

should manage departmental funds, health centers, transportation and other institutions. There was likewise statistical analysis of who should decide whether to create new taxes. The survey attempted to gauge what people thought about decentralization, how authorities should be elected, and other issues.¹¹³ That body of work clearly laid out the reforms demanded by the citizenry in terms of consolidation of democracy, efficiency of the state, and economic and market development. A series of meetings (the *concertacion*) organized to share draft legislation with members of parliament, non-governmental organizations (*comites civicos*), political parties, and the executive branch complemented the survey work.¹¹⁴

Today, there is an ambitious program to encourage popular participation. The plan divides twenty percent of the national budget among more than 300 municipalities, based on population. According to the President, many municipalities in rural areas have never received any direct funds in the history of the Republic, and since they are now able to organize and finance improvements to schools, roads, and health services themselves, it should have far reaching and beneficial consequences.¹¹⁵

Known nationally as the Popular Participation Law,¹¹⁶ the broad initiative represents Bolivia's shift away from centralized government, an effort to reverse decades of inefficiency and mismanagement and push democracy onto the town plaza. In place since April 1994, the law gives local and provincial officials direct funding on a per capita basis, creates a watchdog system to keep local government honest, and ensures that local tax revenues do not disappear into the national coffers.¹¹⁷

A principal result of President Sanchez de Lozada's administration, the law is intended to right the historical imbalance that exists between cities and towns in South America's poorest nation. The experiment could provide a model for other Latin American countries that for centuries have operated under similar city-centered systems—a legacy of the indigenous civilizations as well as the Spanish and Portuguese colonial governments.¹¹⁸

113. *Informe Final Encuesta Descentralizacion* (April 1993) in MINISTERIO DE PLANEAMIENTO Y COORDINACION, REP. DE BOLIVIA, ENCUESTA Y ANALISIS SOBRE LA DESCENTRALIZACION ADMINISTRATIVA 9-31 (1993).

114. Hernan Paredes Munoz, *Una Estrategia de Descentralizacion de Largo Plazo para Empezar Ahora*, in MINISTERIO DE PLANEAMIENTO Y COORDINACION, REP. DE BOLIVIA, ENCUESTA Y ANALISIS SOBRE LA DESCENTRALIZACION ADMINISTRATIVA 35-38 (1993).

115. Keith R. Sutill, *Bolivia Mining '95: Exceeds All Expectations*, ENGINEERING & MINING J., Dec. 1995, available in LEXIS, NEWS Library, EMJ File.

116. See Ley de Participacion Popular, No. 1551 (1994).

117. See Gabriel Escobar, *Bolivia Defies Past, Tries Decentralization*, WASH. POST, Sept. 17, 1995, available in LEXIS, NEWS Library, WPOST File.

118. See *id.*

In Bolivia, where more than sixty percent of residents are indigenous, the difference between urban and rural living is as pronounced as anywhere in Latin America. Although more than a third of Bolivians live in communities of less than 250 people, a disproportionate percentage of the revenues traditionally went to three cities—La Paz, Cochabamba, and Santa Cruz.¹¹⁹

At its worst, the old system created towns on paper only—places where no funding meant no local government. At its best, a town like Cliza, twenty-five miles south of Cochabamba, relied entirely on La Paz and benefited or suffered at the whim of the central government. It could not survive on what it retained of local taxes or on the meager federal payment, which in 1993 was \$250 U.S. dollars, or less than two cents per resident.¹²⁰ Of the 310 municipalities in the country now getting a share of the national revenues, 181 did not receive one cent of federal funding in 1993.¹²¹

Under the popular-participation program, the government plans to steer about twenty-five percent of the national income to poor villages and municipalities. The program's effects are more noticeable in the provinces and in the countryside, where thousands of projects are being developed—among them schools, roads, drinking water, health posts, sewerage systems, and sports centers.¹²²

President Sanchez notes that through the Popular Participation program, 8,000 projects will be carried out in 1995:

This is more than twice the 3,271 projects carried out by the Social Emergency Fund in its three years of existence. Just imagine how this law is changing the lives of millions of Bolivians who have been ignored and left abandoned in the past. Perhaps this is why it is called the blessed law. I hope the opposition will not fulfil its promise of derogating this law if they become the government.¹²³

As work cannot be carried out without men of flesh and bone, popular participation has become the greater creator of jobs in the country through the municipalities. One of the frequent criticisms is that these are temporary jobs, but those who make this type of criticism forget that the resources

119. See *id.*

120. See *id.*

121. See *id.*

122. See Sanchez de Lozada, *supra* note 24.

123. See *id.*

appropriated to the municipalities are renewed constantly. Therefore, the demand for jobs is permanent.¹²⁴

Before Popular Participation, provinces received eighteen million Bolivianos per year. In 1995, the provinces received about 415 million Bolivianos, or about twenty-four times as much as before Popular Participation.¹²⁵ Before Popular Participation was passed, the country distributed its revenue-sharing dollars according to where they were produced. The large, industrialized cities-La Paz, Cochabamba and Santa Cruz-received ninety percent of the money.¹²⁶ In 1995, those cities got only sixty percent. The remaining forty percent-about \$255 million U.S. dollars-went to small towns.¹²⁷ Sanchez de Lozada asserts "For the first time in five hundred years, we have recognized the existence of native communities. . . . We think what we are doing is revolutionary and irreversible."¹²⁸

Sergio Molina, National Secretary for the Secretariat for Social Participation, claimed: "If this nation didn't come up with a proposal like this, it could soon find itself facing Zapatista or Shining Path guerrillas."¹²⁹ Under Popular Participation, rural peasants-most of them indigenous Aymara, Quechua, and Guarani people-for the first time are being given an equitable share of federal revenues and the right to decide how they are used. That might not sound very revolutionary, but in a country where many remote towns have not received any federal money in 171 years, except by begging or bribery, it's a significant step toward self-determination and democracy.¹³⁰

It means money will be spent in new places and in new ways, on things such as Aymara text books, rural electrification, and deep wells to irrigate land parched by ages-old drought. Bolivia's leaders hope that these investments will prove the key to finally producing tangible improvement in the lives of millions of desperately poor rural Bolivians who have seen no real changes for centuries.¹³¹

"It's a[n] historic act of reparation," said Vice President Victor Hugo Cardenas, an Aymara. "For the first time, the indigenous population is being legally recognized in this country."¹³²

124. *See id.*

125. *See id.*

126. *See* Laurie Goering & Kerry Luft, *Revolution and Democracy: After 171 Years of Neglect, Bolivia Struggles to bring Power - and Money - to its Peasants*, CHI. TRIB., Mar. 26, 1995, available in LEXIS, NEWS Library, CHTRIB File.

127. *See id.*

128. Epstein, *supra* note 4, at A10.

129. *Id.*

130. *See* Goering & Luft, *supra* note 126.

131. *See id.*

132. *Id.*

At its most basic level, Popular Participation-Cardenas' brainchild-is also an acknowledgement of federal defeat. Indicators show that years of federally managed social programs have failed to lift most Bolivians out of abject poverty. Today the average income in Bolivia is fifty-six dollars a month, making this the poorest country in the Western Hemisphere after Haiti.¹³³ "The answer couldn't be more of the same," said Fernando Ruiz, Bolivia's National Social Policy and Investment Secretary. "There had to be a conceptual change."¹³⁴ So Cardenas and other government leaders decided to take a chance and see what the rural poor could do to help themselves, given a little cash of their own.¹³⁵

Concretely, the new legislation distributed income between national, departmental, and municipal authorities. National income was said to originate from:

1. Value added taxes.
2. Complementary value added tax sources.
3. Presumptive income taxes on corporations.
4. Transactions taxes.
5. Specific consumption taxes.
6. Consolidated customs duties.
7. Inheritance taxes.
8. Exit taxes for leaving the country.¹³⁶

The country is divided into nine Departments, each with a Departmental Council.¹³⁷ The councils have advisory, consultation, and control functions.¹³⁸ The Prefect for the Department, the President's appointed representative, presides over the council.¹³⁹

Departmental income sources are generically said to be those assigned in law.¹⁴⁰ Municipal income is generated mainly from presumptive income taxes on real estate and vehicles (cars and airplanes).¹⁴¹ The assumed value for vehicles

133. *See id.*

134. *Id.*

135. *See id.*

136. *See* Ley de Participacion Popular, *supra* note 116, art. 19A(1)-(8).

137. *See* Ministerio de Desarrollo Humano, Secretaria Nacional de Participacion Popular, *Sujetos de la Participacion Popular* 28 (1996) [hereinafter *Sujetos de la Participacion Popular*] (citing Ley 1654, Ley de la Descentralizacion Administrativa).

138. *See id.*

139. *See id.*

140. *See* Ley de Participacion Popular, *supra* note 116, art. 19(b).

141. *See id.* art. 19(c).

is based on a list approved by the Finance Ministry.¹⁴² Initially, urban property values will be assessed by owners themselves.¹⁴³ However, these self-declared figures will fade away as they are replaced by official assessments of the municipal governments.¹⁴⁴

Municipal governments have today become, in effect, province sections.¹⁴⁵ Cities have now been "enlarged" to include surrounding rural areas so that all inhabitants are represented in some form by a municipal government, whether they are urban or rural residents.¹⁴⁶

Municipal governments and public universities also receive funding under a "Co-Participation" program with the central government, in which centralized funding is redistributed, with twenty percent going to municipalities and five percent allocated to universities.¹⁴⁷ Distribution for municipalities is based on population; distribution for universities is based on the population of the municipality where the university is located.¹⁴⁸ Any town with at least five thousand inhabitants is entitled to an account—those with less than five thousand may join together and share a single account.¹⁴⁹

The Popular Participation Law not only transferred resources, but also granted ownership of physical infrastructure corresponding to education, health, sport, culture, neighborhood roads, and irrigation to the municipalities.¹⁵⁰

Indigenous groups have taken advantage of the Popular Participation Law to form municipalities that will offer them greater opportunities for self-determination. In 1995, indigenous groups established six municipalities in Bolivia. In August 1995, the Government formed a "National Committee for the International Decade of Indigenous Peoples" to plan, evaluate, coordinate, and publicize programs to increase self-determination, and to set goals and objectives.¹⁵¹

142. See Administrative Rules to the Popular Participation Law, Dec. Supr. No. 23813 (1994), art. 25(a).

143. See *id.* arts. 25(b)(1), 6. (citing Dec. Supr. 21458 (1986)).

144. See *id.* art. 25 (b)(2).

145. See Ministerio de Desarrollo Humano, Secretaria Nacional de Participacion Popular, *Guia de Capacitacion para Comites de Vigilancia* 41 (1996) [hereinafter *Guia de Capacitacion*].

146. See *id.*

147. See Ley de Participacion Popular, *supra* note 116, art. 20.

148. See *id.* art. 21.

149. See Administrative Rules to the Popular Participation Law, *supra* note 142, art. 6.

150. See Ley de Participacion Popular, *supra* note 116, art. 13; Administrative Rules to the Popular Participation Law, *supra* note 142, art. 18.

151. See U.S. DEPT. OF STATE, *supra* note 93.

Community organizations have also become recognized.¹⁵² At the municipal level, peasant groups ("*comunidades campesinas*"), indigenous communities ("*comunidades o pueblos indigenas*"), and neighborhood associations ("*juntas vecinales*") can now register to receive legal recognition or legal personality ("*personalidad jurídica*").¹⁵³ Legal recognition enables organizations to enter into contracts and exercise legal rights.¹⁵⁴ Municipal governments, under the authority of a mayor ("*alcalde*"), have the option of forming municipal districts ("*distritos municipales*" or "*cantones*") or sub-mayoralities ("*subalcaldias*"), allowing for further decentralization of administration.¹⁵⁵ This also allows indigenous groups to preserve socio-cultural units and consolidate their political administration.¹⁵⁶ City government itself is controlled by a municipal counsel and the executive officer, the mayor.¹⁵⁷ In addition, there is a vigilance committee for each city that is typically comprised of a locally selected representative from each municipal district.¹⁵⁸

Vigilance committee members are selected by the communities themselves in accordance with local customs or by-laws for selecting local leadership among peasant groups, communities, or indigenous populations.¹⁵⁹ Committee members serve without pay for single-year terms and may be

152. It is incorrect to say that the Popular Participation Law was the first to allow for the recognition of communities. In the Ley de Reforma Agraria, community organizations were supposed to have been recognized. This however was not carried out. The Popular Participation Law not only gives renewed emphasis to this idea, but also extends legal personality. See, e.g., Ministerio de Desarrollo Humano, Secretaria Nacional de Participacion Popular, *Apre(he)ndiendo la Participacion Popular: Analisis y Reflexiones Sobre el Modelo Boliviano de Descentralizacion* 185 (1996) [hereinafter *Apre(he)ndiendo la Participacion Popular*].

153. See *Sujetos de la Participacion Popular*, *supra* note 137, at 10. The nine capital cities for each department, and the cities of El Alto and Llallagua, have together formed a National Confederation of Neighborhood Communities (*Confederacion Nacional de Juntas Vecinales* or CONALJUVE). See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 189.

154. See *Guia de Capacitacion*, *supra* note 145, at 34; *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 187.

155. See *Sujetos de la Participacion Popular*, *supra* note 137, at 34.

156. See Ministerio de Desarrollo Humano, Secretaria Nacional de Participacion Popular, *Manual de Distritacion Municipal para la Participacion Popular* 5 (1996) [hereinafter *Manual de Distritacion Municipal*].

157. See *Guia de Capacitacion*, *supra* note 145, at 42.

158. See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 120.

159. See Ministerio de Desarrollo Humano, Secretaria Nacional de Participacion Popular, *Manual de Instrumentos y Procedimientos para el Comite de Vigilancia* 2 (1996) [hereinafter *Manual de Instrumentos y Procedimientos*]; *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 154.

reappointed.¹⁶⁰ In short, the function of the vigilance committee is to be the intermediary between society and the municipal government.¹⁶¹ To some degree, the control role of the vigilance committees conflicts with that of the municipal councils. This conflict is already generating some degree of disagreement over jurisdiction between the two.¹⁶² The difference between the two is fine: the committees have a control function, while the councils have an audit function.¹⁶³

By mid 1996, 12,342 peasant communities, indigenous groups and neighborhood associations had already received their legal personality. Indigenous groups and neighborhood associations are currently operating in 308 Vigilance Committees, working with municipal governments on planning and watching over municipal administration of resources.¹⁶⁴ By mid-1996, nearly one hundred percent of the urban and rural communities received legal status recognition.¹⁶⁵

2. International Reaction

Popular Participation impressed diverse international groups. While in Bolivia in 1994, Cuban Foreign Minister Roberto Robaina characterized Popular Participation as "revolutionary." Months later, U.S. Ambassador Curtis Kamman depicted it as an "audacious scheme of reinventing true democratic government."¹⁶⁶

The U.S. Agency for International Development (USAID) is investing fourteen million dollars between 1995 and 2003 to support the popular participation process. Similarly, the World Bank will provide thirty-seven million dollars in favorable credit to strengthen rural municipalities over a five year period.¹⁶⁷

Officials from Peru, Ecuador, and Paraguay have expressed admiration for Popular Participation, despite a few implementation problems. They plan to evaluate whether their countries can initiate similar programs.¹⁶⁸

Finally, Bolivia received warm congratulations and support from the United Nations for being the first country in South America to incorporate gender

160. See *Manual de Instrumentos y Procedimientos*, *supra* note 159, at 3; *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 154.

161. See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 154.

162. See *id.* at 155.

163. See *id.*

164. See *Guia de Capacitacion*, *supra* note 145, at 49.

165. See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 158.

166. See Epstein, *supra* note 4, at A10.

167. See *id.*

168. See Ian Katz, *Hammer, Nails, Brick—and a Quiet Revolution*, *BUS. WK.*, July 10, 1995, at 28D, available in LEXIS, NEWS Library, File No. 3432.

policies in its democratization process. "We see that the Law on Popular Participation in this country is a kind of cultural revolution", said Ivanka Corti, chairwoman of the U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), during a meeting in Bolivia in January, 1995, to monitor implementation of the Convention on the Elimination of All Forms of Discrimination Against Women. The Bolivian law recognizes the legal status of grassroots indigenous and rural organizations, at the same time allowing an educational reform permitting boy and girl children alike to pursue studies in their native languages.¹⁶⁹

3. Opposition and Criticism

The law is not without enemies. During the heated debate before passage, opponents argued that local officials would be too provincial to manage their own affairs or too tempted by access to money to do right by taxpayers. Large cities decried the loss of revenues. Skeptical scholars wondered how places without roads, airports, or ports could possibly thrive under a law that raises all local revenue by taxing property, cars, boats, and planes.¹⁷⁰

Others question the judgment of putting so much money in the hands of inexperienced administrators. At Pucarani, a town near Lake Titicaca, critics point out that residents opted to use their money to build a race car track in hopes of attracting tourism.¹⁷¹

There is also the question of corruption. Currently, five rural mayors are being investigated, including one who allegedly siphoned off twenty-seven thousand dollars to buy himself a luxury car.¹⁷² President Sanchez de Lozada admits being worried about graft, but he said: "Even if they get drunk, they couldn't do a worse job than we've done (in the past)."¹⁷³

In reaction to these abuses, the Ministry started providing counseling for municipal officials. Through this process of consultation, the Ministry found that sixty percent of the money has been spent wisely, on constructing or improving water facilities, electrical plants, small hospitals, and schools. Part of this success rate may be in part due to the law's creation of vigilance committees, with members drawn from local community organizations. Still, only five percent of the complaints filed by vigilance committees have been substantiated.¹⁷⁴

169. See *Bolivia-Women: Kudos for Engendering Democratization*, INTER PRESS SERVICE, Jan. 19, 1995, available in LEXIS, NEWS Library.

170. See Escobar, *supra* note 117.

171. See Epstein, *supra* note 4, at A10.

172. See *id.*

173. *Id.*

174. See Escobar, *supra* note 117.

The vigilance committees are just one mechanism to advance transparency and participation in a new democratic system. Residents previously prevented from presenting their concerns now know to whom they should complain.¹⁷⁵ Further, for the first time, the law will recognize and give legal personality to grass roots organizations (*organizaciones territoriales de bases*, or OTB).¹⁷⁶ It is hoped that the OTBs, the vigilance committees, and the municipal government can together form a "Bermuda Triangle" to prevent fraud and waste.¹⁷⁷

Another source of opposition to new legislation are politicians in La Paz and other cities who complain they are being hit with new expenses just as their take of the country's tax dollars is falling.¹⁷⁸ Large city mayors such as La Paz's Monica Medina de Palenque are especially angry about losing funds to rural areas and villages. Teachers' unions and medical doctors are angry over policies allowing local indigenous communities to dictate what services to provide.¹⁷⁹ Federal politicians are dismayed by their loss of power and prestige as the stream of groveling rural mayors—who once hauled sacks of potatoes to La Paz as bribes to win support for rural projects—has dried up.¹⁸⁰ Before Popular Participation, all tax revenue went to the city source of the tax revenue. For example, proceeds of gas sold anywhere in Bolivia went to La Paz, the legal residence of the oil monopoly YPFB. Now, revenue is distributed according to population. Further, villages themselves are responsible for how revenue is spent. La Paz, Santa Cruz, and Cochabamba, the three largest cities, have seen their share of revenue fall from eighty-six percent of the total to just twenty-eight percent after Popular Participation.¹⁸¹

As of mid-1996, no municipal government established Popular Participation offices, as contemplated in the legislation. This may be due in part to scarce resources. But this lack of formal compliance evidences the distance which remains between the municipal government and the people. It also shows that certain basic aspects of the legislation are not being communicated

175. *See id.*

176. *See Ley de Participacion Popular, supra* note 116, art. 2a.

177. *See* Vice President Victor Hugo Cardenas, Presentation at the U.S. Agency for International Development, Washington, DC (July 21, 1994), at 7. It should be noted that the term OTB has been the cause of some political problem, with some groups believing their character as an indigenous community might not be preserved if they registered as an OTB. Consequently, as implementation moved forward, it was necessary to abandon the OTB nomenclature in favor of the more precise name of the community form, i.e. indigenous community, neighborhood association or peasant group. *See, for example, Apre(he)ndiendo la Participacion Popular, supra* note 152, at 151, 184.

178. *See* Goering & Luft, *supra* note 126.

179. *See* Epstein, *supra* note 4, at A10.

180. *See* Goering & Luft, *supra* note 126.

181. *See* Katz, *supra* note 168.

effectively, even to municipal council members themselves.¹⁸² Further, despite the vigilance programs and efforts to curb graft, Bolivia was still ranked second in the world for corruption, and the worst in Latin America, in 1997.¹⁸³

III. REFORM OF THE CONSTITUTION; DECENTRALIZATION OF ADMINISTRATION

In addition to the structural reforms of capitalization, education, and popular participation, Bolivia has also promulgated two other important reforms. The first is the reform of the Constitution, which includes a recognition of diversity, modernization, and a dignifying of the justice system and the establishment of a national and municipal government term of five years.¹⁸⁴ The Constitutional reform makes the National Congress more representative by establishing direct election of half the deputies.¹⁸⁵ The second major reform is the Administrative Decentralization Law, produced as a result of meetings and negotiations with organizations representative of Bolivian society and with government and opposition political parties.¹⁸⁶

The decentralization law is the last of the major structural reforms promoted by Sanchez de Lozada. It complements participation, capitalization, and education legislation.¹⁸⁷ The final shape of the decentralization law occurred as the result of a compromise between the central government, backed by such powerful figures as the mayor of Santa Cruz, Percy Fernandez Añez, on the one hand, and those of the civic movements in the nine departments on the other.¹⁸⁸ Under the new decentralized structure, the Prefect will continue to be appointed by the central authorities. The Prefect will have enhanced powers, but the Prefect's actions will be monitored by a departmental council, whose members will be nominated by the municipal councils in each province.¹⁸⁹

182. *See Apre(he)ndiendo la Participacion Popular, supra* note 152, at 160.

183. *See* *Cómo ana la corrupción en los países?*, SIGLO VEINTIUNO, Aug. 1, 1997, at 19. The worst country, according to the ranking by business executives, was Nigeria. *See id.*

184. *Ley de Reforma a la Constitucion Politica del Estado*, No. 1585 (1994).

185. *See* Sanchez de Lozada, *supra* note 24.

186. *See id.* The new legislation implicitly amends the former *Ley Organica de Municipalidades* (1985); *Ley de Descentralizacion Administrativa*, No. 1654, (1995); *Decreto Reglamentario de la Ley de Descentralizacion Administrativa*, Dec. Supr. No. 24206 (1995).

187. *See Eleventh-hour Decentralization; La Paz Seems to Have Got the Better of Tussle with Regions*, LATIN AM. WKLY REP., Aug. 17, 1995, available in LEXIS, NEWS Library, File No. WR-95-31.

188. *See id.*

189. *See id.*

In making this reform, the government's view was that the popular participation law had already made 311 municipalities the new basic unit of local government.¹⁹⁰ In this sense, the government had already decentralized and devolved power and resources. Another layer of regional government was not really necessary. Still, it was committed to some form of further decentralization.¹⁹¹

The exact division of labor between the Prefect and departmental council remains to be seen. The Prefect should have the initiative to propose projects and budgets. For its part, the council will be limited to granting or withholding its approval. In cases where the council refuses to grant approvals, the Prefect might be obliged to resign.¹⁹²

Municipal councils decide by a two-thirds majority who sits on the departmental councils. In that sense, the power of municipal councils is not much affected. Regional pressure groups had hoped that the councils would be directly elected by popular vote.¹⁹³

The new legislation dissolves these entities with particular regard to the Regional Development Corporations, and transfers their assets to the department and the Prefects.¹⁹⁴ The Prefects will then have the responsibility of carrying out municipal strengthening programs.¹⁹⁵ Yet, the municipal development units ("*Unidades de Fortalecimiento Municipal*" or UFM) still within these regional development corporations, now primarily responsible for the implementation of the Popular Participation Law in the municipalities, are not fully trusted because they are seen as instruments of partisan politics.¹⁹⁶

In 1995, in reaction to the government's initial decentralization plan, the Department of Tarija tried to establish an autonomous regional government. While this may have just been a political ploy, it may have also reflected dissatisfaction with the central government's ability to deliver on its promises of decentralization. Manfred Reyes, the Mayor of Cochabamba and chairman of the National Association of Municipalities, expressed his dissatisfaction with the decentralization programs. In contrast, Mayor of Santa Cruz Percy Fernandez Añez, attributed Tarija's action to political reasons.¹⁹⁷

190. See *Ley de Participacion Popular*, *supra* note 116, arts. 12-18; *Guia de Capacitacion*, *supra* note 145, at 38.

191. See *Eleventh-hour Decentralization; La Paz Seems to Have Got the Better of Tussle with Regions*, *supra* note 187.

192. See *id.*

193. See *id.*

194. See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 142.

195. See *id.*

196. See *id.*

197. See *Just a Local Storm in a Teacup?*, *LATIN AM. REGIONAL REP.: ANDEAN GROUP*, May 25, 1995, available in LEXIS, NEWS Library, File No. RA-95-04.

Fernandez is a political independent, the head of a local government dominated by the ruling *Movimiento Nacionalista Revolucionario* (MNR). For Fernandez, the central government has already decentralized political power through the "popular participation" law. He notes that the legislation gives autonomy to Bolivia's 308 elected municipal governments, and transfers control of infrastructure, schools, health, and other services to them, giving them decision-making power over twenty percent of the central government's revenues.¹⁹⁸

Fernandez claims that these reforms have given local governments real power for the first time ever. He states that the departmental council set up in Tarija by mayor Oscar ("Motete") Zamora was pure politics. Zamora is an uncle and political ally of former President Jaime Paz Zamora, a political rival of President Sanchez de Lozada.¹⁹⁹ Fernandez believes departmental councils, established by the Constitution, could be useful forums for the exchange of ideas to coordinate municipal policies, but little more.²⁰⁰

Reyes, while not agreeing with Mayor Zamora's action, would like to see a full debate on decentralization before the government legislates on the subject. He would prefer elected departmental assemblies, headed up by the government-appointed Prefect. In contrast, Fernandez would like the assemblies to be made up of mayors or their delegates.²⁰¹

Sanchez de Lozada regards the demands of Tarija, Cochabamba and other departments as "federalist" and therefore incompatible with the Constitution, which defines the state as "unitary." He regards the "popular participation" law, one of the legislative centerpieces of the present government, as granting all the local autonomy needed.²⁰² The President is strongly opposed to direct election of departmental councils, the elimination of the Prefect, or the demands of regionalists.²⁰³

The "Siglo XXI" newsletter points out that, if and when popular participation becomes a reality at every level in Bolivia, the departmental civic committees will become an irrelevance—hence their desperate struggle to win the decentralization battle.²⁰⁴

198. See *id.*

199. See *id.*

200. See *id.*

201. See *id.*

202. See *'Goni' Seeks to Halt Local Revolts*, *LAT. AM. WKLY REP.*, June 29, 1995, available in LEXIS, NEWS Library, File No. WR-95-24.

203. See *id.*

204. See *id.*

IV. CONCLUSIONS

The old Bolivian state operated from top-down: National government at the top, then Prefects, then municipalities, and last, communities.²⁰⁵ The new legislation tries to put national, departmental, municipal, and community governments on the same level, with dialogue among the four.²⁰⁶

The legal and economic measures taken by President Sanchez de Lozada are dramatic. The Popular Participation Law is without doubt the most important piece of legislation in Bolivia since the Agrarian Reform Law.²⁰⁷ Together with the North American Free Trade Agreement, MERCOSUR, and the changes to Article 27 of the Mexican Constitution,²⁰⁸ Bolivian Popular Participation and its related initiatives represent the most important legislative advances in the hemisphere this decade. Critics may charge that the process of privatization has taken twice as long in Bolivia—eleven years—as in other Latin American countries,²⁰⁹ but Bolivia is undertaking privatization in a participatory context in which capitalization is one part of a broader strategy toward structural adjustment. Unlike Chile, where a repressive government simply pushed its program through, Bolivia's democratic governments have spent eleven years agonizing over how far to go with reform. One result of Bolivia's methodological process is that the country lags late entrants in privatization such as Argentina and Peru, where governments took advantage of chaotic but dissimilar situations to push quick changes.²¹⁰

Decentralization is directly related to power. In places like Nicaragua, Guatemala, El Salvador, and Costa Rica, legislative changes to increase local fiscal autonomy and to provide for more representative and more participatory democratic systems have already begun to shift the balance of power from central to local governments.²¹¹ To a lesser extent, similar concerns are played out in the debate over the District of Columbia's budget in Washington, where central

government must approve local expenditure. The Bolivians have provided an interesting and provocative model to carry out decentralization in Latin America. In this light, the Bolivian experience should be carefully considered by regional governments looking to advance principles of democracy and participation in a context of fiscal stabilization.

Perhaps it is this contribution—the notion that decentralization can be done along with shrinking government—that holds such allure for many regional governments. Even in the United States the Bolivian message will be of interest, with debate on welfare reform and national health care reform, the tension between centralized control and increased budgetary demands, and concerns for localized control in a context of huge fiscal deficits. In this light, the Bolivian people have shown that social reform can be accomplished even without major infusions of outside funding.

On the other hand, if poverty is Bolivia's number one problem, little has been done to address this concern. President Sanchez de Lozada promised a million new jobs. As of 1996, only about one hundred thousand had been created. Even these may have been offset by job losses. According to unions and the Catholic Church, unemployment and underemployment is actually up.²¹² Still, there is often a lag between structural adjustment and economic turn around.²¹³ Perhaps a rebound is still in store for Bolivia.

One initial gauge of the success of the program can be seen by local level participation in the electoral process. While the absentee rate among voters in 1993 was forty-seven percent, this dropped to thirty-five percent in 1995.²¹⁴ Another indicator of the new legislation's effect are the Popular Participation Days ("Jornadas de Participacion Popular") now celebrated across the country, with official backing by the Municipal Strengthening Units (under the Regional Development Corporations) and the National Secretary for Popular Participation.²¹⁵

Final opinion regarding the success of the Bolivian program will await data to be accumulated over the next several years. In the meantime, Bolivia has advanced a program with immediate, tangible, and real results, and deserves international respect and attention.

205. See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 169.

206. See *id.* at 177.

207. Ley de Reforma Agraria, No. 3464 (1953).

208. Changes to Article 27 of the Mexican Constitution are discussed in Ruben Delgado Moya & Maria de los Angeles Hidalgo Zepeda, *EL EJIDO Y SU REFORMA CONSTITUCIONAL* (1994).

209. See Gabriel Escobar, *Change in Bolivia: Nobody Said It Would Be Popular*, *WASH. POST*, Apr. 17, 1996, at A28.

210. See *id.*

211. See Mark H. Biddus, *A Review of Decentralization and Municipal Development Initiatives and their effect on Democratization in Central America iv* (July 1995) (unpublished report, on file with the U.S. Agency for International Development).

212. See Carlos Quiroga, *Bolivia's President Seeks Time to Beat Poverty*, *REUTERS N. AM. WIRE*, Aug. 6, 1996, available in LEXIS, NEWS Library, CURNWS File.

213. See William C. Thiesenhusen & Steven E. Hendrix, *Poverty and Progress: The Cases of El Salvador and Nicaragua*, 17 *HARV. INT'L REV.* 16, 59 (1995).

214. See *Apre(he)ndiendo la Participacion Popular*, *supra* note 152, at 142.

215. See *id.* at 159, 192.