

Republic of Guatemala

(República de Guatemala)



Capital: Guatemala

Inhabitants: 12.728.110 (2007)

Area: 108.809 km²

1. Introduction



Guatemala, a country in Central America, is 109 thousand square kilometers in size and has a population of 13.4 million (2006): It is a mountainous country, the most rural of all the Central American countries (60%) and has the highest indigenous population in the region (50%). It has 23 different linguistic groups and a similar number of languages, with the Mayan population being the dominant group, who live mainly in the northern and western high plateaus (altiplanos).

According to Guatemala's Political Constitution, it is the responsibility of the State to ensure that the Republic's people enjoy a life of liberty, justice, security, peace and full personal development. The country's system of Government is republican, democratic and representative. The Republic's territory is divided, for administrative purposes, in to 22 departments and 332 municipalities.

Following independence, the authoritarian State centralized all the powers, resources and territorial administrations; the municipalities retained their independence, but beyond that they were largely repressed and inhibited by a succession of dictators. The revolutionary period that lasted ten years (1944-1954) saw the revival, reestablishment and modernization of municipal autonomy, via the democratic election of municipal authorities, but the question of the country's multicultural and intercultural make-up still remained to be addressed. A guerrilla war saw the country live through a lengthy 36 years of armed conflict (1960-1996), which severely affected the municipalities and civil society as a whole. Decentralization and the revival of the municipality started up once again following the signing of the Peace Accords in 1996 and political reform in 2002, which culminated in the introduction of three new laws on decentralization: a new Municipal Code, a new law on Urban and Rural Development Councils and the promulgation of the first Law of General Decentralization. The notion of local government has been clearly defined in Guatemala's constitutions, which set out the municipality's legislative and executive functions. Local government operates on three levels: the municipality, that which covers the local ambit under the municipality, and the municipal associations (inter-municipal). The notion



of decentralization refers to two classic forms: decentralization by autonomy and decentralization by sector, via the delegation of areas of responsibility. The notion of local democracy is directly associated with municipal autonomy, enriched by its multicultural, multiethnic and multilingual nature, and supported by the application of common law rights and by following the correct and traditional methods of community organization. All of the above are set out in the Accord of Identity and Rights of the Indigenous People Accord and in the substantial reforms made to the Municipal Code in 2002.

2. Territorial Organization

Guatemala is a Unitary State with two levels of government, so to speak, the national and the municipal; there are no federal entities or other sub-national independent institutions. The constitution declares that administration be decentralized and establishes areas of development with economic, social and cultural criteria. The 1987 law on regionalization highlighted eight regions that did not meet with the constitutional criteria, which is a number of departments, with the exception of Peten and the metropolitan region.

The Government of the Departments is in charge of a governor, chosen by the President of the Republic, who in practice is more of an administrative entity than a governmental one. In the Department you have the Departmental Council for Development, which the governor presides over. This council has the power to make decisions on the allocation of a percentage of the resources transferred across to the municipalities, via the President's Secretary of Executive Coordination (not bigger than 3% of current State income, while the municipalities receive direct

transfers of about 12% of current income). The departmental councils are responsible for corporate matters, where decision-making is often permeated with political patronage (clientelismo). The municipal government is exclusively linked to the municipal corporation; the mayor presides over the Corporation, and has a say in matters and can vote; double vote in order to override a vote and is the highest administrative authority, carrying out the functions of the executive municipal body. The authorities can remain in office for a term of four years and can be reelected indefinitely. An important issue is that for the municipalities to be considered legitimate institutional spaces, they have to reflect and represent the indigenous population, their different identities and needs. There are currently 118 indigenous mayoralties of a total 332 municipalities. Even though Guatemala makes the highest percentage of money transfers over to the municipalities in the whole of Central America, their impact is limited due to low tax revenues, which means a low public budget for the largest population in Central America. With this in mind, local public spending in Guatemala, per inhabitant, is 50 US dollars, while total public spending per inhabitant is 411 dollars. General Government spending is 12% of GDP; public municipal spending represents 1.2% of GDP. Local public spending amounts to 11% of total public spending. Public spending on investment is 25.5% of total public spending on civil investment.

The low national budget means that the percentages and corresponding amounts transferred have barely any impact on municipal development.

The city of Guatemala has, by law, a regime of its own. The constitution declares that the "city of Guatemala, as capital of the Republic and its area of urban influence, constitutes the metropolitan region, which the respective



Regional Council for Development is also part of. The Central Government's territorial jurisdiction, administrative organization and financial participation, is determined by a law of matter (ley de la materia) but after twenty-two years, however, this specific law has yet to be promulgated. With regard to territorial reform, in 2005 the law for land registration was approved; in 1987 the law of regionalization was promulgated, which established eight administrative regions, grouping the departments together; this law is valid but not in use.

3. Local democracy

3.1 – Local political system

In Guatemala political parties, as such, do not exist, what there is tends to mimic, both in structure and function, the centralist policies of the State. Those that do exist are more like electoral groups. The fact that the municipal and the general elections are held at the same time means that party politics exert a strong influence over local elections. The parties are largely mistrusted by the public and their levels of influence depend primarily on the amount of funding they have available, in the absence of an effective electoral authority. The Electoral Law allows for the organization of civic electoral committees, which are political organizations of a temporary nature that can put forward candidates via popular vote for posts within in the municipal corporations. Once this process has been realized, these committees are dissolved.

Local elections are rarely pluralist in nature, since the social and political systems are hardly pluralist either, in a country that has lived for over four decades under authoritarian rule. Political ideologies are dominated by right wing tendencies.

The elected authority in Guatemala is given clear and well-defined executive functions with regard to its responsibilities, both independent and shared. In local elections, the mayor and syndicates are elected by a relative majority, while the councils use proportional representation by minority. Each Municipal Corporation is made up of a mayor, syndicate members and council members, officials and representatives (diputados), depending on the number of inhabitants.

Civil attitude towards local government has changed dramatically since the process of democratization began in 1985. Periodic public opinion polls support this notion. The last one, held in 2006, saw mayors valued highly, gaining 60 (out of 100), in a point system, while the opinion of national politics and its leaders was low at between 20-25%. The attitude towards local politics has improved with the creation of the community development councils and municipal associations, and since the decentralization process began in earnest.

3.2 – Civil participation

During the 1999 and 2003 elections, civil participation was considerably higher, which suggested that local people were more motivated to take part. During the 2007 elections, tables were set up in rural communities, with over 500 registered voters, with the aim of encouraging the indigenous communities to take part. The political constitution only recognizes popular consultation at a national level for a constitutional reform to be submitted for approval. The new Municipal Code includes two forms of direct democracy which are binding in nature: Community consultation and consultation with the indigenous population. Six consultations have been carried out since 2002 with significant political and legal implications for the country. The Municipal Code sets out the forms of democratic representation, for the



small rural and urban communities, where a community mayor can be elected or selected by consensus. One new development has been the creation of Community Development Councils

–COCODES- entities that operate under the municipality; and the municipal development councils –COMUDES- that operate in the municipal ambit. The municipal code also includes mandates, although incipient, on social audits and the participative budget. Emerging trends include the municipal corporation's public debates which have media coverage; and the development of account rendition programs that can be distributed electronically. Guatemala is a country rich in language and culture, which, with its own institutions can achieve a sense of unity within that diversity, by recognizing the municipalities' multi-ethnic and multicultural identities, the indigenous mayoralties and Mayan council assistants. The law on national languages, common law rights etc. should further support this notion of unity and enable the "western" institutions to coexist alongside the indigenous ones, a concept which is reinforced by the 1995 Accord for the Identity and Rights of the Indigenous people.

4. Relationship between Central and Local Government

4.1 – General questions

The constitution contains a clear definition of local government. The municipalities are autonomous institutions. The structure of central government and its role in local government matters is not that clearly defined, but there are a number of different intermediary bodies. The most important of these is the Ministry of the Interior; there are other entities that also have specific roles. In recent years, local government has become progressively less

dependent on central government, which has led to a better balance of power. The constitution in Guatemala provides local governments with a set of relatively solid guarantees regarding their rights of autonomy. Mayors have the right to preliminary judgment (*antejuicio*) and already have a long tradition of defending the constitutional rights of the municipalities. The Republic's Congress is fundamentally the faculty that has the power to legislate over local government; otherwise the Ministry for the Interior and specific sections of other ministries are responsible for laws like the Accords and other regulatory mechanisms.

4.2 – Supervision of local government

State supervision of local government is carried out by different institutions, as detailed in the constitutional article on decentralization and autonomy. The removal of mayors from office and other municipal officials can only be carried out via an exhaustive set of legal proceedings. It does not happen that frequently any more. The government is the only superior entity that can dissolve or dismiss a municipal government without being penalized. On the other hand, municipal governments are not able to revoke a mandate. Within the Executive Body there are different sections made up of units and social funds, that carry out functions that would, in a decentralized State, normally be the responsibility of the municipality. These units or institutions manage resources that are equivalent to or more than all of the income transfers combined, that the municipalities receive.

4.3 – Guarantee of local government autonomy with regard to rights and interests

In the event that local governments act in violation of their rights, the Department for Justice (Ministerio del Público) can step in



and pass them over to the Courts of Justice and ultimately to the Constitutional Court. The National Association of Municipalities has been in force since 1960 and was established to defend the interests of local government, although in practice it plays a fairly weak role. There are also some departmental mayoral associations and regional mayoral associations, although these do not tend to have much influence on policies that deal with local government matters and requirements. With regard to conflict resolution, at the beginning of the political transition it was very common that the citizens were forced to take de facto measures, which were often violent, when bringing their demands to the notice of local authorities. These kinds of measures are still being used, some still very violent, but less so than in previous periods. Increasingly the use of dialogue and State mechanisms are employed for conflict resolution.

5. Local responsibilities (areas of authority)

Areas of authority that fall within the budget are mainly: drinking water supplies; sewage and sanitation; collection and disposal of solid waste; urban maintenance and sanitation; construction and maintenance of access roads; construction and extension of school buildings; paving of public, urban pathways; administration of markets, abattoirs and cemeteries; public lighting. Municipal functions have, over time, been expanded from the more traditional executive tasks, to include the management of new areas of local development. Local governments have legal jurisdiction and a large amount of independence in decision-making over the aforementioned areas of responsibility. The distribution of power within the different sectors is set out and analyzed in the following section.

Planning. Exclusive power within the municipal territory, which extends to include the municipal associations.

Education. This area is exclusive to the Ministry of Education. The municipalities are responsible for basic education (7-9th grade). Primary education also falls within the area of local government responsibility, with no express limitations.

Social services. Municipalities take full, unlimited responsibility, if resources are available (Army. Fire brigade).

Health service. This is exclusive to the Ministry of Health, although the Health Code does contemplate municipal participation.

Water supply. This is an area the municipalities have exclusive control over.

Energy supply. The municipalities are responsible for the provision of public lighting services.

Public transport. The municipalities are responsible for the passenger and cargo transport and the terminals.

Business development support. The municipalities have the power to create companies that are either 100% public or mixed, or they can lease public services to private companies.

The three areas of local government responsibility that are considered to be the most decentralized in Guatemala are: drinking water services; management of solid waste and neighborhood roads.

The three areas of local government responsibility that are mainly centralized are: education, health and public security. The relationship between central and local government has undergone important changes in several areas, like for example,



fiscal decentralization, amongst others. The relationship is changing from being one that was entirely centralist, or vertical, to being a more horizontal one, but still the departmental development councils find themselves subservient to or in conflict with central government institutions and some social funds. The General Finance and Accounts Office is also renowned for scrutinizing municipal government activities more closely than it does the central government institutions.

6. Local finances

6.1 – Local government income

Local authorities do not have the power to fix taxes. Tax collections represent on average 20% of the municipalities' total income and come from two types of municipal tax collection fixed by Congress (land tax and community service taxes) and also from rates charged for local services. Since local governments are unable to fix taxes, they do not have fiscal co-liability. They are responsible for the collection of municipal taxes fixed by National Congress. The rates are even fixed for public services, despite the fact they are part of an independent faculty. State transfers can make up between 40-90% of total municipal budgets, depending on the municipality. External income figures are difficult to assess, although they definitely do not make up more than 3% of their budget. The municipalities differentiate between general budgets and special budgets, when for example credit lines are extended to the municipal associations, a new concept in recent years, or for the administration of natural disaster or other unique events. With regard to rates and resources, there are two other new methods: contributions for service improvements and communal contributions towards the infrastructure of social works; these are generally not quantified or included in the budget.

6.1 – Administration of local government personnel

Local governments and authorities employ about 18 thousand people: three thousand municipal government authorities and 15 thousand assistant mayors or community mayors, which do not have labor relations with the municipality. The number of people employed in municipal bureaucracy is about 15 thousand, which represents 10% of all public employees. Labor relations are based on the municipal civil service law. The bigger cities tend to have a more highly-qualified staff base, the medium-sized cities an average one while the quality of staff in most of the rural municipalities tends to be either poor to very poor. An opinion poll carried out in 2000, that investigated public opinion on the integrity of elected authorities and State civil servants, revealed that 43% of citizens thought that municipal mayors and councils were honest, while 30% thought the Ministries honest and 27% the representatives (diputados). In central public administration, the perception of corruption is generalized, less so for municipal governments, but still perceived as significant. There are not as yet any clear steps being taken on any level of public administration to combat local corruption.

Human resources and public management are more likely to be dealt with by the municipal secretaries and other employees within the municipal administration. There is a tendency to place a higher value on public services than the private services, despite political neo-liberal influences. The incorporation of municipal planning offices and the installation of integrated municipal financial administration should make public municipal management, public municipal management bodies and the rendering of public services all the more efficient. One factor that is directly contributing towards improved levels of efficiency is the



introduction of software to most of the municipalities, as part of the Municipal Code's mandate. The government has the Municipal Financial Administration System now in place, SIAF-MUNI, a software created by Guatemalan engineers. This system is now State policy.

7. Summary

In recent years, Guatemala's local government has made significant steps towards the strengthening of municipal autonomy. The new laws on decentralization, promulgated in 2002, have been fundamental to this process. Most important of these has been the new municipal code, alongside the council development laws, which, more importantly, have led to the creation of community development councils – COCODES- that have given strength to the municipal development councils. The principle aim of the general law on decentralization (decree 14-2002) and the executive body's national policy of decentralization was to expand local government authority and increase its resources. The formation of 17 municipal associations in over 100 municipalities throughout the country is a clear indication that local leaders want, and are in fact making use of, their independence in order to be more actively involved in local development. A rightwing, neo-liberal government, however, has meant that state policies on decentralization have all but stagnated leaving it in the hands of municipal governments and society members to continue with and encourage the process of decentralization in the municipal territories. Citizen participation does have new spaces for expression.

Finally, the fact that Guatemala has lived for many years under a system of State repression, which destroyed much of its social structure and weakened the

municipal governments, cannot be ignored. The processes of promoting local democracy and decentralization, therefore faces huge challenges. One thing, however, is clear: there is no going back.

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