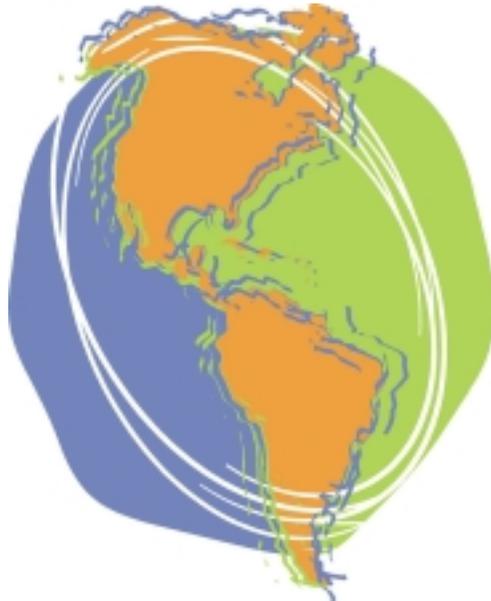


# Civil Society Follow-Up on the Implementation of the Quebec Plan of Action



## North American Results (Canada, United States and Mexico)

Prepared by the Canadian Foundation for the Americas  
(FOCAL)  
Ottawa, Canada  
April 2004

## **Introduction**

This report presents the principal findings for the countries of North America within the context of the project to promote the participation of Civil Society Organizations (CSOs) in the Summit of the Americas. Corporación PARTICIPA coordinates the project in collaboration with the Canadian Foundation for the Americas (FOCAL), the Regional Coordinator for Economic and Social Research (CRIES), the political science department of the Universidad de los Andes and the Facultad Latinoamérica de Ciencias Sociales (FLASCO) in Chile.

Initiated 6 years ago, the project currently involves CSOs from 20 countries throughout the Americas. Its principal objective is to inform citizens and CSOs of the Summit of the Americas processes, the commitments made by governments at the Summits, and how these are linked to the development of countries and the lives of their citizens. In addition, the project seeks to influence the commitments adopted by governments.

The CSO network is in the process of implementing a strategy to follow up on and support the fulfillment of the Quebec Plan of Action in five areas related to the strengthening of democracy:

- 1) Access to information
- 2) Freedom of expression
- 3) Independence of the judiciary and access to justice
- 4) Strengthening civil society
- 5) Local government and decentralization

The information in this report is based on the U.S., Mexican and Canadian national reports, prepared by Partners of the Americas, Alianza Cívica and the Canadian Foundation for the Americas, respectively.

Researchers distributed structured questionnaires based on qualitative and quantitative indicators designed to provide a reliable measure of the progress made in implementing the Quebec Summit mandates. Expert opinion was sought on each issue in every country. Once the primary challenges at the national level were identified, the information was supplemented with interviews with specialists and/or secondary research.

Although the national coordinators in the region recognized the advantage of using indicators that would allow for a cross-country comparisons, faced with time and budget constraints, they adapted the methodology to the reality of their country to focus on the most pertinent aspects of the topics under review.

## **Follow-Up Results in Canada, the United States and Mexico**

### **I. Access to Information**

#### **1. Legal Aspects of Access to Information**

The legislative frameworks of all three countries include provisions for access to information. Although not enshrined in the Canadian and U.S. constitutions, this does not mean that protection of this right is not fully guaranteed. The Canadian *Access to Information Act*, for instance, overrides over some provisions of other federal laws.

Significantly, the debate surrounding access to information legislation in Canada and the United States differs radically from that in Mexico. Freedom of information laws in the first two countries date from 1982 and 1966, respectively. Mexico has made advances in this regard, enacting the *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental* [Federal transparency and access to public government information act] in 2002 as part of government reforms.

The principal concerns surrounding access to information in Canada and the U.S. include: 1) the need to update and strengthen regulatory frameworks, as well as eliminate bureaucratic inertia and other obstacles to the effective implementation of access to information laws, and 2) the need to ensure that anti-terrorism measures do not undermine the right to access information and, in turn, the accountability process. In Mexico, the primary concerns revolve around the recently passed legislation and the need to change the political culture with respect to the dissemination of information by public servants.

The major **positive aspects** of both the constitutions and laws governing access to information and privacy in North America include:

- They establish the principles of transparency and disclosure, and require that government departments and agencies have a liaison office to process information requests
- Exemptions are clearly stated in the regulatory framework
- Any person may request information
- A requester is not obligated to state the reason for making a request
- The right includes the release of documents
- They establish complaint mechanisms in cases where information is wrongfully withheld, or the response time to a request is inexplicably long

Some of the **negative aspects** of the constitutions and other laws governing this right include:

- The agencies that oversee compliance with these laws require increased autonomy and/or lack the power to order government departments and agencies to disclose information. Likewise, they lack the ability to impose sanctions in cases of non-compliance
- Although any person may request information, all three countries ask for the requester's identity
- In Canada and the United States, exceptions have been on the rise since 2001 under the justification of the need for increased national security measures
- In Mexico, the cost of receiving printed documents is unclear
- These laws should be complemented by others to ensure the creation, management and maintenance of public information archives

Beyond the legal provisions themselves, the national reports also identified shortcomings in the implementation of access to information legislation. For example, government agencies exercise a certain amount of discretionary power when disseminating government information. Difficulties in meeting the processing-time guidelines for information requests were also highlighted. Some of the variables that negatively affect the response time by governmental agencies and departments include:

- A lack of trained personnel
- Inadequate resources to handle the volume and complexity of requests

## **2. Effective Availability of Information**

This section addresses two aspects of access to information: the first relates to requests for specific information made to public agencies and the second to information these agencies publish via print and electronic media.

The complexity, volume, and topic of requests made in Canada and the United States determine the response by public agencies and departments. In Mexico, although the law has been in effect for only a year, advances have been made in responses by government departments. However, certain entrenched practices persist among officials responsible for the provision of information.

Although the systemization of the process for making information requests has the advantage of setting standards of service and transparency for the public service, it may also engender certain problems. For example, Canada's centralized system for submitting information requests has come to be used as a tool to identify the requester and, in some cases, delay responses. In Mexico, problems arising from this type of system are associated with a lack of trained staff to assist people making requests.

All three countries disseminate information through the print media and, increasingly, via web sites where you can find information on public servant salaries at the federal, state/provincial and municipal levels; budget allocations and spending; results of government actions; support for vulnerable groups, and the finances, accounting and audits of private companies performing public works. Nevertheless, this information is scattered, making it necessary to perform various, and at times complex, searches to find the desired information. In Mexico, the use of web sites by federal departments and agencies is widespread, but the state and municipal levels lag behind.

Table I: Access to Information

Country	Constitutional Provisions		Principal Legislative Initiatives Related to Access to Information	Recent Erosion of the Freedom of Information
	<i>Access to Information</i>	<i>The Right of Habeas Data</i> <sup>TN</sup>		
<b>Canada</b>	No	No	<i>Access to Information Act</i> (1982); <i>Privacy Act</i> (1982)	-Reforms to the <i>Access to Information Act</i> based on the <i>Anti-terrorism Act</i> (2001) - <i>Security of Information Act</i> (2001)
<b>United States</b>	No	No*	<i>Freedom of Information Act</i> (5 U.S.C. §552) (1966); <i>Privacy Act</i> (1974).	-Attorney General memo (2001) urging federal agencies to consider implications of disclosure of information on security matters - <i>Intelligence Authorization Act</i> (2003) restricts access to intelligence by foreign entities -White House memo (2003) to all federal agencies stressing increased caution in the disclosure of information on weapons of mass destruction
<b>Mexico</b>	Yes	No	<i>Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental</i> (LFTAIPG) (2002).	

\* However, based on court decisions, privacy rights may be interpreted as a fundamental human right and are therefore protected by the Ninth Amendment to the U.S. Constitution.

<sup>TN</sup> *Habeas data* is the right of an individual to access personal information contained in public and private databases or records. This right to the protection of privacy is enshrined in the constitutions of several Latin American nations.

## **II. Freedom of Expression**

### **1. Legal Aspects**

The right to freedom of expression is enshrined in the constitutions of all three countries. Furthermore, all three North American countries are signatories to various international treaties and conventions that guarantee respect for human rights (e.g. the Universal Declaration of Human Rights (1948)). The combination of domestic legislation and international agreements provides individuals with access to various forums where they can defend their right to freedom of expression. Significantly, each country has signed and ratified several international instruments affirming its recognition of rulings by the regional and/or multilateral bodies responsible for implementing the agreements.

Despite constitutional recognition of the right to freedom of expression throughout the region, this right is accepted to have certain limitations. These are usually expressed as the need to maintain public order and national security as well as protect vulnerable groups. The definition of these areas, and therefore that of the limits on the exercise of this right, is currently being negotiated by the state and civil society in all three countries in an effort to adapt the laws and their interpretation to new realities. The work of the Canadian and U.S. courts has been instrumental in this regard.

The situation in Mexico clearly illustrates that the existence of a right in the constitution does not necessarily guarantee it will be respected. For this to occur, laws and regulations establishing the rights and responsibilities of stakeholders must be in place. In Mexico, however, laws and regulations governing to the exercise of freedom of expression (press, radio and television) are obsolete or nonexistent and require legal reform.

Other points that merit review in the three countries include:

- At present, none of the countries has federal legislation that protects journalists from revealing their sources
- Defamation continues to be treated as a crime punishable by incarceration in Canada and Mexico
- The implications of anti-terrorism legislation for the access to and dissemination of information in Canada and the United States

### **2. Effective Freedom of Expression**

#### **2.1 Characteristics of the Communications Media**

Despite the existence of anti-trust legislation in all three North American countries, media ownership is highly concentrated throughout the region, a trend that appears to be on the rise. Convergence of media ownership is considered necessary to reduce operating costs and increase competitiveness. Media ownership in the region is dominated by large corporate groups, although public broadcasters participate in the sector to a lesser extent in Canada and Mexico. Although local communities and ethnic or minority groups in all three countries have access to communications media, these spaces are insufficient and the costs of access are often beyond the reach of these groups. Moreover, the concept of community radio is not even recognized let alone regulated by Mexican law.

Taken together, these factors negatively impact the ideological diversity of what is presented in the media and limit the pluralistic role that the media should, in theory, play. The level of public trust in the media is also revealing. Generally, radio garners a high degree of confidence in Canada and Mexico. Public trust in television is moderate in Canada and the U.S., and high in Mexico. Trust in the printed press ranges from moderate in Canada and the United States to low in Mexico.

## **2.2 Journalistic Freedom of Expression**

Generally speaking, Canada and the United States have traditionally held journalists in high esteem. Most pressures faced by journalists in these countries come from media owners, groups or individuals affected by news reports, or media sponsors rather than the government. However, since 2001, media outlets in Canada and, particularly, the U.S. have been experiencing increased pressures on the content of reports related to national security and terrorism. In Canada, these restrictions are based on anti-terrorism legislation that punishes the use and dissemination of classified information. In the U.S., they relate to how news on the war on terrorism and the invasions of Afghanistan and Iraq are reported.

Mexican journalists continue to face restrictions and pressures, largely from public authorities, although they have eased somewhat under Vicente Fox's regime (2001–2006).

## **2.3 Support for Artistic Expression**

Public support exists in all three countries for artistic expression in the form of scholarships for artists as well as funds for the publication of books, the creation of libraries and the promotion of artistic diversity. However, increasing budget constraints have limited access to funding. Increasing restrictions on artistic expression as a result of child pornography laws is an important concern for the artistic communities in Canada and the U.S.

## **2.4 Public Demonstrations**

The right to stage public demonstrations exists and is generally respected throughout the region. However, instances of the excessive use of police force have occurred in all three countries at events such as ministerial meetings of heads of state. This has led to proposals for the increased regulation of public demonstrations and better training of police forces in non-violent strategies of crowd control to ensure respect for existing laws. In general, a better balance must be struck between the need to protect public order and people's right to demonstrate and challenge their representatives. In Mexico, public demonstrations continue to be a common mechanism used by various civil society groups to make their demands heard.

Table 2: Freedom of Expression

Country	Constitutional Provisions for the Freedom of Expression	Criminal Cases or Decisions Limiting Freedom of Expression	Media Ownership	Public Trust in the Media		
				<i>TV</i>	<i>Radio</i>	<i>Newspapers</i>
<b>Canada</b>	Yes	Confiscation of a journalist's materials and notes for having published a story based on a classified document (2004).	Concentrated/ predominantly private	Moderate	High	Moderate
<b>United States</b>	Yes	Journalist jailed 168 days for refusing to reveal her sources (2001).	Concentrated/ predominantly private	Moderate/Low		Moderate/Low
<b>Mexico</b>	Yes	6 journalists assassinated (2000-2003).	Concentrated/ predominantly private	High	High	Low

### III. Access to Justice and Independence of the Judiciary

The existence of different legal systems in the region and Mexico's ongoing judicial reforms make a cross-country comparison of access to justice and judicial independence difficult. Nevertheless, all three countries share common goals in the area of strengthening their justice systems to ensure equitable and open access to justice by the various groups that make up their respective societies.

#### 1. Access to Justice

The right to a fair, impartial and timely trial are enshrined in the constitutions of the North American nations. However, formal recognition of access to justice is insufficient to ensure that the delivery of justice is fair and the system transparent, as demonstrated by the divergent experiences in the three countries. Mexico, in particular, stands out. In that country, there are still cases of people taking justice into their own hands, indicating that the Mexican justice system continues to be plagued by a lack of legitimacy and impunity. The judicial reform process, initiated in the 1990s, remains a key issue on the government's reform agenda. Despite gains made in the selection process of the judiciary, especially at the municipal court level, the judicial system requires more comprehensive reforms to strengthen legal institutions and instill public confidence in the system.

A study of the three national reports produced the following conclusions on access to justice in North America:

- a) **Knowledge of rights:** The public's human rights "literacy" is relatively high in Canada, moderate in the United States and poor in Mexico, where dissemination of information on the subject is performed almost exclusively by human rights commissions. Rights education must be increased and expanded throughout the region to reach society's most vulnerable groups including women, indigenous groups, ethnic minorities, youth, marginalized groups, people with disabilities, and refugees and immigrants.
- b) **Public Defenders and Other Public Services for Disadvantaged Groups:** All three countries provide essential services for those without sufficient resources to defend themselves such as public defenders or legal aid. However, **the quality of these services has declined in recent years due to increased demand, a lack of qualified staff and budget cuts.** All three countries have implemented programs to assist various disadvantaged groups with their specific needs, but more must be done to provide them with greater access to the justice system. The need to improve translation services for ethnic groups, immigrants and refugees was one of the areas flagged as critical in each of the three countries.
- c) **Proper Conduct and Training of Police and Personnel Responsible for the Administration of Justice:** Public perception of police behaviour differs among the three countries. In Canada, the public views police conduct relatively favourably, and cases of abuse of authority and corruption are isolated and are not systemic. The U.S. and Mexican reports raised more concerns about police conduct and emphasized the need for increased training of police forces to eradicate the abuse of authority, discriminatory practices, corruption and, in Mexico, the use of torture. The fair administration of justice also requires that judges at all levels of the judicial hierarchy are adequately trained to perform their duties in an impartial and transparent manner.

- d) **Prison Systems:** The failure of the region's justice systems to guarantee equitable access to justice is evidenced by the overrepresentation of ethnic and racial minorities and other marginalized groups in prison populations throughout the region. Respect for prisoners' human rights is also a concern, as is the increasing prevalence of diseases such as HIV/AIDS and hepatitis C among inmates. The rights of individuals accused of terrorism and their uncertain legal status, as well as the existence of the death penalty are cause for concern in the United States.
- e) **Ombudsmen:** Human rights commissions exist at the federal and provincial/state levels in Canada and Mexico. Although the work of these autonomous bodies is of the utmost importance, some participants emphasized the need to strengthen them so that their recommendations are legally binding.
- f) **Alternative Systems of Justice:** Canada and the United States have recognized some aboriginal models of justice where members of the community participate in determining compensation for injury and the reintegration of offenders into the community. In the U.S., these mechanisms are used exclusively in First Nations communities where both parties (victim and offender) are indigenous. In Canada, these models are starting to be used in cases involving non-indigenous persons. However, they remain subject to the approval of judicial authorities and cannot be used in cases of violent crime. The Mexican government does not recognize any alternative systems.

## 2. Independence of the Judiciary

The independence of the judiciary vis-à-vis the executive branch is high in Canada and the U.S. The selection and appointment of Supreme Court justices are relatively transparent in these countries, even though the executive participates in the process. In practice, bar associations and other sectors of civil society participate in this process in an extra-official manner. In Mexico, although the reforms carried out in the 1990s instituted the appointment of lower court justices through a competitive process presided over by judicial councils, the selection of judges of the highest courts continues to be influenced in large part by the executive, which restricts judges' room to manoeuvre when issuing rulings and lends itself to irregularities such as influence peddling and corruption.

All three countries have codes of conduct for members of the judicial system, but Mexico has yet to establish the conditions under which judges can act according to these standards and independently of the executive.

There is currently debate in the region's countries about the how to ensure that the composition of their Supreme Courts not only guarantees greater transparency, but also reflects the diversity of their respective societies. This is essential to ensure that minority points of view be taken into account and to respond to the needs of a changing society. Though the inclusion of women or the need to eradicate partisan leanings have been debated for some time, current discussions revolve around the need to incorporate members who represent different ethnic groups, various political and philosophical viewpoints, sexual orientations, as well as the need to expand civil society's role in the selection process.

Table 3. Access to Justice and Independence of the Judiciary

Country	Laws Guaranteeing Access to Justice	Public Defenders/ Legal Aid	Police Training and Respect for Human Rights	Independence of the Judiciary	
				Selection of Supreme Court Judges	Security of Tenure (Supreme Court)
Canada	Yes	Yes, but services inadequate	Need for increased training in human rights; Cases of racial discrimination	Nominated by the justice minister; Suggestions by a committee composed of bar associations and other members of civil society considered	Yes, until 75 years of age
United States	Yes	Yes, but services inadequate	Need for increased training in human rights/ cases of racial discrimination	Nominated by the President and approved by the Senate. Extra-official participation of civil society groups in nomination and appointment of judges	Yes, for life
Mexico	Yes	Yes, but services inadequate	Need for increased training in human rights/cases of torture	Executive power proposes short-list of candidates; Senate selects judge from list.	Yes, for 15 years

## IV. Strengthening Civil Society

Canada, the United States and Mexico have pledged their support for the participation of civil society both as a strategic ally in the delivery of public programs and a source of innovative policy options. To this end, governments have established formal and informal mechanisms for dialogue between various government departments and agencies and civil society, many of which have yielded highly positive results.

Nevertheless, according to some civil society organizations (CSOs), these channels of communication are often used almost exclusively for consultation processes, and many CSOs remain sceptical of their actual impact on the public policy-making process. CSOs would like to expand their role in the planning, development, implementation, monitoring and oversight of public policies. Furthermore, they desire greater recognition for their development work in the communities they serve.

Far from being homogeneous, the voluntary sector comprises countless organizations representing diverse interests that defy categorization under a single heading. This is one of the factors that hinders the clarification of the sector's relationship with the government and the laws regulating access to public resources. Furthermore, charitable organizations or, in Mexico's case, private assistance institutions, risk losing their charitable status – and the tax benefits that accompany it – if they engage in political and advocacy activities.

### 1. Legal Frameworks for Strengthening Civil Society

The constitutions of all three North American Countries recognize the right of association. However, the laws governing the incorporation of associations are what determine the rights and responsibilities of civil society organizations. In accordance with these laws, CSOs may be considered either not-for-profit or charitable organizations. Depending on their legal status, CSOs can issue donation receipts, receive public and/or private funds and perform various types of work. However, all three countries maintain restrictions on the direct participation of CSOs in political activities, with the United States granting the most flexibility and Mexico the least.

Consequently, some Mexican CSOs have focused their efforts on a proposed legislative initiative that would recognize the role of CSOs in the country's development. The *Ley Federal de Fomento a las actividades realizadas por Organizaciones de la Sociedad Civil* [Federal act to promote the activities of civil society organizations] was approved by Congress in December 2003 and published in the *Diario Oficial* [Official gazette] on February 19, 2004. However, the regulations to implement the recently approved legislation, its subsequent application, as well as a revision of the fiscal and regulatory frameworks at the state level are still pending.

Positive aspects of Canadian and U.S. laws:

- The ability to receive donations and issue charitable receipts
- The ability to receive public funds (subject to certain restrictions depending on the type of organization and work performed)

Negative aspects of Canadian, Mexican and U.S. laws:

- Restrictions on political and lobbying activities of CSOs
- Lack of clarity on applicable tax regimes
- Need for increased participation of CSOs representing minority groups

Mexico's pending agenda:

- Institutionalization of the channels of dialogue and interaction between the government and CSOs

## 1. Government–CSO Relations in Practice

Both Canada and the United States have established public liaisons with civil society. CSOs in the U.S. have the most experience in collaborating with government in public policy development. Canada also has a long tradition of including CSOs in the design and implementation of public programs. Nevertheless, in an effort to redefine the terms of engagement between the state and civil society, a group of Canadian CSOs proposed a partnering initiative between the sector and the government, which gave rise to the **Voluntary Sector Initiative**<sup>1</sup> in 2001. This initiative aims to strengthen the sector and raise awareness of its role in the formulation of public policy and the provision of services. Civil society organizations are gaining recognition in Mexico, but the mechanisms for dialogue and interaction between the government and CSOs continue to be informal and under-institutionalized.

Liaison mechanisms that link government and CSOs, and CSO participation in the public policy development are more formalized at the federal level than at the state/provincial and municipal levels. This, however, does not imply a lack of positive relations with local governments. In some cases, particularly in Canada, a considerable number of CSOs work primarily at the local level.

Although the impact of CSO contributions depends on the existence of open channels of dialogue, CSO response to government calls for dialogue and the initiatives under debate, CSOs continue to see their participation limited to consultation and monitoring processes. Therefore, more spaces must be created for them to expand and enhance their role in the public policy-making process.

Finally, the legal definition of a CSO is too restrictive. Ways must be found to define and include advocacy groups and networks that promote certain political agendas, but which fall outside the definition of a not-for-profit or charitable organization. This is particularly important to open up spaces for the participation of networks of civil society organizations.

---

<sup>1</sup> The Voluntary Sector is made up of non-profit community organizations

Table 4: Strengthening Civil Society

Country	Legal Framework for Strengthening Civil Society	Laws Guaranteeing CSO Participation in the Development of Their Communities or Country	Mechanisms for Government-CSO Collaboration	CSO Influence on Government Decisions
Canada	Yes	No law mandates the participation of CSOs in political, economic or social development programs, but they are frequently consulted in practice, particularly at the federal level.	Yes	Moderate to high depending on the area/issue
United States	Yes	No law mandates the participation of CSOs in political, economic or social development programs, but they are frequently consulted in practice.	Yes	Moderate to high depending on the area/issue
Mexico	Yes	Yes, approved in 2003, but yet to be recognized in most states and municipalities	Yes, but informal and ad-hoc; Need for increased institutionalization	Low, but on the rise

## V. Local Government and Decentralization

The impacts of decentralization and civil society participation on local governments have received a great deal of attention. This study will focus on two dimensions of this topic. The first is to define the powers granted to local governments in North America, both in terms of the areas under their jurisdiction and their ability to generate their own revenues. The second is to examine the nature of relations between local governments and civil society.

Before comparing Canada, the United States and Mexico, it should be noted that all three countries are federations in which power is distributed unequally among the three levels of government: federal, state (U.S. and Mexico) or provincial and territorial (Canada),<sup>2</sup> and municipal or local.<sup>3</sup> Furthermore, the concept of “local government” is exceedingly difficult to define. The composition, structure, autonomy, functions and powers of local governments are determined by state constitutions as well as municipal by-laws. Consequently, the attributes of local governments vary across states and even, as is the case in the U.S., within the same state.

The recent rise in rural to urban migration is also an important consideration. The high concentration of people in urban centres underscores the need to conceive of city governments as a distinct type of local government. The amalgamation of municipalities and suburban areas with large cities as well as initiatives by alliances of mayors to increase their political influence are an indication of this. Regardless of the outcome of these developments, the need to clearly distinguish between the challenges confronting local rural governments and those faced by urban governments is evident. Initiatives such as the New Deal for Cities in Canada and the National League of Cities’ Municipalities in Transition Project in the U.S. have emerged to address some of the challenges posed by globalization.

Finally, experiences at the federal level differ substantially from one country to another. Local governments in Canada and the U.S. enjoy a great deal of autonomy in managing their affairs and even establishing ties with their international counterparts. By contrast, Mexico’s decentralization process is incomplete, and steps must be taken towards the effective strengthening of local governments. Specifically, local government powers must be more clearly delineated, the tax base broadened so municipalities can generate their own revenues and the conditions put in place to foster a career civil service. To this end, the Mexican government launched the *Programa para un Auténtico Federalismo* [Program for an authentic federalism] (2002–2006). However, the program’s initiatives have had limited reach, primarily due to the difficulty in achieving a consensus among political stakeholders.

### 1. Legislative Amendments to Support Decentralization

The legal status, functions and powers of local governments are determined by state legislation in all three countries.

---

<sup>2</sup> For the sake of brevity, the term “state” will be used to denote state, provincial and territorial governments for the remainder of this section.

<sup>3</sup> Different types of local governments exist in Canada and the United States. For more detail, see the national reports.

Despite the aforementioned differences:

- In general, local governments are elected directly for periods of two to six years. In Mexico, mayors<sup>TN</sup> cannot serve consecutive terms.
- Most local governments have jurisdiction over residential and commercial zoning and local services (police, sewers, water and waste treatment, parks and recreation and, in some cases, health and welfare). Some areas, such as education, remain the jurisdiction of state governments, even though they are essential to urban development.
- Local governments obtain their operating funds from a variety of sources, including commercial and residential property taxes; fees for permits and licenses; fines; and transfer payments from state and, to a lesser extent, federal governments, some of which may be tied to specific programs. Municipalities in Canada and the United States generate most of their own revenues, whereas local governments in Mexico continue to rely on federal transfers.
- Municipal hiring practices in Canada and the U.S. are regulated by state and federal laws. Staffing processes are competitive, and some Canadian municipalities have resorted to human resource firms to recruit high-ranking officials. In Mexico, respondents highlighted the need to continue efforts to consolidate a career civil service. To encourage the efficiency and transparent conduct of public servants, all three countries offer training, financial support for the post-secondary education of government officials, monetary incentives based on performance and bonuses for good work.
- Municipalities in all three countries have formed associations to increase their efficiency, exchange experiences and represent the interests of local governments before state and federal governments. Some local governments belong to international and regional associations of municipal governments.

## 2. Citizen Participation in Local Government

Canada and the United States have a long tradition of involving civil society in the design, formulation and implementation of plans and programs at the local level. Nevertheless, the impact of civil society organizations depends largely on the existence of spaces for interaction, the particular issue and the stage at which CSOs enter into the decision-making process. The following variables were used to gauge civil society participation:

- **Access to Information:** Local governments throughout the region disseminate information through web sites, newsletters, newspaper advertisements, bulletin boards and public hearings. The most commonly used mechanisms in Mexico (public hearings and bulletin boards) have very limited reach.
- **Institutional Mechanisms for Citizen Participation:** Canada and the United States have traditionally included civil society in the planning and development of local projects and programs. Regardless of whether local laws mandate civil society

---

<sup>TN</sup> Mayors (*presidentes municipales*) in Mexico have executive powers.

participation in municipal programs and budget planning, local governments typically consult CSOs. Although there have been positive instances of citizen participation at the local level in Mexico, advances must be made in the establishment of more stable and institutionalized liaison mechanisms and the opening of genuine spaces for participation in decision-making, such as the use of municipal resources.

In addition to spaces for open consultation and participation, Canada and the United States also have mechanisms such as plebiscites and referendums, which allow society to participate in the decision-making process. Results may or may not be binding.

Although some CSOs expressed concerns about factors that limit their impact on the development of local plans and programs in practice, others emphasized that existing spaces for engagement are sometimes underutilized. The need for CSOs to improve their technical and legal skills to present their proposals was also highlighted.

Table 5: Local Government and Decentralization

Country	Laws Mandating Citizen Participation	Mechanisms for Citizen Participation	Public Influence on Decision-Making	Laws and Programs to Support Decentralization
<b>Canada</b>	Yes, citizen participation in some local government decisions and budget planning is mandatory in some municipalities.	Yes, spaces for consultation in the work of local governments and committees. Mechanisms for direct consultation, such as referendums.	Moderate to High, depending on the area/issue.	- <i>New deal for cities</i> (proposed in 2004; under negotiation).
<b>United States</b>	No, but in practice public participation is encouraged in the development of plans and programs, and budget allocations.	Yes, spaces for consultation in the work of local governments and committees. Other mechanisms for consultation including surveys, workshops, public hearings, referendums and plebiscites.	Moderate to High, depending on the area/issue.	Outside of the Constitution, few laws address decentralization directly. The balance between centralization and decentralization may shift with new legislation.
<b>Mexico</b>	Yes, but there are other obstacles to public participation, especially in determining budget priorities.	Yes, but they are still concentrated at the consultation and/or informative level.	Low, but on the rise.	-Amendments to the <i>Ley de Coordinación Fiscal</i> [Fiscal coordination law] (1997) - <i>Programa Especial para un auténtico federalismo</i> (2002-2006)