

SUPPLEMENTARY CASE STUDIES: NATIONALLY MANDATED PARTICIPATORY REFORMS, 1985-2015

Supplement to *Democracy from Above? The Unfulfilled Promise of Nationally Mandated Participatory Reforms*.

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This supplementary document provides more details for readers seeking information about the fourteen cases of nationally mandated participatory reforms that are not described in detail in my book *Democracy From Above?*² The descriptions give the reader a better sense of the variety of participatory institutions that have been mandated in subnational governments around the world, with citations for those who wish to seek additional information. The summaries rely on primary and secondary documentation. I also consulted several country experts, using email and Skype, and my research assistants visited libraries and think tanks and interviewed civil society activists and academics in Ecuador, the Dominican Republic, Nicaragua, and Rwanda. When reading these summaries, it is important to keep in mind that these reform processes are part of a long and nuanced historical process; it is not possible to capture their complex nature in this brief document.

Brazil (1988)

Brazil's nationally mandated participatory reform, inherently connected to its decentralization processes, began as part of the country's transition to democracy in the mid- to

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² Readers will recall that there between 1985 and 2015, reformers set up seventeen cases of nationally mandated participatory reforms. Three are described in more depth in the book. The remaining fourteen are discussed here.

late-1980s. A decentralization reform codified in the 1988 Constitution laid the foundation for participatory institutions in every level of government in policy areas such as health, education, the environment, and human rights.³ Although the exact language surrounding citizen participation is vague, the Constitution has fourteen articles that “prompted the emergence of a large participatory infrastructure in contemporary Brazil” (Avritzer 2009, 2). The constitution begins to describe several participatory institutions, such as city public planning councils (Article 29), health policies (Article 198), agricultural policies (Article 187), and social welfare (Article 204). Subsequent laws then clarified the many venues of participation (Mayka 2019).

Since the codification of these institutions, scholars have documented several participatory institutions at length, including: 1) public policy management councils, which Victor Albert (2010, 139) calls the “most widespread type of participatory institution;” 2) health councils, which also exist around the country and are further codified in the 1990 Healthcare Statute (Mayka 2019); 3) participatory municipal housing councils (Donaghy 2013); and 4) the National Public Policy Conferences, which serve to set national policies in an array of areas, such as the rights of marginalized communities and the environment (see Pogrebinschi 2012; Pogrebinschi and Samuels 2014). Finally, although not constitutionally mandated, the participatory democratization and decentralization processes also opened up the institutional space for municipalities to engage citizens in participatory budgeting, which first emerged in Porto Alegre⁴ and spread around the country (and then the world) in a short amount of time.

³ For more on Brazil’s federal system and decentralization, see Baiocchi, Heller, and Silva 2011; Melo and Rezende 2004; Samuels 2004.

⁴ For more information about participatory budgeting in Brazil, see: Abbers 1998, 2000; Albert 2010; Avritzer 2010, 2009, 2002; Baiocchi 2003b, 2004, 2005; Baiocchi, Heller, and Silva 2011;

In sum, Brazil an expansive participatory governance experience, and, when compared to other cases, is considered by many to have one of the most successful experiences with nationally mandated participatory institutions. As Leonardo Avritzer (2009, 2) writes, “the expansion of participation in Brazil has become a benchmark for participatory politics in the rest of Latin America.”

Chile (2011)

Chile’s nationally mandated participatory reform process has evolved slowly since the country’s democratization process began in 1989 (Montecinos 2011; Silva and Cleuren 2009). In 2011, the national government passed a Citizen Participation Law that set up civil society councils tasked with monitoring and oversight in all municipal governments. Chile’s Congress passed Citizen Participation Law law with local governments fully empowered as part of a decentralized state.⁵ The law has its roots in several initiatives to formally increase citizen participation in local politics beginning early in the country’s transition process (Delamaza 2014). For example, in 1989, the New Law of Neighborhood Groups (*Nueva Ley de Juntas de Vecinos*) allowed neighborhood groups to formally operate (Campbell 2003). This law provided for the transition of *juntas de vecinos*, or neighborhood associations, from a military-controlled

Coehlo and Nobre 2004; Grazia and Torres Ribeiro 2002; Gret and Sintomer 2005; Nylen 2003; Wampler 2007a, 2007b, 2008, 2012a, 2012b, 2015.

⁵ Decentralization began under the authoritarian regime of Augusto Pinochet, when the military regime reorganized Chile into thirteen regions, fifty-one provinces, and 335 municipalities with officials appointed by the “Supreme Leader” (Bland 2004; Campbell 2003; Serrano 2004). When democracy returned in 1989, the push to further empower autonomous and democratic local government proceeded slowly.

channel—used for partisan politics—into a means for expressing collective demands for community services (Pont-Lezica 1997). As the power of local organizations increased and ideas about participatory democracy spread, citizen participation was formally incorporated into the municipal government legal framework. Participatory budgeting, informed by Porto Alegre, also started to take place in some cities.

The national-level institutionalization of citizen participation took on force during the presidency of Ricardo Lagos Escobar (2000-2006), who promised to bolster democratic institutions and address the social and economic legacies of Agosto Pinochet's military regime. In 2004, Lagos proposed a National Law of Citizen Participation to congress. However, it was during Sebastián Piñera's (2010-2014) first administration that Law 20,500 finally passed.⁶ This law modifies Article 94 of the Organic Constitutional Law of Municipalities to include Civil Society Community Councils (*Consejos Comunales de Organizaciones de la Sociedad Civil*) known as COSOCs.⁷ COSOCs, which should meet four times a year, are responsible for monitoring and overseeing the annual municipal investment budget and the local development plans.

The COSOCs have been slow to form and are often under-funded (Allende, Osorio, and Pressacco 2010; Marín and Mylnarz 2012; Santibañez 2013). In his study of 327 municipalities in 2015, Hernández Bonivento (2016) finds that almost 15% of the municipalities had not yet installed a community council. More research about their implementation and impact is needed

⁶ For an in-depth description of the debates surrounding the law, see Biblioteca del Congreso Nacional de Chile 2011. For more on the new law, see Marín and Mylnarz 2012.

⁷ COSOCs replace and expand the power of the former Economic and Social Communal Councils (*Consejos Económicos y Sociales Comunales* or CESCOMS), which were part of the previous municipal government framework.

as they continue to be implemented around the country, however, accounts to-date suggest that they are not taking hold in the local governments around Chile. Thus, they are considered by most to be weak and ineffectual.

Colombia (1991)

Like Brazil, Colombia's mandated participatory reforms emerged as part of a lengthy decentralization process, which started in the early to mid-1980s during a period of political crisis (Falleti 2010; Zamosc 1990).⁸ Bartholdson, Rudquist, and Widmark (2002, 12) write that decentralization served as a “means to end the two-party monopoly on political power, increase citizen participation and provide means by which government and public institutions can be held accountable for their governance and administration.” Many hoped that the constitution, which formally codified citizen participation in subnational government, could fix the broken political system and open up political spaces to new actors. As such, the constitution codifies participatory democracy in numerous ways, such as Article 1, which defines Colombia as a unitary, decentralized, democratic, participatory and pluralist state.

After the 1991 Constitution passed, congress approved a series of laws to codify the participatory framework.⁹ For example, in 1993, Law 100, which sets up a complete social security system (including health care), established community health committees, and in 1994, Law 152 set up a National Planning Council (*Consejo Nacional de Planeación*), with councils at every level of government and members from different sectors of civil society, to develop

⁸ For more on decentralization in Colombia, see Bejarano 2011; Bland 2007; Campbell 2003; Faguet and Sánchez 2009; Falleti 2010; Forero and Salazar 1991; and Velásquez and González 2003. For more on Colombia's history of political crises and violence, see Tate 2007 and Taylor 2009.

⁹ See Velásquez and Gonzalez Molina 2003 for more on these laws.

planning priorities. By the mid-1990s Colombian policymakers had established twenty-six national participatory institutions and Colombia emerged as the country with one of the most elaborate participatory frameworks in the world. However, national elites have not promoted the reforms, and, in practice, these institutions are weakly institutionalized (Mayka 2019; Hernández Bonivento 2017; Velásquez and González 2003).

Dominican Republic (2007)

The Dominican Republic (DR) codified their nationally mandated participatory reform in 2007 when Law 170-07 (*Ley sobre el Sistema del Presupuesto Participativo*) established participatory budgeting in all Dominican municipalities.¹⁰ The country already had a decentralized state structure, and the participatory governance reform mostly has a different legal framework.¹¹ The roots of the nationally mandated participatory reform in the DR lie in its early experiences with participatory budgeting, which began in the late-1990s in the Villa González.¹² As PB became more institutionalized in this particular city, international donors became interested in the experience. Donors and activists worked with the Federation of Municipalities

¹⁰ For more in-depth discussions of the DR's PB law, see Allegretti 2011; Fundación DEMUCA and Ortiz 1998; Gutiérrez-Barbarrusa 2011; and Navascués 2011. For a copy of the laws, see: <http://www.minerd.gob.do/idec/Docs4/LEY%20170-2007.pdf>. A later law (176-07, *Ley del Distrito Nacional y los Municipios*) further codifies participatory budgeting as well (Reyes and González 2011).

¹¹ For more on decentralization, see Matias 2007 and Mitchell 2014.

¹² For a discussion of the history of participatory budgeting in the DR, see Allegretti 2011; Hernández-Medina 2007; and Mitchell 2014. For evaluations of the experience, see de León 2005; Gutiérrez-Barbarrusa 2011; Hernández-Medina 2007; and Reyes and González Molina 2011.

to promote a legal framework to mandate PB around the country. However, like the COSOCs in Chile, evaluations suggest that the process has not taken hold in the way that reformers had hoped, and PB is not very robust in this island nation (D’Aza n.d.; Goldfrank 2015).

Ecuador (2008)

Ecuador’s participatory governance efforts took on more force when the left-leaning president, Rafael Correa, rose to the presidency in 2006. Under Correa, Ecuador adopted a new Constitution that aspires to enact a more direct, grass-roots form of democracy as part of what is called the “Citizen’s Revolution” (Ortiz 2015). The previous Constitution, passed in 1998, had fully codified decentralized governments¹³ and set up several direct democracy mechanisms. For example, it calls for a popular consultation system (*consulta popular*) and allows for recall (*revocatoria*). During the 1990s, participatory budgeting emerged in some cities, such as Cotacachi, Cuenca, and Esmeraldas. In 2000 Parish Rural Councils Act (*Ley Orgánica de las Juntas Parroquiales Rurales*) set up Parish councils (*juntas*), with elected members from the community participating in development planning and local decision-making (Van Cott 2008). This law set up a council system tasked with coordinating and overseeing development planning in rural areas only.

These efforts were scaled up considerably during Rafael Correa’s administration. After a period of political instability and turmoil, Rafael Correa emerged as a new leader who promised to completely restructure the system.¹⁴ One aspect of that effort lay in setting up avenues for direct and institutionalized citizen participation. Thus, the 2008 Constitution, with over 400

¹³ For more in depth discussions of Ecuador’s decentralization process, see Frank 2007; Kauffman 2016; Muñoz 1999; and Van Cott 2008.

¹⁴ For more on Ecuador’s politics during this period, see Pachano 2009.

articles, codified Ecuador's top-down participatory reform by setting up several participatory institutions in all levels of government. Themes about citizen participation are infused throughout the 2008 Constitution. For example, Article 95 of the Constitution states that

Citizens, in individual and collective forms, will participate in decision-making, planning and management of all public matters and in the popular control of the State and society's institutions ... Citizen participation us all matters of public interest will be exercised through mechanisms of direct, communitarian, and representative democracy.

Article 207 states that a national council, the Council of Citizen Participation and Social Control (*Consejo de Participacion Ciudadana y Control Social*, or CPCCS) to promote citizen participation and establish oversight mechanisms.¹⁵ This “fourth branch of power” serves as a transparency and oversight mechanism at all levels of government. The 2010 *Ley Orgánica Participacion Ciudadana* (Organic Law of Citizen Participation) went on to further define the structure and nature of a variety of participatory institutions, including the CPCCS.

When interviewed, experts on citizen participation in Ecuador pointed to several flaws with the CPCCS. Several noted that the national-level office is politicized and has served as a tool to concentrate Correa's power. For instance, six out of the seven members of the national plenary in 2013 had been members of Correa's government. As one critic from the NGO sector stated, “if you control the majority of the councilors, you control the majority of the appointments.” Many interviewees also complained the slow implementation, arguing that Correa never intended to implement the local level institutions because he preferred to centralize his power at the national level. As one scholar noted, Correa's intention was to “tame civil

¹⁵ For more information about this agency, see its website at www.cpccs.gob.ec. For more information about citizen participation more generally, see <http://www.participacionycontrolsocial.gov.ec/>

society,” not implement meaningful institutions that empower citizens to engage in decision-making (de la Torre 2013, 45).

The Law of Citizen Participation sets up additional mechanisms for citizen participation at every level of government, such as citizen oversight bodies and local citizen assemblies. Pascal Lupien (2016) finds that the citizen assemblies, like the CPCCS, do include more people in decision-making, but are not autonomous from the state. Thus, Ecuador’s newest constitution stresses a direct and participatory democracy, setting up a national governmental agency to oversee all aspects of citizen participation in public life. However, in practice, these participatory channels are typified by high levels of executive control and the centralization of power (Balderacchi 2017; Stoyan 2014).

Honduras (2006)

Honduras’ nationally mandated participatory reform stands out as an extremely polarizing effort that ended after a military coup. The efforts took place under a fully decentralized system—the 1982 Constitution included certain aspects of decentralized government, such as the direct election of mayors and the creation of departments—with a legal framework that codified some forms of citizen participation, such as townhall meetings (*cabildos abiertos*), public hearings, and community meetings, which were mostly informative and did not have real decision-making power (Asociación Internacional Para la Administración de Ciudades y Condados 2004). These institutions were extremely weak. For example, after Hurricane Mitch hit Honduras in 1998, devastating the struggling country, groups such as the Association of Honduran Municipalities (*Asociación de Municipios de Honduras*) and the Foundation for Social Development (*Fundación para el Desarrollo Social*) expressed frustration that reconstruction

efforts had not involved local governments' input (Asociación Internacional Para la Administración de Ciudades y Condados 2004).

In 2000, Congress reformed the Law of Municipalities (*Ley de Municipalidades*, Decreto 127-2000¹⁶) to include more opportunities for citizen participation. This new law created the *Comisionado Municipal*, a person who supervises the implementation of the law, presents petitions and initiatives to the local government, makes sure the needs of minorities and vulnerable groups are being met, and supervises the distribution of money to community organizations.

Increasing citizen participation in government decision-making took on even more force under the administration of Manuel Zelaya (2006-2009). Zelaya, originally a moderate who rose to power through the centrist Liberal Party of Honduras, moved to the left during his administration, and forged ties with Hugo Chávez and Evo Morales, then joined the Bolivarian Alternative for the Americas (*Alternativa Bolavariana para las Américas*). In 2006, Zelaya's government passed the national Citizen Participation Law (*Ley de Participación Ciudadana*¹⁷), which promoted the idea of "citizen power." For example, Article Three lists the mechanisms of citizen participation as the plebiscite, referendum, open municipal meetings, and citizen's initiatives. Article Six details three channels of mandated citizen participation: the National Participation Forum (*Foro Nacional de Participación*); Citizen Participation Councils (*Consejos*

¹⁶ For a copy of this decree see:

http://pdःba.georgetown.edu/Decen/Honduras/ho_leydemunicipalidades2000.pdf

¹⁷ For a copy of this law see

<http://pdःba.georgetown.edu/Parties/Honduras/Leyes/LeyParticipacion.pdf>

de la Participación Ciudadana); and Community Roundtables of Citizen Participation (Mesas Comunitarias de Participación Ciudadana). Article Seven states:

These institutions of citizen participation have the responsibility of understanding the Development and Strategy Plans...evaluate public management, and emit opinions about these issues... The municipalities and departmental authorities are obligated to execute real and effective participation in planning, execution, and monitoring of the activities [of all local authorities]...

The 2006 law, deeply unpopular with Zelaya's opposition, also opened up the possibility for a referendum for further constitutional reforms, including the possibility of ending term limits. As such, in March 2009, Zelaya announced his plans for a referendum and a constituent assembly to rewrite the Honduran constitution. His political opponents likened the referendum to similar measures in Venezuela and Bolivia that could effectively end term limits. Congress declared the referendum illegal and the military refused to assist in its execution. Zelaya then tried to remove the head general of the armed forces, which escalated tensions and caused some to call for the overthrow of Zelaya. The military stepped in, took Zelaya from his home on June 28, 2009, and exiled him to Costa Rica.

The coup left the Citizen Participation Law in limbo. To deal with this problem, in 2011 the new government passed a constitutional reform (Decree No. 3-2011) that establishes the right for plebiscites and referendums for all issues except presidential re-election. Congress passed the Law of Citizen Participation Mechanisms (Decree No. 190-2012) in December 2012. This law, which details the exact nature of these two mechanisms, is much more restrictive in terms of citizen participation than Zelaya's law. Thus, the subsequent elected governments have restricted participatory institutions mostly to plebiscites and referendums, and the nationally mandated participatory reform's legal framework officially ended after five years.

India (1992)

India has a long history of citizen participation in local governance. With its independence movement and first constitution in 1950, a three-tiered government system emerged, which included a more formal structure for local governments (Bardhan and Moorkerjee 2006).¹⁸ During the independence movement, Ghandi had espoused the need for participatory local governance. However, the formal push to codify his ideas only came about in the early 1990s with the 73rd and 74th Amendments to the constitution. The efforts took place as part of a commitment to deepen India's democracy amid widespread concern about the quality of local governments.

The 73rd Amendment sets out the rural government structures with elected officials and participatory bodies. It reads:

Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies...Accordingly, it is proposed to add a new Part relating to Panchayats in the Constitution to provide for among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at village and other level or levels; direct elections to all seats in Panchayats at the village and intermediate level, if any, and to the offices of Chairpersons of Panchayats at such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the seats for women; fixing tenure of 5 years for Panchayats ...¹⁹

Currently, panchayats exist at the district, block, and village levels in India.

The gram sabhas, or village assemblies, institutionalize broad citizen participation in the village governments. Mansuri and Rao (2013, 268) describe the gram sabha as the “largest

¹⁸ See Mishra 2012; Rao 2002; Sadashiva 2011; and Williams 2008 for more on citizen participation and local governance in India.

¹⁹ The two amendments can be found at <http://indiacode.nic.in>

formal deliberative institution in human history, affecting more than 700 million rural Indian residents in the more than a million villages.”²⁰ Each state determines how often it meets and what specific powers the body will have.

One of the most successful examples of the framework lies in the state of Kerala, which implemented a “People’s Campaign of Decentralized Planning,” also known as “the Campaign” (Heller 2012, 2009, 2000; Isaac and Heller 2003). When evaluating these efforts, Heller (2012, 654) concludes that “there is little doubt that overall the Campaign has promoted more participatory forms of democracy.” Part of the success of Kerala’s efforts lies in the ruling leftist party’s decision to actively implement and even expand the 1993 amendments. Beyond Kerala, scholars have also have analyzed the 73rd amendment’s effects around the nation. George Mathew writes that “[s]ince the new phase of decentralization there is evidence that some of the worst forms of exclusion that plagued the rural society of India are not longer practised in a number of states” (2003, 161). Because the amendment also mandates a gender quota in the elected panchayat, a significant number of women are now involved in local government (Beaman et al 2009; Duflo and Topalova 2004; Gibson 2012; Mansuri and Rao 2013). Rao and Sanyal (2010) determine that gram sabha meetings provide an important mechanism for disadvantaged groups, especially the poor, to increase their voice in local political decisions. However, Bardhan et al (2009) have released a study with data from West Bengal that demonstrates the presence of clientelism and elite capture in some panchayats.

The 74th Amendment lays out the urban local government structure. This amendment formally sets up three types of municipalities: 1) Nagar Panchayats for areas in transition from a

²⁰ It is important to note that the gram sabha have existed for centuries and historically played an important role in local decision-making at the village level (Nambiar 2001).

rural area to urban area; 2) Municipal Councils for smaller urban areas; and 3) Municipal Corporations for larger urban areas.²¹ The municipal structure includes a ward committee, which codifies citizen participation in urban local governance (see Part IXA, Section 243S). These neighborhood councils are made up of between twelve and sixteen councilors from multiple wards (Baud and de Wit 2008). However, scholars have documented that the urban participatory reforms have been much less successful in engaging citizens in policy decision making than the 73rd Amendment (Ghosh and Mitra 2008; Wit, Nainan, and Palnitkar 2008).

In sum, India has undertaken an ambitious experiment in mandating citizen participation through constitutional reforms that create participatory institutions in both urban and rural areas. The rural reforms, when implemented, have led to some interesting and important changes in some, but not all, parts of the country. The urban governance reform, however, has been much less successful in achieving its goals.

Mozambique (2000)

As part of the peace and democratization process, Mozambique embarked on a slow process of devolving power from a highly centralized state to subnational governments using a participatory framework. Mozambique, led by President Armando Guebuza and Prime Minister Alberto Vaquina, has been dominated by one political party—the left leaning Mozambique Liberation Front (*Frente de Libertação de Moçambique*, or FRELIMO)—since independence in 1975. Originally a Marxist inspired liberation movement, FRELIMO has moved toward a moderate ideology that stresses the need to modernize the country. Decentralization has been part of this movement’s efforts, albeit in a very gradual process (Makgetla 2010).

²¹ See Aijaz 2008 for a more detailed discussion of the evolution of municipal governments over time and the structure and functions of these bodies.

For example, the 1990 Constitution established municipal districts and the 1994 Law 3/94 ensured that the governments of these municipal districts could be directly elected. However, after the October elections that year, lawmakers changed the path of decentralization in Mozambique by introducing the concept of “gradualism” (*gradualismo*) to devolve power slowly over time. Citizen participation has been stressed as part of this gradual process (Open Society Institute 2009). The most recent constitution, passed in 2004, contains a chapter on local power, stating that the objective of local government is to “organize the participation of citizens in solution of problems of their own community and promote local development, the deepening and consolidation of democracy.” In 2000, Decree no. 15/2000 formally established the channels for local state bodies to collaborate with community authorities, including traditional leaders or secretaries of suburban areas or villages (AfriMAP 2009). In 2003, government agencies published a guide for community participation and consultation, and introduced the Institutions for Community Participation and Consultation (ICPC). These institutions exist at the district and sub-district levels of government and are “channels of accountability and communication with district government and technical personnel, and mechanisms for including citizen's needs and priorities in district plans and budgets” (MacLean and Gifford 2012). In 2005, Decree No. 11/2005 institutionalized a system of “community accountability” (AfriMap 2009, 144). This system includes: local councils, local forums, community committees, and community funds. Every institution has representatives from local civil society organizations and provides channels for the community to solve local problems (AfriMap 2009).

Although the nationally mandated participatory reform is in place, the participatory mechanisms are weak and fail to promote citizen participation due to several factors, including: the small number of civil society organizations involved, the fact that the majority of these

organizations have ties to the central government, the lack of a democratic culture among elected officials, the politicization of the forums, lingering centralization, and a general lack of accountability for government officials (Pereira 2009). Further, Mozambique is not considered a democratic nation, therefore the reform has always been about government effectiveness and not democratic reforms. This, too, limits the reforms effects.

Nicaragua (2003)

Participatory democracy has a very long history in Nicaragua, going back to the 1979 Revolution that brought the Sandinistas, formally called the Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional*, or FSLN) into power (Salvador 2012). Because their movement emphasized participatory democracy, the Sandinistas created a government with several formal participatory institutions, such as a legislature that included representation from civil society groups.²² The Sandinistas also replaced the municipal governments with *Municipal Juntas for Reconstruction* and the Sandinista Defense Committees, which coordinated various services at the local level (Bay-Meyer 2013; Ortega 1990).

The Sandinistas also wrote participatory democratic institutions into their 1987 constitution. Article 2 of the constitution reads “National sovereignty resides in the people, source of all power and forger of its own destiny. The people exercise democracy by deciding and participating freely in the construction of the economic, political and system.”²³ The constitution was approved through a townhall meetings (*cabildo abiertos*) with participation by religious groups, women, and indigenous communities (Lobel 1998).

²² Opposition groups quickly removed any direct participation by the civil society groups in this national legislative body (Lobel 1998).

²³ For a copy of the 1987 Constitution see: <http://www.constitution.org/cons/nicaragu.htm>

Decentralization efforts were also codified in the 1987 Constitution and several subsequent national laws, which divide the country into regions, departments, and municipalities (Fundación DEMUCA and Otriz 1998). The 1988 Law of Municipalities (*Ley de Municipios* No. 40) established the municipality as the basic administrative division, with citizen participation as a fundamental feature. This law guaranteed the autonomy of the municipality and named citizen rights such as petitioning, associating in groups, and attending open city meanings (CEAP 2011).

Eventually, the Sandinistas' attempt to combine representative and participatory institutions at the national level failed. Lawyer and professor Jules Lobel (1998, 837) writes:

In the political arena, the attempt to develop representative institution in the context of a dominant role for participatory democracy has presented several important contradictions. First, the conservative parties oppose mass participation and an explicitly revolutionary army and education system. Second, separation of powers and government has, in certain respects, acted as a brake on the demands of the mass movements. Third, the attempt to develop a truly representative democracy requires the participation of the middle class opposition, yet elements of that class refuse to accept popular hegemony and join the counterrevolution. Finally, the ongoing United States-backed counterrevolution has interfered with the effort to create representative institutions, and has weakened the attempt to create a participatory democracy.

When the FSLN was removed from power in the 1990 elections, the next subsequent administration focused on neoliberal reforms to address the economic crisis facing the post-war economy. Under the administration of President Arnoldo Alemán, anti-Sandinista and member of the Constitutional Liberal Party (*Partido Liberal Constitucionalista*), decentralization continued, especially because there was strong support on behalf of international donors (Goldfrank 2007b). Increased citizen participation was not a focus during these years, although the 2003 Budgetary Transfer law (*Transferencias Presupuestarias a los Municipios 466-2003*) did state that municipalities needed to demonstrate that the budget was approved with citizen participation in order to receive its funds (CEAP 2011).

The strongest push for mandated citizen participation took place in 2003 under the administration of Enrique Bolaños (2002-2007), when congress passed the Citizen Participation Law (*Ley de Participación Ciudadana* 475-2003).²⁴ The law affirms participation in government as a right of all citizens and establishes methods of citizen participation, such as citizen initiatives (*iniciativa ciudadana*), the obligation of mayors to consult with civil society regarding the annual budget and municipal development plans (*consulta ciudadana*), consultative requests following and evaluating local processes (*instancias consultivas*), and the recognition of the role of social associations (*asociaciones sociales*). The law also establishes the Councils for Municipal Development (*Comités de Desarrollo Municipal*, CDMs), which allowed all groups of citizens to participate in municipal affairs (Serra Vasquez 2010). The meetings of the CDMs are meant to generate discussion of solutions to local problems, sharing experiences, and exchanging ideas. The CDMs operate as a consultative tool for the municipality—the advice is not binding (van Bochove 2008). The 2003 law also establishes the National Council for Economic and Social Planning (*Consejo Nacional de Planificación Económica y Social*, CONPES), which promotes political participation at the national level (CEAP 2011).

Participatory democracy received a stronger push when former FSLN president Daniel Ortega returned to the presidency in 2007. Ortega introduced yet another participatory institution, called Citizen Power Councils (CPCs) in 2007. The CPCs, which exist in all levels of government (neighborhoods, districts, departments, regions, and national), are meant to “counteract” the CDMs and take citizen participation beyond the municipal level (Zaremburg 2012). After a complicated negotiation process, Ortega mandated this institution through

²⁴ For copies of these laws see <http://www.asamblea.gob.ni/Informacion%20Legislativa/>

presidential decree (van Bachove 2008).²⁵ As such, Decree 03-2007 establishes a Department for Communication and Citizenship, where Ortega's wife, Rosario Murillo, served as the executive secretary. Decree 112-2007, which details the objectives of the CPCs, reads, "the Citizen Power Councils are created to allow the Nicaraguan people to exercise participatory and direct democracy in the different social sectors of the country."

CPCs are meant to empower civilian advisors in every level of government to create a "citizen's democracy" (Chamorro, Jarquín and Bendaña 2009; Serra Vásquez 2010). Sandinista mayoral candidates are required to sign a document promising to uphold the system of CPCs (Almendárez 2009). This means that in some municipalities, the CPCs either work parallel to the CDMs or replace them (Howard and Serra Vasquez 2011, Zaremburg 2012). In a national survey of CPC membership in 2008, researchers found that slightly more than 8% of those surveyed acknowledged being a member of a CPC and, of those participating, 60% identified as members of Ortega's party (Chamorro, Jarquín and Bendaña 2009). This led to widespread criticism of the CPCs as politicized tools that serve to promote Ortega's political projects (Almendárez 2009; Bay-Meyer 2013; Chamorro, Jarquín and Bendaña 2009; and CEAP 2011).

Philippines (1987)

The Philippines represents another early example of a nationally mandated participatory reform in the developing world, where decentralization and local participatory governance

²⁵ Ortega originally introduced the legislation for the CPCs through the national assembly, however it failed to pass. Ortega vetoed the legislature's vote, the Assembly lifted his veto, and then the chairman of the national assembly was ordered by judicial power to not publish the motion of the opposition. Ortega responded with a Decree.

reforms emerged simultaneously. The efforts took place after the dictatorship of Ferdinand Marcos, who ruled from 1966 to 1986.²⁶ In response to his authoritarian rule, Civil Society Organizations (CSOs) and People's Organizations (POs)²⁷ mobilized Filipinos in a "People Power Revolution." The first democratically elected president after Marcos, Corazon Aquino (1986-1992) immediately passed a new constitution, which emphasized on increasing popular participation. The subsequent 1991 Local Government Code, a dense document with more than 500 sections, further outlines citizen participation.²⁸ It outlines several ways that CSOs and POs would formally participate in local government activities. In addition to direct democratic mechanisms, such as referendums and open public hearings, the Code describes local development councils, prequalification and awards councils (PBACs), school boards, health boards, and peace and order councils. Organizations must become accredited to participate in these activities (Angeles and Magno 2004). One-fourth of the membership in the local development councils—which produce development plans—must be a mix of NGOs and POs (Food and Agriculture Organization 2001; Yilmaz and Venugopal 2010).

²⁶ For more on Marcos' rule and the transition to democracy, see Abinales and Amoroso 2005; Angeles and Magno 2004; Hedman 2006; and Thompson 1995.

²⁷ In the Philippines, these two kinds of organizations are important actors in the political system. CSOs are considered to be intermediate organizations and POs are membership organizations. They often work together at the local level. See Food and Agriculture Organization 2001; International Institute of Rural Reconstruction 2000; Yu Jose 2011; and Veloso Abao 2011 for more.

²⁸ For a more in-depth analysis of this code and municipal government in general, see Santos 2004; Yilmaz and Venugopal 2010.

While the Aquino administration was deeply committed to participatory governance, later administrations have not prioritized these issues. As administrations have changed, the focus has shifted and many people have become skeptical of these forms of citizen participation. Further, existing evaluations of these participatory institutions have been noted their inability to eradicate patronage politics (Yilmaz and Venugopal 2010, World Bank 2004).

Rwanda (2000)

Rwanda's government introduced its nationally mandated participatory reform after the 1994 genocide²⁹, in an effort to improve government effectiveness, not necessarily to strengthen democracy. Since 1994, the Rwandan Patriotic Front (RPF) has led the country. The current president, Paul Kagame, widely considered an authoritarian leader, passed a new constitution, instituted a transitional justice process through "Gacaca" trials for perpetrators of the genocide, and organized a nation-wide development planning process to help Rwanda achieve the goals laid out in the government's Vision 2020³⁰ strategy. Under the guise of preventing future violence, and with international support, his regime has undertaken a bold "social engineering" project with political, social, and economic components (Straus and Waldorf 2011a, 8).

As part of this, two years after the war and genocide ended, the RPF worked with international actors to create a decentralization program,³¹ designed to unfold in several

²⁹ For more on the civil war and genocide in Rwanda see Des Forges 1999; Fujii 2009; Mamdani 2002; and Straus and Waldorf 2011b.

³⁰ For a copy of this strategy see http://www.gesci.org/assets/files/Rwanda_Vision_2020.pdf.

³¹ The need to decentralize in a participatory way originally emerged as part of the 1993 peace agreement—called the Arusha Accords—which focused on fighting poverty and improving state-society relations (Kauzya 2007).

phases.³² The policy's objectives include mandating local participation, improving public administration, developing local planning and management skills, and strengthening efficiency through decentralization. The goals of these programs lie in maintaining control and improving governmental effectiveness.

Currently the country is divided, into provinces, districts, sectors, cells, and villages (*umudugudu*). The villages are made up of about fifty houses (though the number varies), and are led by an *umudugudu* chief who is chosen as a candidate and elected by the citizens. The village, cell, sector, and district communicate by sending the chairperson of their committees or the executive secretaries of their councils to present performance contracts (*imihigos*) each year. Mayors and other local officials make commitments to the president and then to the citizens and on *imihigo* day, typically occurring four times a year, they hold a public meeting to discuss progress. The districts are charged with implementing the policy of the local government and coordinating service delivery, while the sector is the administrative unit charged with the delivery of services itself. The sector is also responsible for coordinating citizen participation and collecting data and information. The cell is responsible for mobilizing the community and assessing needs at a local level (Commonwealth Local Government Forum 2013).

The decentralization process included setting up several channels for citizen participation, including community works (*Umuganda*), *imihigos*, open meetings at the village, cell, and sector tiers, and Community Development Committees (CDCs), which engage community actors in development project planning and implementation (Kauzya 2007). In 2007, the government created another participatory institution called the Joint Action Development

³² For a copy of these policies, see the Ministry of Local Government's webpage at <http://www.minaloc.gov.rw>.

Forum (JADF) to bring together the local government and various organizations and complement the work that the CDCs are doing at the district level.³³ As the subsequent phases unfolded, the government continued to focus on citizen participation within the framework of improved government efficiency. For example, the Rwandan government also established “governance month,” during which officials pay special attention to concerns at the local level.

South Africa (1996)

South Africa represents one of the earliest cases of nationally mandated participatory reforms in Africa, which began with the end of apartheid and the country’s subsequent transition to democracy in the early 1990s.³⁴ South Africa’s autonomous local governments existed under the apartheid system, which allowed neighborhood associations known as “civics” to emerge in black townships as powerful resistance organizations (Heller 2012).³⁵ Later, these politically organized communities demanded decentralization as part of ending apartheid (Heller 2012; Kauzya 2007).³⁶ Negotiations to end apartheid, beginning in 1990, culminated in multi-racial

³³ According to another government official interviewed for this study, the JADF was designed to eventually replace the CDCs, not complement them. But this is not entirely clear from documentation.

³⁴ For more on these events, see Connolly 2001; Friedman and Kihato 2004; and Martin 2006. For more on decentralization and local government, see Dickovick 2011; Heymans 2006.

³⁵ Mahmood Mamdani (1996) makes the important point that decentralized power is directly linked to indirect rule during the colonial system, which he calls decentralized despotism.

³⁶ While there were grass-roots pressures to decentralize, Steven Friedman and Caroline Kihato (2004, 141) argue that the ANC also realized that this set of reforms would also be “internationally fashionable.”

elections in 1994, bringing the African National Congress (ANC) to power. As of this writing, the ANC continues to rule the country (Southall 2014).

The current framework for participatory local government is outlined in the 1996 Constitution³⁷, which states that one of the responsibilities of the municipality is “to encourage the involvement of communities and community organisations in the matters of local government.” One of most important local participatory institutions in South Africa—the ward committee—is codified in the Municipal Structures Act (No. 117 of 1998). The municipalities are subdivided into wards, which are led by a ward councilor and a committee of 10 other members elected by the local community. As of 2012, ward committees were set up in 92% of the municipalities across the country (Commonwealth Local Government Forum 2012). The ward committees are intended to be non-partisan, although research suggests that they are often partisan in nature and dominated by ANC political elites (Hemson 2007, Hicks and Imraan 2007, Piper and Von Lieres 2008).

In 2000, congress passed the Local Municipal Government Act, which further codifies citizen participation stating that a “municipality must develop a culture of municipal governance that complements the formal representative government with a system of participatory governance.” This includes citizens’ participation in: “the preparation, implementation and review of its integrated development plan; the establishment, implementation and review of its performance management system; the monitoring and review of its performance, including the outcomes and impact of such performance; the preparation of its budget; and strategic decisions

³⁷ For a copy of the 1996 Constitution see

<http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>. For a detailed analysis of the constitution, see Klug 2010.

relating to the provision of municipal services" (Chapter Four).³⁸ This law also sets up Integrated Development Plans (IDPs), which are strategic planning documents that must be developed with the community's participation.

Although the nationally mandated participatory reform is firmly codified, scholarly evaluations are pessimistic. Some argue that the ward councils are not significantly involving citizens in decision-making (Friedman and Kihato 2004; Hemson 2007; Piper and von Lieres 2008; Ntsebeza 2005). Patrick Heller argues that "the case of South Africa is a sober reminder that even when civil society is highly mobilized and highly motivated, it nonetheless remains dependent of the institutional and political environment for finding effective modes of engagement with the state" (Heller 2012, 661). He believes that the hegemony of the ANC has stifled genuine citizen participation and the involvement of civil society in South Africa (Heller 2012).

Uganda (1995)

Uganda is another example of a country implementing its nationally mandated participatory reform in a system dominated by one political party. In 1986, the National Resistance Army (NRA), led by Yoweri Museveni came to power.³⁹ With Museveni as a leader, the National Resistance Movement (NRM) implemented a "no party democracy" as well as

³⁸ See <http://www.info.gov.za/aboutgovt/locgovt/legislation.htm>.

³⁹ For more on the Ugandan civil war and the NRM see Blattman 2009; Izama and Wilkerson 2011; Oluka 2011; and Omach 2002. For more on NGOs, see Dicklitch 1998.

system that stressed “participatory local democracy” (Kauzya 2007, 81).⁴⁰ Arguing that political parties would exacerbate ethnic and religious tensions, the NRM prohibited political parties until the early 2000s (Francis and James 2003).

Upon taking power, the NRM undertook decentralization⁴¹ and established “resistance councils,” made up of elected village members, and which had been set up in NRM controlled areas during the war (Kauzya 2007). These councils became the basis of widespread citizen participation as they evolved. The 1995 Constitution sets out a comprehensive legal framework for decentralization and citizen participation, which was further codified in the Local Government Act of 1997. The Act creates a pyramidal structure with five tiers. The NRM stressed participatory governance partly because the movement was originally born as a leftist resistance movement. However, participatory councils also allowed the movement to gain and ensure grass-roots support (Kauzya 2007).

The lowest tier, LC1, includes the local councils at the village level. Formally, all adult citizens are members of LC1. These councils are designed to meet monthly to discuss local issues and projects and “guarantee every citizen an opportunity to participate in political decision-making” (Lambright 2011, 26). These laws mandate citizen participation through public meetings and elections.⁴² While some positive development outcomes have been documented as

⁴⁰ For decades, Northern Uganda has also been embroiled in conflict with Joseph Kony’s Lord’s Resistance Army (LRA). For more on the Lord’s Resistance Army, see Allen and Vlassenroot 2010; Eichstaedt 2010.

⁴¹ For more on decentralization in general, see Lambright 2011.

⁴² Participatory village councils are not the only direct democratic institution in Uganda. Some municipalities in Uganda, including Entebbe and Jinja, have used participatory budgeting

a result of this participatory tiered system (Morales 2003; Olowu and Wunsch 2004), others argue that local governments are not sufficiently inclusive (Devas and Grant 2003; Kiwanuka 2012). Others note that the participatory mechanisms create a “democratic gloss in the eyes of both international donors and local actors” in the absence of real democracy (Francis and James 2003, 327).

Venezuela (1999)

The evolution of Venezuela’s nationally mandated participatory reform has taken place gradually, as Venezuelan politicians first decentralized the state, then former president Hugo Chávez instituted one of the most participatory political systems in the world. Highly controversial, critics note that Chávez’s system of participatory governance is partisan and serves to reinforce clientelist networks.

During the 1980s, several crises of legitimacy, including economic problems, led to a demand for more voice in the government from the increasingly literate, educated, and informed population (Coppedge 1992, 1994; Mascareño 2000; Penfold-Becerra 2004; Silva 2009; Smilde 2011). Part of the government’s response lay in decentralizing the political system.⁴³ Although decentralization did help to strengthen some local institutions, the process could not improve most of the serious flaws in its political system (de la Cruz 2004) For many, the political system was broken and could only be fixed through more radical means.

The means to a much more participatory system arrived in the form of Hugo Chávez and his Bolivarian Revolution. After his first election, Chávez organized a referendum for a

practices to further involve citizens in the process of allocating resources (see Matovu 2011; Olowu 2003).

⁴³ For more on decentralization and democracy in Venezuela, see de la Cruz 2004; Karl 1986; Mascareño 2000; and Penfold-Becerra 2004.

constitutional assembly to rewrite the constitution and transform the political system. The subsequent 1999 Constitution codifies both decentralization⁴⁴ and participatory democracy. The new constitution codifies a variety of citizen decision-making institutions, including Bolivarian circles, health committees, cooperatives, urban land committees, community councils, and missions (Hawkins 2010; López Maya and Lander 2011; McCoy 2004). The Special Law of the Local Councils and Public Planning (*La Ley Especial de los Consejos Locales de Planificación Pública*), passed in 2002, set up local public planning councils (CLPPs) and community councils (CCs). Part of “civil society’s space,” CCs are “the principle center of the people’s participation...in the formulation, execution, control, and evaluation of public policies” (*La Ley Especial de los Consejos Locales de Planificación Pública* 2002).⁴⁵ Like a neighborhood association, each CC is made up of neighbors who meet in an assembly, which then selects an executive committee (Hawkins 2010).⁴⁶ The community councils, which number approximately forty thousand around the country, have been widely implemented (García-Guadilla 2007; Hawkins et al. 2008; McCarthy 2012).

While gearing up for the 2006 presidential election, the Chávez government began a new phase of participatory democracy, which López Maya (2012) describes as more controlled and top-down. The 2009 Organic Law of the Communal Councils (*Ley Orgánica de los Consejos Comunales*) transformed the CCs into “a new Popular Power of the State,” stripping the CCs of

⁴⁴ Kent Eaton (2013, 433) argues that although decentralization is formally inserted into the constitution, “this gesture belies a series of changes that actually diminished the power of sub-national governments....”

⁴⁵ This legislation was reformed in 2006 and 2009 (López Maya 2012).

⁴⁶ See McCarthy 2012 for more on the process of constituting a community council.

their responsibility to formulate policies and making them directly dependent on the president (Lopez Maya 2012, 6).

Evaluations of the community councils are mixed. While noting variations in how they function around the country, some scholars have found that they are often marked by clientelism and personalism (Hellinger 2011; Goldfrank 2011b). On the other hand, Michael McCarthy (2012, 141) calls the council system a “success story” that has allowed for “a reimagination of what it means to be politically included.” Gabriel Hetland’s (2014) work notes that the CCs in Venezuela are *both* participatory and clientelist at the same time, and argues that they have genuinely opened up the political system.

Hugo Chávez, therefore, oversaw a radical experiment that directly incorporated citizens into decision-making in an unprecedented way. His efforts inspired a generation of leaders from the left in Latin America to follow his lead. After his death in 2013, his successor, Nicolás Maduro, promised to continue these initiatives and, as of this writing, they continue to engage citizens in policy decisions.

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