leadership position.

There are other differences as well. In Ekurhuleni there was a grassroots revolt by ANC and civic structures against Vilikazi's leadership. It was the ANC political leadership who ultimately got rid of him, although the decision was formally approved by the National Working Committee of the ANC. In the case of Peter Marais, while he was roasted in the liberal press, there was no such grassroots revolt. Rather, it took intervention from the DA national leadership to ultimately deal with the situation. Both parties used party structures to get rid of local mayors although the DA went about it in a more centralised way through the national party leadership while the ANC dealt with Vilikazi primarily through provincial structures. The DA has subsequently had its first Federal Congress and has put provincial party structures in place, including disciplinary procedures.

### *12.2 The role of the press*

The local media played a critical role in raising public consciousness of corruption in South Africa. In both case studies the role of the press was crucial. In Cape Town, the controversy originally broke in the *Mail and Guardian*, where the lists of forged signatures were published. Indeed the twists and turns of the street-naming saga were like a John Le Carré novel, with the press constantly updating the public on new developments. Likewise in Ekurhuleni, the vigilant press contributed to the departure of Mayor Vilikazi. Having dubbed him Mr Big Spender, the press created a climate for his ultimate dismissal.

However, some of the NNP interviewees in Cape Town did question the view of the press as an 'honest broker' in exposing corruption. Certainly Mayor Marais was unpopular with the largely liberal press as a result of allegedly homophobic comments he made early in his tenure. One NNP interviewee suggested that there was close collusion between a DP spin-doctor whom Marais had fired and the press, aimed at portraying the Mayor in a bad light. This cannot however be conclusively demonstrated.

### *12.3 Whistleblowers*

The role of whistleblowers was important in the Cape Town case study. The affidavit of Victoria Johnson, in which she made serious allegations of fraud and misconduct against two officials, was what really brought the corruption into the open. Interestingly enough, although the Protection of Disclosures Act was on the statute book, it had not yet come into effect. Ms Johnson had, however, prepared her affidavit in line with the provisions of the Act. Her concern about the DA leader making her affidavit public was that it would not be regarded as a protected disclosure. If the van der Westhuizen Commission had made it public, she would however have been covered.

However, there is a strong feeling that she was treated badly. The DA leader, Tony Leon, disregarded her wishes that the affidavit not be made public. The question of Leon's actions was also ignored by Heath. In fact, Heath said in the report "that her evidence was far from satisfactory" (2001: 61). Astonishingly, no evidence was given to back this claim. The treatment of Ms Johnson would certainly not encourage potential Cape Town whistleblowers to expose corruption and maladministration.

#### *12.4 Commissions and the courts*

The commissions and courts played an important role throughout the Cape Town case study. The one-person van der Westhuizen Commission of Inquiry was set up to examine both the integrity of the public participation process and possible misconduct within the administration, including the leaking of documents. This commission, however, was ineffective. In fact some of the DP interviewees said that the commission was a NNP cover-up and its primary aim was to find out who had leaked the documents (the Mayor in fact thought the Deputy Mayor was behind the leak).

The Heath Commission was more influential and its report ultimately sealed the fate of the Mayor. It was set up by the provincial executive committee member, Pierre Uys, under the Provision of Section 106 of the Systems Act to investigate "alleged maladministration, fraud, corruption or other serious malpractices". In particular, the Heath Commission found that the Mayor was guilty of contravening the Code of Conduct for councillors. It commented on the following provisions:

- Councillors are required to perform the functions of their office in good faith, honesty and in a transparent manner. The Commission was of the view that the Mayor did not perform the functions referred to in good faith, honesty and in a transparent manner.
- Councillors are required at all times to act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised. The Commission was of the view that the Mayor did not act in the best interests of the municipality. It found that there was 'the omission to confirm information, the omission to act reliability, to exaggerate and distort facts'. The Mayor had in fact compromised the credibility and integrity of the municipality (Heath Commission, 2001: 79–82).

The Heath Commission found that the two suspended senior officials contravened the Municipal Systems Act by not promoting accountability and not promoting honest and free communication between themselves and the local community. They were also found guilty of contravening the staff Code of Conduct of the Municipal Systems Act by compromising the

credibility and integrity of the municipality (Health Commission, 2001: 68–71).

The courts were also used, ironically, to reinstate Marais (albeit for a few hours). They ruled that under the Municipal Structures Act, only the relevant municipality has the power, through a proper resolution, to remove an executive mayor from office. Marais's advocates argued successfully that the Promotion of Administrative Justice Act was applicable in a number of areas, most notably the failure of the DA's NMC to give him the opportunity to put his case. This suggests that bona fide examples of corruption and maladministration are not sufficient to dismiss offenders. There also has to be a proper procedural approach to deal with offenders.

### *12.5 The role of the province*

Although the role of provinces, the traditional overseers of local government, has been weakened, they still have the power to call for a commission to investigate serious misconduct. One of the problems of the new local government system is that provinces cannot discipline guilty local offenders. The Cape Town case study showed that only the relevant municipality could discipline such offenders. The rules committee which was set up to deal with the transgression of the Code of Conduct, found that the Mayor was not guilty of breach of conduct. This Committee consisted of a majority of Marais appointees. As one DP interviewee put it, "it was the opposite of a Kangaroo Court consisting of Marais's supporters".

It could be argued that if there were proper provincial processes in place for dealing with local corruption, it would not have been necessary for the DA party leadership to intervene in local government

### *12.6 The role of subcouncils and ward committees*

As pointed out, subcouncils and ward committees were intended to be instruments for local democracy and accountability. Subcouncils were created in Cape Town, although they are largely vehicles of representative democracy, consisting of councillors from the wards represented in the subcouncil areas. In Cape Town these subcouncils have tended to be scrutiny rather than policy-making bodies and have been largely a rubber stamp of the executive. They certainly did not play any role in the street-naming saga.

The ward committees on the other hand consist of the councillor of the ward, along with up to ten members of the local community. They are more instruments of participatory democracy. While ward committees had not yet been set up in Ekurhuleni, it was a grassroots revolt from local communities such as local ANC branches and areas which contributed to the departure of Vilikazi. Such grassroots structures ultimately became the

bedrock of many ward committees. This was in contrast to Cape Town, where there was no populist pressure to remove Marais.

NGOs are quite influential at national level. However, they are less important at local government level. NGOs could become important at local government level as ward committees get established.

### *12.7 Business*

The role of business in the dismissal of the Cape Town mayor cannot be underestimated. The streets that Marais wanted to rename were in the heart of Cape Town's commercial district. The Cape Chamber of Commerce and Industry had indicated its objection to this proposal. It has been shown that the DA was forced to close down its telesales office in the Western Cape because of the negative perceptions of business towards Marais. This was one of the major reasons why the DA removed Marais. According to a senior DA representative, after the party fired Marais it managed to recoup the costs of the court case from Cape Town businesses within a few days.

## **13. Conclusions**

How useful have the instruments for control of corruption and maladministration been? The 1996 Constitution has created a strong ethical framework for combating such misconduct. The role of the press was an important instrument in exposing corruption and maladministration in both Cape Town and Ekurhuleni.

South African legislation makes provision for the protection of whistleblowers. The role of the whistleblower in Cape Town was critical in exposing maladministration. Nevertheless, there needs to be better treatment of whistleblowers to make the leaking of information about corruption more effective.

The commissions and courts played an important role in the Cape Town case study. In particular, it was the Heath Commission that ultimately sealed the Mayor's fate. The courts also had an important role in demonstrating that even if there is evidence of corruption and maladministration, action against offenders has to be carried out in a procedurally fair fashion. Provinces have the power to set up commissions to investigate serious misconduct in local government. However, they do not have the power to discipline councillors who are guilty of misconduct.

The role of local instruments of civic society and NGOs as well as local branches of the ANC was pivotal in removing Vilikazi in Ekurhuleni. In Cape Town organised business contributed indirectly to the departure of Marais by withdrawing donor funds from the DA, which contributed to the decision of the party leadership to fire him.

The political parties have been an important factor in dealing with local corruption and maladministration. However, the intervention of political parties in local government is a double-edged sword. Giving local government greater independence from higher-tier government structures is a noble goal in that it can promote local democracy. Nevertheless, the ultimate judge of local government politicians should be the local voters that put them in power in the first place rather than party bosses. A carefully crafted recall system is a better method of keeping local politicians sensitive to the needs and concerns of local communities. Given the negative public opinion towards Marais's antics, there is a good chance he would have been recalled.

Furthermore, could a case not be made for saying that while a form of proportional representation is suitable at national and provincial level, at local government level a 100 per cent ward electoral system should be introduced?<sup>19</sup> If local politicians wish to change parties they should be allowed to do so providing that they resign and face the electorate in a by-election. Unless amendments are made to the current electoral system, local government will continue to be ruled by party bosses. Whether party bosses rather than local voters should be the ultimate judge in dealing with corruption and maladministration is a moot point.

While the new local government system is still in its infancy, the case studies have suggested that the instruments for control of corruption and maladministration, if properly utilised, have the potential to curb such irregularities in the future. Although there are a number of provisions in place for dealing with local corruption and maladministration, many of these measures are imperfect and need to be improved.

Finally, a more general question would be to what extent the decentralisation to local government has benefited the population? It is a little premature to make a proper assessment of the decentralisation policy, seeing that the system has only been in place since December 2000. Nevertheless, a couple of preliminary observations can be made. Firstly, decentralisation has led to the promotion of local democracy. Historically, the majority of South African citizens were deprived of the right to vote in and stand for elections at local level. The new system has given citizens formal democratic rights at local level. The significance of local enfranchisement should not be underestimated. Subcouncils further empower local councillors in that they can promote decentralisation within councils. Ward councils have the potential to promote local citizen and NGO participation in municipal affairs.

<sup>19</sup> One of the binding Constitutional Principles for the making of the Final Constitution was that representation shall, in general, be based on proportional representation. Interestingly enough though, a form of a constituency system for national and provincial government is being investigated by a government-appointed commission

Secondly, decentralisation can also promote development. All local governments are required to draw up integrated development plans (IDPs) which should reflect local service needs. In particular IDPs have to reflect the priorities of poor communities and promote social and economic development. These IDPs have to be developed in a participatory way with local communities and the council's capital budget should reflect IDP priorities. There is a view which suggests that communities' inputs are being marginalised in IDPs (Heller, 2000). However, it is premature to make such judgements seeing that comprehensive formal community involvement in budgets and IDPs was only required with effect from the 2002/2003 budget, which was the first full budget of the final phase of local government. My own research (Cameron, 2002) suggests that while it is still early days, these IDPs are contributing to the slow eradication of the huge infrastructure backlog in poorer communities.

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# Conclusions

*Axel Hadenius*

## 1. Decentralisation and democratic governance: restating the problem

Decentralisation implies the devolution of state authority. Decision-making capacity and resources are transferred from the centre to organs at the local level. As noted in the introductory chapter, such reforms can enhance the quality of democratic governance: the state becomes more effective and more responsive to popular demands. But decentralisation may also have the opposite effects by breeding corruption, mismanagement and the rule of self-serving local elites.

Governance concerns the performance of public organs. It is, on the one hand, a matter of procedures; of upholding certain modes of operation that accord with generally accepted codes of sound administrative behaviour (such as the principles of transparency, accountability and the rule of law). On the other hand, and more fundamentally, governance concerns the state's capacity to deliver. Public organs should not only behave in accordance with 'the book'; they should also get things done. The bottom-line, in other words, is effectiveness: the ability of state authorities to actually provide society with certain goods and services. It is generally assumed, however, that these two aspects of governance are in concert. Sound administrative practices (if properly applied) are believed to increase state efficiency.

Governance does not in itself, however, say anything about what the state ought to do, about which of society's demands and interests should be promoted – which is where democracy becomes relevant. When we talk about *democratic governance* we refer to a state that is capable of effectively meeting broad popular demands. It is generally agreed nowadays that this can only be achieved by means of democratic procedures: through the introduction of essential democratic rights, such as political freedoms and elections. It is only the people themselves that should judge the needs and interests that should be served in political life. Hence, the establishment of democracy's different representative organs, and other channels of political action and expression that allow people the opportunity to articulate and put pressure behind their various policy demands.

At the same time, people should be able to gain an insight into the performance of public organs, which may boost administrative regularity and efficiency. To that end, organs for administrative and legal control are put in place as well. This combination of popular involvement and bureaucratic and judicial scrutiny – two forms of pressure and control that can be

mutually reinforcing – is believed to further democratic governance. The state becomes responsive to broad popular interests – given the resources at hand – while operating in an orderly and effective way.<sup>1</sup>

What makes such governance possible in the context of local politics in low-income countries? On the basis of the studies that are reported in the previous chapters – and on some additional evidence in this field – we can make the following conclusions.

## 2. General accomplishments

Devolution of power has indeed taken place in the countries under study – albeit with some deficiencies. Local governments have been established that are endowed with significant decision-making authority. In South Africa, local organs have the power to appoint their own staff. Such recruitment autonomy is more constrained in Bolivia and India where central organs appoint certain key positions in the local administration. Most important for the actual capacity of local organs, however, is their access to economic resources. In poor countries, the local fiscal base is normally very constrained, and especially so in rural areas. For the most part, money must be transferred from the central level.<sup>2</sup> Our three countries are no exceptions in this regard, while the share of resources that are transferred to local organs differs quite substantially. Bolivia stands out in this respect, with no less than twenty per cent of its national budget being transferred to local governments. In South Africa, by contrast, only a few per cent are allocated to local organs. Indian states tend to range between these two cases.

In all three countries, democratic procedures at the local level allow for people's involvement in public affairs through elections and by other means. Local level democracy has brought about broader and more extensive political participation in that previously excluded segments of the population, such as indigenous people in Bolivia, have become involved in political life. The use of special quotas for under-represented groups – women and scheduled castes in India, and women in Bolivia – can be most helpful in this regard, especially if such quotas apply to candidates who are actually elected (as in India), and not only to candidates on the party lists (as in Bolivia). Such broader involvement naturally has merits in itself, and may over a medium- to long-term have important educational effects that would strengthen the political clout of the groups in question – thus improving the overall quality of democracy.

<sup>1</sup> For an overview of the literature in this field, see e.g. Pierre and Peter, 2000; World Bank, 1994; Bratton and Hyden, 1992.

<sup>2</sup> Money may also be supplied – directly or indirectly – by international donor agencies. In many developing countries donor agencies account for the lion share of local revenues (Blair, 2000).

As is demonstrated by the Bolivian example, decentralisation can bring about profound changes in public policy. A redistribution of public resources has been accomplished as a consequence of the decentralisation reforms. Whereas the major share of economic resources was previously allocated to larger cities, the flow of transfers has subsequently changed dramatically to the advantage of the rural areas that hold the great majority, and also benefiting the poorest segments of the population. It was the local government programme that made this reallocation possible by introducing a new tier of democratic institutions in rural areas – institutions to which revenues were redirected. Generally speaking, the reforms have made public policy-making more responsive to local needs, and new avenues of popular participation have resulted in the launching of locally generated and community-oriented programmes for improving schools, roads, health clinics etc., as well as programmes tackling issues related to poverty.<sup>3</sup>

Important achievements have been documented in India too, and in West Bengal in particular, where decentralisation reforms have been linked to a comprehensive and unusually successful land reform programme. In addition, previously rampant local corruption has been effectively curtailed. In South Africa, the decentralisation programme is of a more recent date; it has only been in operation for a few years. Besides, the economic capacity of the new local units is often very constrained. Nevertheless, the new system requires all local governments to draw up integrated development plans, which should expose local service needs. These development plans are worked out in a participatory way and have to reflect the priorities of poor communities.

These accomplishments could be seen as good news for advocates of decentralisation. However, experiences of decentralisation in the three countries under study also leave much to be desired. Despite reforms, public life is still largely dominated by ‘political bossism’. Old patterns of clientelism and favouritism persist, at times dominating the local political scene, patterns that go hand in hand with poor standards of governance. The misuse of public resources – for political and private ends – remains a major problem by increasing inefficiency and hampering the delivery of welfare to society at large. Furthermore, such abuse tends to misdirect public policies in favour of traditional elites, normally at the expense of poor and politically marginalised people.

What can be done to counteract such tendencies? In the remaining part of this chapter, I shall discuss what experience can teach us in relation to this question.

<sup>3</sup> According to Goudsmit and Blackburn (2001: 587) the Law on Popular Participation “counters a historical trend in which the Bolivian state has been excessively centralist, providing little or no support to the municipalities, particularly those in remote rural areas.”

### 3. Steering and control from above

As we saw in the introductory chapter, central government can do many things to support democratic local governance. Firstly, of course, the central government needs to introduce an institutional structure for local self-government and democracy. It is an advantage if such initiatives have broad support among political parties, as was the case in India. In Bolivia, on the other hand, the decentralisation programme was mainly the result of an almost secret technocratic approach, offering very little by way of deliberation and consensus-building among political parties.<sup>4</sup> Such an approach makes the programme fragile, since it can be dismantled or undermined by a change in government. Local capacity takes time to develop (Abers, 1998). It is therefore a critical condition for success to have **long-term support from the centre** under stable rules, including a predictable infusion of resources (Fiszbein, 1997; Manor, 2000).

Central institutions may also be involved in the process of **staff recruitment** at local levels, as is the case in Bolivia and India. The rationale given by the centre is generally the safeguarding of an adequate degree of professionalism and political independence among local administrators. However, since such central appointments of local bureaucrats virtually 'insulate' them from local influence, the practice can sometimes create a difficult problem of accountability, as it obviously conflicts with the principles of electoral control and social auditing (to be discussed below).

An alternative policy approach could aim at advancing the work-spirit and commitment of agents in the field, i.e., a **motivation component**. An example of this is the approach used in West Bengal, where administrative personnel were required to live for a short period of time among the people targeted for a certain programme, in order to learn to see things from the clients' point of view. This, however, seems to be a rare example. In India, as in many developing countries, there is often a huge gap – due to status differences and traditions of hierarchy – between administrative personnel and ordinary people. This could indeed work as an impediment to democratic governance (Blair, 2000; Heller, 2001). Governance, it should be borne in mind, is not only about doing things right, but also doing the right things. To this end, different modes of 'democratic schooling of bureaucrats' should be considered. The creation and introduction of different systems of rewarding local bureaucrats for good performance also warrant creative thinking.

An alternative to administrative personnel (who have often proved to be reluctant partners) is to rely on the input of trained volunteers. Such external agents (or "facilitators"), who are often animated by strong devotion

<sup>4</sup> As maintained by Goudsmit and Blackburn the top-down process of reform in Bolivia was "the result of the creativity of a small group of intellectuals who drafted it practically behind closed doors, because they did not want their work hijacked by the regional élites or trade unions defending their respective interests" (2001: 590).

to the task, can be instrumental in many regards. They can disseminate information about the objectives and means of reform; provide technical expertise; help in organising people and raising local demands; recruit local leaders; resolve conflicts between different popular groups, etc. (Ostrom, 1990; Abers, 1998; Heller, 2001; Goudsmit and Blackburn, 2001). Such volunteers have played an important role in support of the Panchayat reform in many parts of India.<sup>5</sup> Generally speaking, the 'subjective component', i.e., the commitment and creativity of the personnel involved, may be crucial for the success or not of reform efforts.

As a method for governments to ascertain what 'doing the right things' implies from the people's point of view, they can lay down requirements about **involvement by local citizens** in the reform and development programmes. One objective of such an approach would be to ensure demand orientation, i.e. to make sure that programmes are designed in accordance with priorities in the community. When successful, such involvement may, as a side-effect, increase public awareness of policy goals and the actions to be taken, and also boost popular support for the programme in question. In Bolivia, great efforts have been made in this field. The Law on Popular Participation calls for participatory planning to determine the allocation of revenues that are transferred to local governments. Community members come together on a regular basis to define their needs and priorities. While the extent of participation at these meetings and the actual impact of such consultations should not be overstated, ordinary people have been entitled, for the first time, to make demands on their government.

In West Bengal the *Gram Sansad* performs a similar function. This is a sub-unit of local government that operates through direct participation in open meetings. The federal government has issued thorough instructions about the functioning of these institutions and requires that popular meetings provide the community with insights into ongoing projects. These instructions also advise local government on how to proceed if broad dissatisfaction becomes apparent. Such instructions, which are often reinforced by special state regulations, play an important and sometimes decisive role in maintaining popular involvement. Otherwise locally elected leaders, often the targets for popular grievances, have an incentive to allow these meetings to lapse. Several state governments have also issued orders that inform about the people's right to information, with the purpose of facilitating public scrutiny. In addition, the support of – and sometimes even the creation of – civil society organisations that can serve as instruments of popular involvement can be a government task. We see some examples of this strategy both in India and in Bolivia.

<sup>5</sup> According to Abers, who reports of efforts to enhance local participation in Brazil (which have gained world-wide attention), the contribution of external agents has sometimes been "absolutely essential in drawing new neighbourhoods into the process" (1998: 532).

The countries under investigation here have all set up rules of conduct, and established a number of institutions for **monitoring administrative behaviour** at the local level. In keeping with the British Imperial legacy, the Indian central bureaucracy, as well as its legal apparatus, upholds a tradition of professionalism and a relatively high degree of political integrity. By and large, the same holds for South Africa, whereas in Bolivia the bureaucracy remains influenced by its Spanish legacy of soft and politically infiltrated governance. Even today, party loyalties play an important role within the Bolivian administrative apparatus, especially at departmental levels. More recently, however, far-reaching reforms have been introduced that aim at strengthening professionalism and integrity at top administrative and judicial levels (IDBamerica, 2000b). Such reforms may eventually spread also to the lower echelons.

It should be emphasised that bureaucratic and judicial 'firmness', implying reliability, independence and efficiency, is a most essential factor in the context of local democratic governance. If operations at higher echelons are marked by malpractice and extensive irregularities, the same will in all probability also be the case at local levels. As noted by Theobald (1990), state softness at the top has a strong inclination to extend throughout the system. There need to be clear rules about sanctions against misconduct, and these rules need to be impartially implemented and effectively enforced (Azfar, *et al*, 1999).

In his report on India, George Mathew gives a detailed and very instructive documentation of the statutory audits in operation in different states. In West Bengal a comprehensive system of administrative control of local governments is applied. This involves a form of double inspection, where the one team of inspectors also checks the work done by the other. In turn, these local inspectors are under the watchful eye of higher-level auditing authorities. In Kerala, on the other hand, the Ombudsman and the Appellate tribunals are particularly important institutions. These two states have been very successful in curbing corruption and clientelism. The careful design of statutory audit institutions has certainly played an important role in this regard. In South Africa, provinces have the power of setting up commissions to investigate serious misconduct at the local level. As is evident from Robert Cameron's report, these commissions played an important role in the ousting of the mayor of Cape Town. A general weakness, however, is the fact that such commissions do not have the power to discipline local representatives who are guilty of misconduct.

Active support from the centre and the existence of effective organs of administrative and judicial control can be seen as crucial conditions for successful local democratic governance – a fact that is sometimes neglected by advocates of popular participation (see e.g. Ostrom, 1990; Fiszbein, 1997; Blair, 2000). If such conditions do not exist, any efforts to initiate a constructive local dynamic will be an up-hill battle.



At the same time, these conditions – which all have to do with top-down influence – are not enough. Lack of information and restricted resources, in combination with existing patterns of political protection, make it difficult to only rely on the ‘arm of the Leviathan’. In developing countries, administrative oversight and audit organs are frequently weak and compromised. Audits are often just another way of attracting bribes and favours, and audit findings are routinely concealed (Aznar, *et al*, 1999). As we have seen, such conditions apply to many places in India.

Hence, the capacity for effective steering and control must also be developed locally. Only through such simultaneous and parallel measures will the democratic (responsive) component of governance be realised. Furthermore, active participation by grass roots stakeholders enhances the prospects for administrative accountability. Local people have an interest in what services are delivered and how things are done. This is the basic incentive for exerting pressure from below.

#### **4. Steering and control from below**

It is no coincidence that the selection of decision-makers through elections has become the prime method of popular influence – also at the local level. Democratic elections normally guarantee a higher degree of social and attitudinal representativeness, compared to other forms of influence. Another merit of elections is that they tend to encourage more comprehensive considerations about the full complexity of political matters, as all aspects of policy are on the agenda. Elections are, however, also known to entail certain defects. *First*, elections can be rigged and manipulated. *Second*, elections provide only a restricted channel of influence. They are held at fairly long intervals, with much happening in between the polls. Further, problems on campaign agendas ahead of elections are normally very general and broad in scope. Sometimes the electorate is offered a choice between very sweeping and unspecified political platforms, leaving the substance of policy a fairly open question. *Third*, the mere inclusion into representative decision-making bodies of previously peripheral groups does not necessarily imply that they are in a position to exert effective influence, i.e. that they have become empowered. In sum, these insufficiencies call for additional channels of influence (Przeworski, Stokes and Manin, 1999; Smulovitz and Peruzzotti, 2000).

Looking at the cases at hand, it seems fair to say that local elections, given the circumstances, are overall relatively well conducted in Bolivia and South Africa. The two governments have set up independent and fairly effective election commissions. In India, however, the presence and effectiveness of election observers on the ground are constrained in many ways. As a consequence, ‘money and muscle power’ sometimes decide the game. As for the substance of representation (the second possible insufficiency

noted above) it is well known that political representation in developing countries – and generally in new democracies – often leaves much to be desired due to personalism, vague political platforms, and a lack of party coherence (see e.g. Kohli, 1990; Hadenius, 2002). It is also well established, turning to the third point above, that actual representation for new social groups does not amount to the empowerment of the groups in question. The lack of human resources (literacy, for example) and a weak coordination capacity tend to enhance the political impotence of such groups. Patterns of clientelism and dependency, as well as social prejudice, may add to the problem. While recognising the attempts to elevate the position of women in Bolivia and India, there is as yet little evidence of women acting as a group in promoting their common interests. The same applies to scheduled castes in India, whose voice is seldom heard in local assemblies, despite many years of representation (Blair, 2000).

**Political parties** are normally the vehicles of representation in elections, and it has been said that “modern democracy is unthinkable save in terms of parties” (Schattschneider, 1942: 1). Despite this, the presence of parties on the local scene has sometimes been questioned. It is worth mentioning that Uganda has practised a system of party-less local participation (which has been praised for many years). Similarly, parties are barred from taking part in local elections in Ghana and Bangladesh. Two political deficiencies in particular can be attributed to the existence of parties: the political exploitation of tensions between segmental groups in the population, sometimes leading to unmanageable conflicts; and the establishment of clientelistic networks of power-seeking that tend to breed corruption and mismanagement, thus thwarting the process of representation. Much of this has been documented in the country reports. Violence among party groups has occurred during Indian elections, and also at public meetings. Here, as in the other countries, there are frequent examples of party leaders exercising control through clientelistic networks of dependency and top-down rule – involving the use of public office for private and party purposes.

But there is another story to be told. In some Indian municipalities the presence of strong opposition parties in the process of decision-making has contributed to a higher degree of transparency. Such parties have kept a watchful eye on local governments, constantly seeking to win political mileage by bringing irregularities into the public sphere. Hence, party competition breeds accountability; it helps keep the party in power on the path of decency.<sup>6</sup> In South Africa, it was the ruling parties themselves that effected the ousting of the two erring mayors. The basic reason for inter-

<sup>6</sup> The supervisory function on the part of opposition parties is strengthened considerably if they are well represented in inspection organs, and if unanimity is required for decisions relating to issues of critical financial importance. Such rules are employed in West Bengal.

vening, of course, was party competition. Had they not taken action, they might have paid a heavy price in coming elections.

A less attractive scenario is reported from Bolivia. In many areas, local political elites have negotiated power-sharing agreements that rotate executive power among them, thus offering everyone a chance to enjoy the fruits of incumbency. Such a system does not breed accountability. This illustrates two points. The advantageous effects of party involvement presuppose (1) the existence of a strong party system at the local level. In low-income countries, however, this is often not the case. However, even if several parties of reasonable strength do exist, as is normally the case in Bolivia, there must (2) be an interest among parties to play the political game competitively. (This, as we saw, is not self-evident. After all, why wrestle when we can share the pie!).

Bolivia uses a type of proportional **electoral system** that only allows for candidates on closed party lists. Moreover, the nomination process is fairly centralised: the party headquarters often influence the selection of people for the lists. The system is designed to strengthen the parties as national political organisations, which, of course, is not unwarranted in a young and fragile democracy. It can nevertheless hinder democratic influence and vitality at the local level by providing an impasse between elected representatives and the constituencies they are meant to serve. A way of mitigating such tendencies would be to introduce a recall procedure that could be triggered by popular initiative.<sup>7</sup> A relevant objection to this suggestion might be that the introduction and supervision of such a system would claim considerable resources.

Another option would be to introduce a majority (single member) electoral system at the local level. Such a system tends to promote both of the constructive effects of party competition that were noted above. It usually produces (1) well-established parties – normally just two big parties – which are involved (2) in fierce electoral competition. As we saw above, such conditions tend to breed accountability. On the other hand, the proportional system tends to give a better representation of different political views in society. For this reason, this system is held to be more suitable for societies that are divided along ethnic and religious lines – especially if there is a multitude of such divisions (Lijphart, 1999). Hence, to decide the matter we have to determine which is the most serious problem. If it is accountability – signified by a growing distance between voters and representatives – then the majority model would be the natural answer.

South Africa uses a mixed electoral system in local elections: 50 per cent of representatives are returned in proportional elections, 50 per cent in majority elections. At the same time parties are fairly centralised. As in the

<sup>7</sup> An alternative would be to introduce open party lists (for an argument along this line with reference to Latin American local politics, see Nickson, 1995). As noted above, this may weaken the parties as national units.

Bolivian case, this could indeed be seen as a mixed blessing. On the positive side, it was the party leadership after all – not the party unit on the ground – that deposed the political rogues in Cape Town and Ekurhuleni. Yet, in his country report Robert Cameron suggests the introduction of the two components discussed above as a way of improving local political dynamics, namely, the opportunity to recall representatives elected through a 100 per cent majoritarian electoral system. The two proposals combine very well, as the majority system is the most suitable for the application of a recall institution. India has a majority system. As can be seen in the report by George Mathew, in some states, this is combined with recall. The effects of this institution, in developing countries, merit further inquiry.<sup>8</sup>

So much for the representative – electoral – form of local democracy. As stated above, there is reason to complement this form with other modes of influence.

As we have seen, **public meetings** (or public hearings) – implying direct participation by the local population – play a significant role in India and Bolivia. These can be activated in the planning process (to lay down priorities), but can also serve as instruments of social auditing, that is, to engage ordinary citizens in the scrutiny of ongoing programmes. So far these attempts have had mixed results. Public meetings can sometimes energise local politics as people come there to speak their minds and engage in active communication with other community members and elected officials. As a result, power-holders are put under pressure and, as we can see in the report from India, this helps prevent the misuse of resources and other forms of corruption.

The drawback is that attendance rates are normally low. A general tendency in India is that better-off people keep away from public meetings, while attendance is higher from groups who are the particular beneficiaries of certain public programmes. This pattern has also been recognised in other countries.<sup>9</sup> As for the general attendance rate, it is promising to note that in West Bengal, where such organs have been in place for several decades, the rate has begun to increase quite considerably. In all probability, such participation is a matter of social learning while, at the same time, demonstrating that such meetings carry real weight. It is a matter of enhancing popular awareness and a capacity for self-expression – an aptitude that champions of participation have tended to take for granted.<sup>10</sup> In fact this has often proved to be a toilsome process (Goudsmit and Blackburn, 2001). Furthermore, it is a matter of actually experiencing that participa-

<sup>8</sup> Another way of eliciting citizen preferences is to hold local referenda. However, the organisation of referenda requires administrative (and economic) capacities that are normally in short supply in subnational governments in developing countries (Azfar, *et al*, 1999).

<sup>9</sup> See, for example, reports from town meetings in Brazil (Abers, 1998; IDBamerica, 2000a).

<sup>10</sup> This holds in particular for the anarcho-communitarian view. For an account of this view (in a critical vein), see Heller, 2001.

tion makes a difference in terms of improved public services – which presupposes access to resources and an essential degree of effectiveness on the part of public organs.<sup>11</sup>

Concerning the representative side of the matter, it could be said, firstly, that the most important objective of such public meetings is not to ‘mirror’ the citizenry at large, but to serve as an instrument for complaints and as a forum for communication and dialogue. As for the social composition, moreover, it is interesting to see that the ‘distortion’ in favour of the poor seems to compensate for the ‘distortion’ in favour of better-off people that often occurs at elections, given the latter group’s higher electoral participation – and better representation (by far) in elected organs.

In order to enhance the propensity of social auditing, special **watchdog committees** may be put in place, with members from among the general public. In the Bolivian system of Local Popular Participation, Vigilance Committees are meant to play a vital role. Involving representatives of grass roots organisations at local level, their main task is to exercise economic and administrative control. As a way of strengthening their clout, these committees have been given the power to rule on the misuse of disbursements from central government and to initiate a mechanism that stops further such funding. This could be seen as a strong weapon indeed, if it were actually transferred into real power. However, in relation to their counterpart (the mayor and his/her office), the committees lack both the human and administrative capacity to put their formal power into effect. Furthermore, since it is only the political institution of the Senate that can finally effect the cut-off instrument initiated by the committees, any such ruling will be severely influenced by party considerations. In other words, challenging a mayor who has good party connections is not easy.

As David Altman maintains, the cut-off mechanism would in all probability be more effective if responsibility for freezing the funds were taken over by a politically independent body. As a result, local level social auditing could be carried out more effectively, which, in turn, might boost an otherwise weak level of commitment among committee members. The reimbursement of committee members, suggested in interviews in the field, may be helpful, but better administrative resources and the rewarding of achievements would probably provide equally important incentives for boosting work morale. Besides, better performance may come through experience. It should be borne in mind that the whole process is still in its infancy. It started from scratch just a few years ago.

<sup>11</sup> Abers gives the following account of participatory practices in Brazil (the so-called Participatory Budget Policy): “Perhaps most important. The budget policy proved to have tremendous capacity to mobilize. As people realized that, through mobilization, they could bring tangible benefits to their areas, participation in neighborhood associations boomed” (1998: 518).

Associational life in civil society has often been praised as a prime instrument for popular influence. In low-income countries, however, civil society is often poorly developed – and to the extent that it exists, is often based on ‘parochial’ affinity such as ethnic or religious identity (see, e.g. Chhibber, 1999). While issue-based civic associations such as Non-Governmental Organisations (NGOs) are generally preferred, they are mainly found on the national scene (Blair, 2000).

Generally speaking, popular associations are liable to suffer from two weaknesses, especially at the local level: they lack sustainability (they are notoriously difficult to keep going), and they have a limited rent-seeking agenda. With regard to the latter, Patrick Heller makes the following remark: “Increased associationalism can promote narrow and parochial interests, resulting in the ‘mischief of factions’ and the demands for state patronage (rents), just as much as it can result in the promotion of the public interest or broad-based reforms that benefit the majority” (2001: 138).

Experience from several places around the world seems to demonstrate that both these weaknesses can be mitigated to an essential degree by continuous participation in public decision-making organs. First of all, such involvement tends to breed organisational sustainability. Popular associations that are able to actually exert influence usually find it easier to attract (and retain) members. Furthermore, such involvement seems to have a mental (‘schooling’) effect on those who take part. Enduring interaction with other segments of the community tends to broaden the sphere of concern among participants, and to widen the support for more universal (less particularist) rules of distribution. In this way, representation in organs of public decision-making can turn civil movements into agents for broad-based societal interests (Hadenius and Uggla, 1996; Abers, 1998; Heller, 2001).

Of the three countries under study, Bolivia has the most developed civil society, entailing a long tradition of powerful peasant and trade unions, indigenous communal organisations, urban and neighbourhood communities, etc. Some of these have been strengthened through the decentralisation programme, particularly the indigenous and neighbourhood communities that have been made the basic units in the new municipalities. The intention behind this reform was to gain powerful support groups at the grass roots level. However, these organs have yet to assert themselves politically. As we saw above (in connection with the Vigilance Committees), there are still shortages of both human and administrative resources. As for other organisations, such as trade and peasant unions, these have only become marginally (and somewhat reluctantly) involved in local politics as they have focused their activities on the national level. (It should be borne in mind that Bolivia used to be a heavily centralised state.) Besides, these organisations have by tradition nurtured a culture of being political ‘outsiders’, preferring direct action, such as strikes, road-

blockades, and the like, before seeking representation in elected organs. The presence of local governments might eventually change such attitudes and better integrate organisational and political life.

For these reasons, civil society is unlikely, in the short term, to be a driving force in support of democratic governance even in Bolivia, with its relatively strong reservoir of popular networks and 'social capital'. Rather, the opposite seems more probable: that it is the successful development of functioning organs of local democracy (achieved by other means) that will breed the political empowerment of civil society. If this were to occur, a potentially powerful additional form of social audit would be in place.

As we saw in the report on South Africa, **the media** can play a very important role as vehicles of transparency and accountability. It was largely intensive media coverage that triggered the dismissal of the two mayors. Access to information is a key democratic component. It is only when people know what is going on that they can hold their governments accountable. Without vigorous media, political news remain the property of the few insiders. In developing countries, however, the capacity of the media is generally very constrained. Television reception, for instance, is limited to a small segment of the population for economic and technical reasons and newspapers require literacy and are often only available in the large cities. Radio has the broadest coverage both geographically and demographically and is therefore the most important means of communication. However, radio stations are also often conspicuously absent outside the larger population centres. Moreover, while the existence of local media is one thing, the actual capacity for effective and qualitative journalism is another. Smaller newspapers and radio stations generally do not have sufficient resources for investigative journalism (Blair, 2000). Another problem has to do with media independence. In many countries the government is the largest media owner, which could greatly undermine the autonomy of the media. Sometimes the media is part of a political patronage system, which means that editors and journalists are selected on political grounds, not on merit (Azfar, *et al*, 1999; Blair, 2000).

The experiences from Cape Town and Ekurhuleni are certainly encouraging. They demonstrate how media exposure of unsatisfactory behaviour can trigger other instruments of accountability – from above as well as from below. But many municipalities in South Africa and elsewhere lack this requirement for democratic governance. Information about government activities can naturally be disseminated via public newsletters and through public meetings; parties and civic networks can be instrumental as well. Yet the presence of local media – serving as the public eye – enhances the prospects for transparency and accountability.

A way of 'scientifically' assessing the quality of governance is to carry out **local opinion surveys** regarding government performance, as has been done in some countries (see e.g. Fiszbein, 1997). These polls reveal the cit-

izens' level of satisfaction with services provided by government, but they may also include questions about procedural aspects of governance. The results are generally encouraging in that the voice of the people – heard through the survey – puts pressure on local power-holders. The drawback is naturally that such research undertakings are taxing on scarce resources and require specialised technical know-how and access to funding. It goes without saying that such resources are difficult to attain in poor countries, especially at the local level. For such research to be properly applied, external support is normally called for.

## **5. The need for a combined approach**

The development of democratic governance is a two-way process. It can be accomplished through combined strategies of pressure from above and from below. To begin with, it requires firm support from above, from central government. Decision-making competence and economic resources must be transferred to local levels. Furthermore, the centre should take measures to enhance the work-spirit and responsiveness of its field agents, and to further the development of local institutions and civic networks that can serve as instruments of social audit. At the same time, reliable and effective institutions for statutory control must be established. If there are no such institutions (to a rudimentary degree at least), prospects for democratic governance will be bleak.

We have discussed the importance of a number of factors for applying effective pressure from below: reliable and well-designed electoral institutions; reasonably well-organised and competitive parties that are open to local influence; vigorous public meetings and watchdog committees; a developed and politically active civil society; vital local media; and the use of public surveys for eliciting popular views about local government performance. However, overall conditions in developing countries imply that, at best, only a few factors out of this long list of desirables will be met somewhat satisfactorily.

The advancement of local democratic governance hinges, on the one hand, on the further development of these conditions of steering and control by the local citizenry. On the other hand, a framework of firm and encouraging institutions must exist to make this possible at all. If such a framework is lacking, 'popular participation' tends to be democratically impotent and a tool mainly for old elites to maintain their power. However, these crucial institutions can hardly be invented locally, as traditional local leaders tend to have high stakes in maintaining the status quo. The introduction of these necessary institutions is thus mainly the responsibility of the centre.

It is, more concretely, a matter of setting up organs and rules of behaviour that enable different forms of control. Much can be learned from the



successful achievements in some Indian states. As we saw above, a broad array of procedural arrangements are at hand, some wholly statutory in character and some wholly 'social'. It is vitally important, moreover, that there are links of communication between the two spheres of control – that popular grievances reach the ear of the auditing authorities, and that the assessments made by these authorities are made known to the general public. The two forms of scrutiny can thus be mutually reinforcing.

A way of achieving such interaction is described in the account of Karnataka. This state has introduced a system of open local inspections that are conducted by an official team in the presence of the members of the local assembly and the general public. Any member of the public is entitled to access to relevant records, and the officers note complaints raised by the public. Having conducted the inspection, prevailing irregularities are reported to a superior officer who has the authority to take disciplinary action against the local government in question. The report is read out in the local assembly and is also published in a local newsletter. While this system is still at the experimental stage, its results are encouraging.

But we have also seen evidence of faltering interaction. A common complaint in India is that no legal action is taken against elected representatives and officials who have obviously been misusing their authority; organs of social audit have established instances of corruption, but to no legal effect. Such recalcitrant behaviour on the part of the authorities tends to discourage vigorous social audit. By the same token, a mayor in South Africa enjoyed political protection to the degree that he was 'rewarded' with an ambassadorial posting subsequent to being ousted for improprieties while in office. What is more, the authorities in charge of the case mistreated the key informant who brought the corruption and maladministration into the open. Such reactions certainly send a discouraging message to the general public.

We have seen that there is much room for improving local democratic governance in the countries under study. But we have also learned a great deal from the ambitious ideas and strenuous efforts by states and local activists alike regarding what can be done to make things better.

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