

Republic of Honduras

(República de Honduras)



Capital: Tegucigalpa

Inhabitants: 7.483.763 (2007)

Area: 112.492 km²



1. Introduction

Honduras has a surface area of 112,492 Km² with a population of approximately 6.5 million inhabitants, meaning a population density of 54 inhabitants per square kilometer, very different from its neighbor, El Salvador. The most recent constitution, promulgated in 1982, defines Honduras as a State based on a sovereign rule of law, constituted as a free, democratic and independent republic in order to guarantee its inhabitants justice, liberty, culture, economic and social welfare. The form of government is republican, democratic and representative. It is exercised by three powers: Legislative, Executive and Judicial, which are complementary, independent and non-hierarchical. The President of the Republic is obliged to alternate his/her term of office.

In order to reinforce the Rule of Law, Honduras had to carry out significant constitutional reforms, mainly during the second half of the nineties. In political matters, Honduras has a long tradition of a two-party system, which has proved

functional for a limited representative democracy in a country presenting very high levels of social and economic poverty. After a century and a half of being weakened by the increasing centralization of the State, the Honduran municipality underwent a stage of recuperation and modernization in the last two decades of the 20th century. The promulgation of the new Law of Municipalities in 1990 that came into legislation on January 1 1991 accelerated this process, giving rise to a more democratic and efficient model of local government, as a result of a whole set of initiatives and attitudes proposed by the municipal authorities, civil servants, council workers as well as the citizens themselves. The role of the municipalities and their communities with regards to local development started to become more of a forefront issue. The abandonment of the culture of the old municipalities began to give way to the configuration of a more dynamic, more participative model calling for decisive, competent leaders with a sense of opportunity, to such an extent that from the nineties onwards, the municipal agenda became permanently incorporated into the debate on national problems. The occurrence of Hurricane Mitch in 1998 put local issues and decentralization back on the social agenda. Nevertheless the process faces serious and as yet unresolved structural obstacles. The basic notion of Local Government in Honduras lies in the concept of



municipality, an institution that is defined as an agency of government and administration of the municipal district with a view to attaining the welfare of its inhabitants, promoting their whole development and preserving the environment.

The word “decentralization” is not expressly mentioned in either the political constitution or in the Law of Municipalities. It is mentioned, however, in the new law of land demarcation promulgated in 2003. The term decentralization came into fashion in the nineties as part of the official language of economic adjustment programs and the State’s new neo-liberal ideology of modernization. Decentralization owes its ancestry to foreign rather than national origin. In January 1993, a Policy and National Program of Decentralization and Municipal Development was promulgated for the first time in Honduras within the framework of the process of Modernization of the State, but in practice the political will to develop a model of decentralization based on municipal autonomy, local development and civil participation did not exist. This situation continues to this day (2007) in spite of the fact that decentralization has become an issue of priority for both local governments and their citizens.

As for local democracy, its development is very much in its early stages, both in its representative as well as its participative aspects due, among other factors, to the hegemony that the two large conservative parties have had for many years; due also to the high levels of poverty affecting large sectors of the population, especially the rural population. Local democracy in Honduras advances much more slowly than in the rest of the Central American countries.

2. Territorial Organization

The territory of Honduras is divided up into 18 departments and 298 municipalities for organizational purposes, with huge differences and inequalities evident among the few town councils and the large number of rural municipalities. Well-differentiated regions have been created in Honduras but there is no legal code in this sense. One important characteristic is the rural condition of the majority of the population (54%); there are notable differences in the territorial settlement of the population, with the urban populations concentrated in the two metropolitan regions of the country in Tegucigalpa, the capital, and in San Pedro Sula, the industrial city located in the north-west of the country. Aside from this, the Honduran population has diverse origins; to its mestizo majority are added ethnic groups such as the Garifunas (black Caribs), the Miskitos, the Lenca and the Chorti people, the Tawakas, the Tolupan, the Pech and the Afro population descending from the Bay Islands department. This multiculturalism has enriched the history of the country and the sense of belonging that is shared by the majority of the population.

Honduras has two clearly differentiated levels of government: the National Government and the municipal governments. The department is more an instance of administration than of government. The organization of the State has prioritized the functional decentralization of public administration, having a large number of sectorial institutions including some public companies wherein the public administration’s areas of jurisdiction are centralized which, in other decentralized states, would correspond to the municipality. That is why the municipalities as agents of government and local development have so little influence.



In financial terms, according to the information available, local public expenditure per inhabitant in Honduras in 2002 was 10 dollars per annum, while the total public expenditure per inhabitant in 2005 was 307 dollars, one of the lowest figures in the region. The (approximate) municipal public expenditure is less than 1% of the GDP (0.86%), which means that the municipalities tend to play a very weak role in local and national development. The proportion of local municipal public expenditure to total public spending is 6.0%. The proportion of local municipal public spending on investments to the total State public spending on civil investments is 24 %, constituting an important role for the municipalities².

The capital has a specific legal regime, since the two neighboring cities, Tegucigalpa and Comayagua, are joined. Both form the national district, but they do not have a specific regime of metropolitan government.

Honduras is unusual in Central America because it has two large metropolitan cities: Tegucigalpa which is the capital and San Pedro Sula which is the "capital" of the north-west of the country. Municipal income and expenditure are concentrated in these two metropolitan regions. But these areas do not have specific statutes of government. With regards to territorial reform, in Honduras the recently promulgated (2003) law of land demarcation is key; it attempts to define, delimit and regulate territorial aspects although the process is in its infancy.

1 This figure relates to municipal spending, without including the expenditure national institutions make to the municipal territories, which are difficult to estimate. The municipalities have two big sources fiscal resources, which are made up of government transfers and their own income, derived mainly from municipal tax collection regulated by the National Congress, for the application of rates for municipal services and other incomes.

2. The total budget in Honduras for 2005 was two thousand million (US) dollars. 500 million of this (25%) was dedicated to investment. The municipalities received 4% of the ongoing costs (about 48 million) from transfers. The transfers represent about 40% of total spending. This adds up to approximately \$120 million, which represents about 24% of central government's total investment.

3. Local democracy

3.1 –The Local Political System

As for the participation of political parties in local elections, the two-party system of the traditional and conservative parties exerts a large and direct influence on local elections, primarily effecting the conception of a verticalism of the State towards the territories and a traditional municipalism, with very little liberalization in terms of modernization or local democratization. This is a very different situation from that in El Salvador, Nicaragua and Panama, or even Guatemala. Also, the political system does not allow candidates to stand for municipal elections unless they do so via the political parties.

Democratic political pluralism as such does not exist because the possibility of participation is so limited by the two-party system. Nevertheless, since the nineties of the last century, a local democratic municipal leadership has been emerging in some regions of Honduras, albeit more as a result of local dynamics.

The municipal governments of Honduras have clear and defined areas of executive responsibility, established in the Political Constitution and the Law of Municipalities, and implemented by the Municipal Mayors office, via legislation decreed by the municipal corporation.

The election of local authorities is carried out by ballot counting via the proportional system established by the Electoral Law,



applying the same procedure to municipal posts as that established for the election of national delegates.

Citizens' attitudes have grown in favor of the role of municipalities during the last twenty years. On the one hand, citizen support to local governments in their struggles to obtain greater autonomy can be seen; on the other hand, citizen demands have been made to transform relations between local government and the community in order to obtain democratic spaces. These processes are important although they do not have the intensity and qualitative impact that can be seen in other Central American countries. The Association of Municipalities of Honduras –AMHON- and non-governmental networks of organizations have had a positive effect in this sense, unlike the behavior of the National Congress, which has not placed adequate importance on the demands of the municipalities.

3.2 Civil Participation

The rate of citizen participation in local elections has grown since the 1980s, but it was not until 1996 that any qualitative change took place, stemming from the electoral process of the same year, where members of municipal corporations were voted for via separate ballots for the first time. Previously, the election of municipal authorities took place via one single ballot, which gave rise to political manipulation and the election of unpopular candidates chosen under the shadow of the traditional political parties. Electoral participation in general elections (which includes the elections of the municipalities) was on average over 50%. The procedures for how a direct democracy works are as follows: i) the Council of Municipal Development (CODEM), set forth in article 49 of the Law of Municipalities, is an agency of consultation – not decision – for the municipality, of a technical nature, considered as an authority on the assessment and support deemed necessary for the promotion and development of the

municipality. CODEM facilitates spaces for local participation and communal organizations to be expanded for the formulation of proposals and the execution of municipal development plans. The municipal Corporation chooses its members from key players in the community. Few municipalities, however, have created them and they do not always function as legislation dictates. In some regions there are instances whereby CODEM members are popularly elected by the communities, in assemblies held by the Mayor; ii) Open Local Councils should be held at least five times a year by mayors according to the Law of Municipalities; they are consultative and decision-making government agencies in which the municipal corporation and the neighborhood and legally recognized local organizations fully participate. There have been some successful experiences, some of which were seen in the metropolitan region of San Pedro Sula. iii) The Plebiscite. Article 24 of the Law of Municipalities establishes that the municipal corporation may call all inhabitants of the municipal territory to plebiscite in order to make decisions that directly affect the citizens' lives, such as those related to municipal autonomy, the environment, municipal taxes, public services, the carrying out of works and so on. Locals carry out their vote directly and in secrecy. The Mayor is obliged to call a plebiscite five days after the corporation has taken its decision to act. Plebiscites have taken place on occasion but they are part of political municipal culture.

There are interesting, though incipient, cases where the process of citizen participation has consisted in the election of local representatives from communities smaller than the municipality. The legislation established by the Law of Municipalities, according to which municipal corporation it is that chooses the communal representatives, puts a brake on the process of citizen participation in local spaces smaller than the municipality.



An interesting practice of civil participation in Honduras can be seen in a process that combines local democracy, via the election of communal representatives, by proposal of the board, with the assembly of all the elected candidates and the mayors in one single department in order to prioritize the needs of municipal development in a larger space. Although it is an isolated experience, it plants the seed for a more widespread democratization in Honduras. With regard to how the more traditional institutions relate to the “modern” local governments, it should be noted that there are several indigenous peoples in Honduras. One of the ways in which they have been able to relate with local government has been via the formation of coalitions that specifically respond to sociolinguistic and territorial concerns.

4. Relations between central and local levels

4.1 – General Issues

When referring to local government in Honduras, the concepts of mayor, Municipal Corporation, municipality and county, all associated with municipal autonomy, are legally used, albeit more often in theory than in practice.

The structure of central government in relation to matters of local government has as its centre the Secretary (Ministry) of Governance and Justice as well as the Secretary (Ministry) of the Presidency. The departmental governors named by the President of the Republic play a more important intermediary role with the municipalities. However other traditional mediators such as the representative members of the National Congress do continue to exist.

Another important institution is the Honduras Social Investment Fund (FHIS) which manages significant resources for investment in the municipalities, competing in this area with the municipalities though

in many cases its work is coordinated with municipal authorities.

As for those authorities entitled to legislate over local government, Honduras has on the one hand the National Congress concerned with national laws and on the other, when it comes to rules and agreements, the Secretary of Governance and Justice. The municipalities also have at their disposition their own autonomous faculties of legislation in matters of their responsibility and as regards their self-organization.

4.2 – Supervision of Local Governments

The Secretary of Governance and Justice has a clear role in the supervision of municipal government when it comes to the ambits over which it legislates while also having responsibility for those ambits granted by the law of territorial demarcation along with other secretaries in their respective functions of State. It is the Honduras Social Investment Fund's responsibility to supervise the creation of development plans and it is the responsibility of the Secretaries (Ministries) of State and other decentralized entities to supervise the fulfillment of their own laws in their area (for example, the Secretary of the Environment or the Secretary of Communications and Public Works). Conditions and practice of destitution, revocation and dissolution. These are delicate subjects in Honduras because they imply discretionary measures and bully tactics employed by national authorities over municipal mayors and councilors, due to the inefficient judicial framework. There are ongoing proposals to improve this situation. The legislation does not have the coherence that can be seen in that of Guatemala, Nicaragua, EL Salvador and now also, little by little, in Panama. Legislation in Honduras does not establish practices for mandate repeal.

Honduras has specialized sectorial institutions directed out from the centre, which make municipal autonomy vulnerable and even duplicate the functions



and resources that belong in the municipal sphere, increasing the administrative cost of works and services. The clearest example of this is the Honduras Social Investment Fund – FHIS-. Previously this had happened with the provision of services of drinking water but since 2003 an exemplary decentralization in this area has been carried out with a clear and defined role for the council and the municipality.

4.3 – Guarantee of autonomy of rights and interests of local governments

Local governments have judicial instruments available to them such as the Law of Municipalities and its regulations, the Penal Code and the Code of Administrative Contention but there are still problems because of the duality in the regulations and conceptual discrepancies, which gives rise to difficulties in the application of the laws, and works against municipal authority. Proposals have been made to avoid these complications but a coherent judicial framework has not yet been achieved for the defense of municipal interests. In some instances, political solutions are turned to rather than judicial ones, as should be.

The representation of professions in municipalities is the responsibility of the Association of Municipalities of Honduras – AMHON- an institution that has made significant efforts in this area although it exerts a feeble impact in propelling decentralization at a government level and in fully defending municipal interests. The stability, coherence and independence of AMHON varies in accordance with the play of loyalties to the central government in power and in particular to the political party controlling government decisions. The creation of the coalitions of municipalities is important in Honduras, above all in indigenous regions and on the frontiers with Guatemala, El Salvador and Nicaragua. And sometimes the odd departmental association of municipalities.

The process of democratization in Honduras has meant that conflicts in general are resolved by procedures and practices of negotiation or consensus or else by applying judicial measures; in the latter case with the limitations previously mentioned.

5. Local Responsibilities (Ambits)

Areas of municipal responsibility in Honduras have been more clearly established since the promulgation of the Law of Municipalities and its regulations, approved on the February 1, 1993. The following points are notable in the proposal: Maintenance, Sanitation and Public Facilities of the municipality, including solid waste management; the construction of distribution networks for drinking water, sewage systems for waste water and rainwater sewage systems as well as their maintenance and administration; the construction and administration of municipal cemeteries, markets, flea markets and meat processing plants; Protection of the ecology, environment and promotion of reforestation; Maintenance, cleaning and control of public urban roads, walkways, parks and beaches including their demarcation, use, urban road signs, urban and interurban transport stations; Control and regulation of urban development, use and administration of municipal lands, extension of the perimeters of cities and improvement of towns in accordance with that prescribed in the Law;

The main areas of responsibility that allow local governments to exercise judicial powers and a greater autonomy in the making of decisions are those that have previously been mentioned, because they fall under the exclusive responsibility of the municipalities.

The areas of authority are typically distributed, by sector, in the following ways:



Planning: The municipalities are responsible for the elaboration and execution of development plans, although in only a few cases do they have the resources to carry them out.

Education: The municipalities are responsible for the promotion of education which, in practice, is discretionary.

Health services: The municipality is responsible for the coordination and implantation of hygienic measures and actions that aim to ensure and preserve the general health and wellbeing of the population, as indicated to this effect in the Code of Health. In practice it is a discretionary responsibility and in any case complementary to those held by the Secretary of Public Health in this area.

Social services: Promotion of culture, recreation, education and sport; the creation and maintenance of fire services; promotion of advisory units and social security in the municipality.

Water supply: The construction and management of drinking water distribution networks are a municipal responsibility. A specific law confers this authority exclusively to municipalities.

Energy Supply: The management, construction and maintenance, where applicable, of municipal electricity systems are the responsibility of the municipality in collaboration with the country's national energy supply company, the Empresa Nacional de Energía Eléctrica (ENEE);

Public transport: The municipality is responsible for the control and layout of the urban and interurban transport stations and urban road signs.

Support for the development of businesses. The municipalities are responsible for fomenting and regulating commercial, industrial, service and other activities;

The three tasks of local government that are considered to be particularly decentralized are: Maintenance, Sanitation and Public Facilities; the construction of drinking water distribution networks and

sewage systems; the administration of municipal markets, flea markets and meat processing plants;

On the other hand, the three tasks of local government that are considered especially centralized are: the management and provision of education services; health services; public safety.

The provision of determinate services on the part of municipalities may be undertaken via meetings with the Ministries or decentralized entities, although there is no legislation that specifically deals with the relationship between local and central government.

6. Local financing and staff administration

6.1 Local government income

Only the National Congress can approve taxes in Honduras. Local governments have three areas of responsibilities in this field, which are: i) to formulate proposals for local taxes (known as "arbitrios municipales") that have to be approved by the National Congress; ii) to collect local taxes that have been approved by the National Congress, both as a result of municipal initiatives and the initiatives of the legislators; iii) to fix and approve taxes (or rates) for the services rendered in the respective municipality; iv) to carry out the transfers that the executive bodies must make by law, according to the criteria and spending amounts for operations and investment. Points i) and iii) constitute the efforts of the Honduran municipalities to obtain their own income. About 80% of the total municipal income corresponds to these areas. The transfers represent a small sum in this country. To give a clearer idea, of the total municipal income, some 60% is taxation income, 15% non-taxation (quotas for services), 20% is comprised of transfers and 5% corresponds to other income.

There is no defined framework of fiscal co-liability between central government and



the municipal governments as such. Although in practice, a complementary task of tax collection takes place, with the municipalities taking responsibility for the collection of municipal taxes. But the latter represent a mere 4% of the country's entire income from tax. As for the portion of income corresponding to external sources, precise figures do not exist, but looking at the figures in other countries, it would be a maximum of 5% of total municipal income.

The occurrence of disasters or emergencies like Hurricane Mitch gives rise to the need to rely on special budgets, which are formulated and managed separately, with their own accounts and accountability.

6.2 –Staff administration of local governments

Local government staff. Precise information on staff in the municipalities in Honduras is not available. There is a great deal of variation in quantity and quality of the staff between the large and small municipalities. The executive panels have improved notably over recent years in the large municipalities of the metropolitan cities and other intermediary cities.

The integrity of elected authorities has always been in question by citizens. Even so, perceptions of the integrity of civil servants have improved although recent studies are not available. Diverse mechanisms to increase citizen control over municipal governments have been put into action.

The administration of human resources has improved in the municipalities with better financial and administrative capacity. The public service culture and the perception of the importance of the public sphere over private management has been increasingly consolidated, but there is an opening for the municipal modalities of public/private management, with the objective of improving levels of efficiency.

SUMMARY

Local governments in Honduras have undergone changes since the promulgation of the Law of Municipalities, but they have been slow and more importantly, these changes have occurred at a slower pace than called for by the economic and social necessities of the poor municipalities, which are the majority.

Two fundamental laws are notable in the last few years: the law that decentralized the management of water and the provision of this service, making the municipalities the key reference; and the law of territorial demarcation. Aside from this, the new government that took on the leadership of the State in January 2006, has made apparent that it has plans to push ahead with the creation of a decentralized State.

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