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PART II

Case Studies

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## Participation, Activism, and Politics: The Porto Alegre Experiment\*

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The experiment in participatory governance in Porto Alegre, Brazil stands apart from many other similar attempts to institute civic governance in Brazil and Latin America. Its breadth and scope distinguish it from other efforts, past and present, that simply do not involve as many persons or, more commonly, do not devolve as much decision-making power to popular mandate. Its central institutional feature of utilizing neighborhood-based deliberation also sets it apart from participatory governance schemes that rely on organized civil society through sectoral interfaces, for example by calling upon teachers to consult on education policy. It is also unusual because it has served the Workers' Party (*Partido dos Trabalhadores*, PT) well, securing for it three uninterrupted terms at the helm of municipal government and, recently, largely as a result of the successes in Porto Alegre, a term at state government. Its record on good governance also stands in contrast to many well-known electoral and institutional failures of leftist municipal administrations: São Paulo, Fortaleza, and Florianópolis in Brazil, or Caracas in Venezuela, as well as a number of much more limited participatory experiments in Montevideo, Uruguay and Córdoba, Argentina.<sup>1</sup>

Despite the recent attention paid to Porto Alegre's innovative institutions, as well as a general interest in "participatory governance,"<sup>2</sup> little of this work explicitly addresses the theory of deliberative democracy – a body of thought that straddles normative and practical concerns of democratic governance.<sup>3</sup> Deliberative democratic accounts vary in the attention they give to institutional arrangements, and here I will focus on the account of Empowered Participatory Governance of Fung and Wright. EPG develops an institutional model that would guarantee fairness and efficiency within a deliberative framework.<sup>4</sup> Deliberative

democratic theory refers to a body of political thought that seeks to develop a substantive version of democracy based on public justification. More than “discussion-based” democracy, it calls for the deliberation of citizens as reasonable equals in the legitimate exercise of authority. It offers a way of transforming the preferences and intentions of citizens to enhance the possibilities for social cooperation.<sup>5</sup>

The empowered participatory governance proposal is an extension, and further iteration, of these accounts. What distinguishes this intervention from many others is its concern with institutional arrangements. A central feature of “real utopian thinking” is that it places affirmative responsibility on institutional design to bring real-world institutions closer to normative “utopian” ideals. The empowered participatory governance proposal is an ideal-typical design proposal for deliberative decision-making and pragmatic problem-solving among participants over specific common goods, and is in principle applicable to a wide range of situations. It centers on reforms that devolve decision-making to local units that are supported, but not directed, by a central body. These units are in turn empowered to enact their decisions. This model aims to foster redistributive and efficient decision-making that is deliberative and democratic and superior to command-and-control structures in several dimensions.

A number of empirical questions arise in light of existing experiments that more or less meet the model’s criteria. For example, can deliberative democracy ever be fair, or will those who are more powerful or well resourced dominate? While answers to these questions will not doom or “prove” the model, they raise issues about institutional features – which ones work and which ones bring us closer to normative ideals – that together with comparative and theoretical work can help to advance the theoretical and practical agenda of democratic reform. I will use the Porto Alegre experiment to raise three broad, central problems in the theoretical model: the problem of inequality, the problem of uneven civil society development, and the problem of politics. Based on a number of indicators about the Porto Alegre experiment collected between 1997 and 2000, I examine the implications of these problems and their solutions in this case, and offer extensions to the EPG model.

Each of the “problems” for the model is in reality an extension of the “real-world” question inspired by the call to utopian thinking: what are the difficulties encountered in the implementation of this design? The “problem” of inequality is not that persons are unequal, but that differences between them may hinder fair deliberation. Are participatory meetings dominated by certain citizens, for example? The “civil

society problem” concerns the impact of EPG upon autonomous civil society and how participatory institutions should “interface” with secondary associations that have uneven capacities. Do EPG fora empty out civil society or privilege areas rich with secondary associations? The “politics” problem is the question of whether such experiments thrive only in certain political contexts. When do EPG proposals call forth opposition from the powerful? What institutional features might account for their durability in the face of uncertainty?

In this spirit, then, I offer three critical reinterpretations. After a very brief discussion of the institutions of the participatory governance in Porto Alegre, I argue in the next section that the experiment offers a successful resolution of the problems of deliberation among unequals through its didactic functions. In the following section, I argue that the experiment also offers a hopeful example of how this relationship might work in a way that fosters new associations in unorganized areas of civil society. Finally, the very success of the participatory experiment necessarily begs the question of the context under which it has thrived. Here I argue that we should not forget legitimacy-enhancing features that, in a democratic context, foster its reproduction. These three types of concern should occupy a more central place within the EPG proposal.

## **I Background: Institutions of Participatory Governance**

When the Popular Front, an electoral alliance headed by the PT, achieved victory in Porto Alegre in 1989 there was little agreement as to what, exactly, the “PT way” of governing<sup>6</sup> would look like, beyond a broad agreement on democratizing and decentralizing the administration, reversing municipal priorities toward the poor, and increasing popular participation in decision-making. Attending to a longstanding demand of The Union of Neighborhood Associations of Porto Alegre (UAMPA), which already in its 1985 congress called for a participatory structure involving the municipal budget, PT administrators developed a set of institutions that extended popular control over municipal budgeting priorities.

Developing participatory institutions while managing a city of the size of Porto Alegre posed a number of difficulties for administrators. The city of Porto Alegre, the capital of the industrialized and relatively wealthy state of Rio Grande do Sul, stands at the center of a metropolitan area of almost three million persons. And although the city of 1.3

million enjoys high social and economic indicators, with its life expectancy (72.6) and literacy rates (90 percent) well above national average, it is also highly segregated economically.<sup>7</sup> Almost a third of its population lives in irregular housing: slums and invaded areas. These slums fan outward from the city center, with the poorest districts generally the farthest from downtown, and generate geographically distinct economic and social zones throughout the city. This socio-geographic configuration poses distinctive obstacles to drawing representative popular participation.

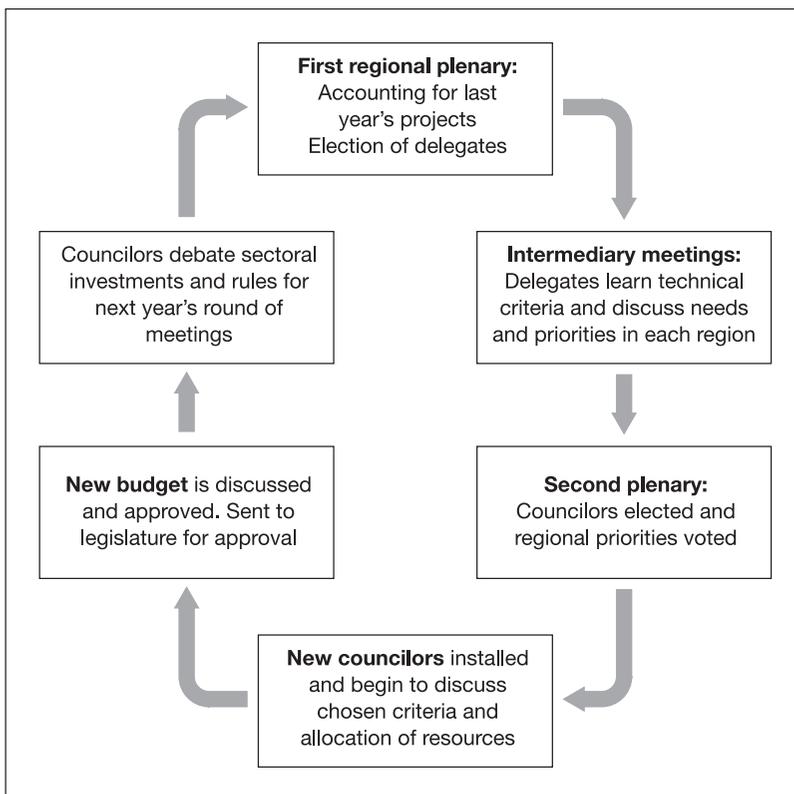
The *Orçamento Participativo* (OP), or the “Participatory Budget” (henceforth PB) has evolved over the years into a two-tiered structure of fora where citizens participate as individuals and as representatives of various civil society groups (neighborhood associations, cultural groups, special interest groups) throughout a yearly cycle. They deliberate and decide on projects for specific districts and on municipal investment priorities, and then monitor the outcome of these projects. The process begins in March of each year with regional assemblies in each of the city’s sixteen districts. These large meetings, with occasional participation of upwards of a thousand persons, accomplish two goals. First, they elect delegates to represent specific neighborhoods in successive rounds of deliberations. Second, participants review the previous year’s projects and budget. The mayor and staff attend these meetings to reply to citizens’ concerns about projects in the district. The number of delegates allocated to each neighborhood increases with attendees according to a diminishing marginal formula.<sup>8</sup> Neighborhood associations or groups are responsible for electing their own delegates.

In subsequent months, these delegates meet in each of the districts on a weekly or bimonthly basis to learn about the technical issues involved in demanding projects as well as to deliberate the district’s needs. The number of participants varies, but forty to sixty persons regularly attend in most districts. In a parallel structure of thematic sessions, delegates deliberate projects that affect the city as a whole rather than those that concern specific neighborhoods. At both of these kinds of meeting, representatives from each of the municipal government’s departments attend to address issues that touch specific departmental competencies. These smaller Intermediary Meetings come to a close when, at a Second Plenary Meeting, regional delegates vote to ratify the district’s demands and priorities and elect councilors to serve on the Municipal Council of the Budget.

This council is a smaller forum of representatives. It is composed of a portion of representatives from each of the districts and thematic

meetings. Its main function is to reconcile the demands from each district with available resources and to propose and approve a municipal budget in conjunction with members of the administration. Its forty-two members meet biweekly with representatives of municipal government over several months. Councilors – two per district and two per each of the five thematic areas – maintain links with organizations and individuals in their districts during this phase. In addition to developing a city budget, this group amends the scope and rules governing the process itself. In recent years, procedural changes have included increasing the scope of areas covered by the PB, broadening the powers of the Municipal Council of the Budget to cover personnel expenditures of the administration, and changing the criteria for assessing how resources are to be allocated to each of the districts.<sup>9</sup> The steps in this annual process are depicted in Figure 2.1.<sup>10</sup>

*Figure 2.1* Annual Cycle of Participatory Budgeting



The Porto Alegre experiment meets the criteria of the empowered participatory governance proposal in a number of interesting ways. First, the process creates direct deliberation between citizens at the local level and devolves substantial amounts of decision-making power to these local settings. These citizens are involved in pragmatic problem-solving, and in monitoring and implementing solutions achieved. These deliberative processes occur continuously over the years, and thus provide opportunities for participants to learn from mistakes. These local units, though vested with substantial decision-making power, do not function completely autonomously from other units or from central monitoring units. Rather, central agencies offer supervision and support of local units but respect their decision-making power. In this case, support comes from the administration in the form of regional agents who act as non-voting facilitators.<sup>11</sup>

The Porto Alegre experiment also shows how complex management of a whole city can occur through combinations of direct and representative democracy. The higher tier of the participatory structures, the Municipal Council of the Budget, brings together representatives of each of the districts. They deliberate on the rules of the process as a whole as well as on broad investment priorities; they also act as intermediaries between municipal government and regional activists, bringing the demands from districts to central government, and justifying government actions to regional activists.<sup>12</sup> Participatory governance has expanded beyond participatory budgeting meetings to new fora that now include social service and health provisions, local school policy, and human rights. And the PB itself has grown to include investments in education, culture, health, social services, and sports.

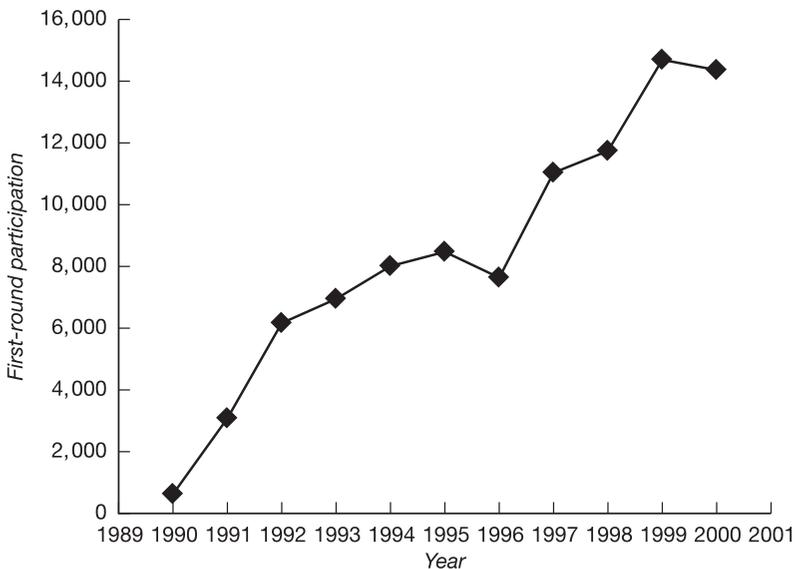
As part of a joint strategy to make urban improvements in the lowest-income areas while “cleaning up” public finances, the participatory budget has improved the quality of governance. The percentage of the public budget available for investment has increased to nearly 20 percent in 1994 from 2 percent in 1989. The legitimacy of public decisions from the PB has also made possible additional public finance improvements such as property tax increases and higher tax collection rates.<sup>13</sup> The proportion of municipal expenses in service provision to expenses in administration has also improved.<sup>14</sup> Of the hundreds of projects approved, investment in the poorer residential districts of the city has exceeded investment in wealthier areas as a result of these public policies. Each year, the majority of the twenty to twenty-five kilometers of new pavement has gone to the city’s poorer peripheries. Today, 98 percent of all residences in the city have running water, up from 75 percent in 1988; sewage coverage has risen to 98 percent from

46 percent.<sup>15</sup> In the years between 1992 and 1995, the housing department (DEMHAB) offered housing assistance to 28,862 families, against 1,714 for the comparable period of 1986–88; and the number of functioning public municipal schools today is 86 against 29 in 1988.<sup>16</sup> Similarly, these investments have been redistributive; districts with higher levels of poverty have received significantly greater shares of investment.

The PB has enjoyed increasing levels of popular engagement over the years, although participation rates have recently stabilized. Despite potential barriers posed by their technical and time-consuming discussions, large numbers of participants representing broad segments of the population have attended. Estimated yearly attendance at the PB, generated by a measure of participants in first-round meetings, is shown in Figure 2.2. An analysis of participation per district, not reported here, shows that while for the first year presence of associative networks was a predictor of participation, for every year after that district-level poverty, and not a strong civil society, predicts participation.<sup>17</sup>

A survey fielded by myself in conjunction with CIDADE, a local NGO, revealed that the socio-economic profile of the average participant at the first meeting of the year in 1998 fell below the city's average

*Figure 2.2* Participation Trends: First-Round Participatory Budget Meetings, 1990–2000



in terms of education and income. Over half of participants have household earnings of four minimum wages or below, and over half lack education beyond the eighth grade.<sup>18</sup> On the other end of the scale, better-off citizens are underrepresented, as roughly a third come from households earning five minimum wages or more, against the 55 percent of the city's residents generally who do so.<sup>19</sup>

The Porto Alegre PB is a successful instance of empowered participatory governance. As a set of institutions it has achieved efficient and redistributive decision-making within a deliberative framework that has also attracted broad-based participation from poorer strata of Porto Alegre's citizenry. Nonetheless, its very success raises three important issues for the model: inequality within meetings, the issue of civil society interfaces and civic impact, and whether that success requires particular political conditions.

## II Deliberation and the Problem of Inequality

One of the main concerns of the critics of deliberative democracy is that its fora are likely to reproduce inequalities in society at large. Since this project addresses local priorities and needs in service provision and investments in urban infrastructure, it is not surprising that the poor are well represented. But do they participate as effectively as other groups? Does their participation yield similar benefits for them? Deliberative settings in which citizens meet to debate formally as equals could be dominated by the more powerful. Criticisms of the "public sphere" might also apply to deliberative democratic proposals. In one poignant objection, deliberative democracy may create a fiction of rational deliberation that is in reality elite rule. More sinisterly, exercises of justification could lend legitimacy to certain inequalities, or to the political party in control of the project. Despite significant inequalities among citizens, the didactic features of the experiment have succeeded in large part in offsetting these potentials for domination. This confirms the expectations of democratic theorists who, while assuming that persons may come to deliberative settings with certain inequalities, expect that over time participation will offset them.

For critics like Bourdieu, deliberation and participatory democracy reproduce hierarchies. On the one hand, they reproduce class hierarchies; on the other, they reproduce hierarchies of political competence of "experts" over non-experts. Bourdieu denounces the fiction of "linguistic communism" – that the ability to speak is equally distributed to all.<sup>20</sup> Because language is a *medium* (as opposed to only an

*instrument*) of power, utterances between speakers are always expressions of *relations of power between them*. The competence to speak embodies difference and inequality. A privileged class habitus imparts the technical ability to speak *and* the standing to make certain statements. This competence is a *statutory ability*, meaning that “not all linguistic utterances are equally acceptable and not all locutors equal.”<sup>21</sup> Linguistic competence is not a simple technical ability, but certain interlocutors are not allowed certain speech acts. Bourdieu gives the example of the farmer who did not run for mayor of his township: “But I don’t know how to speak!”<sup>22</sup>

There is also the theoretical expectation that relatively technical discussions and time pressures on poorer people pose obstacles to participation. As Jane Mansbridge writes of townhall participants:

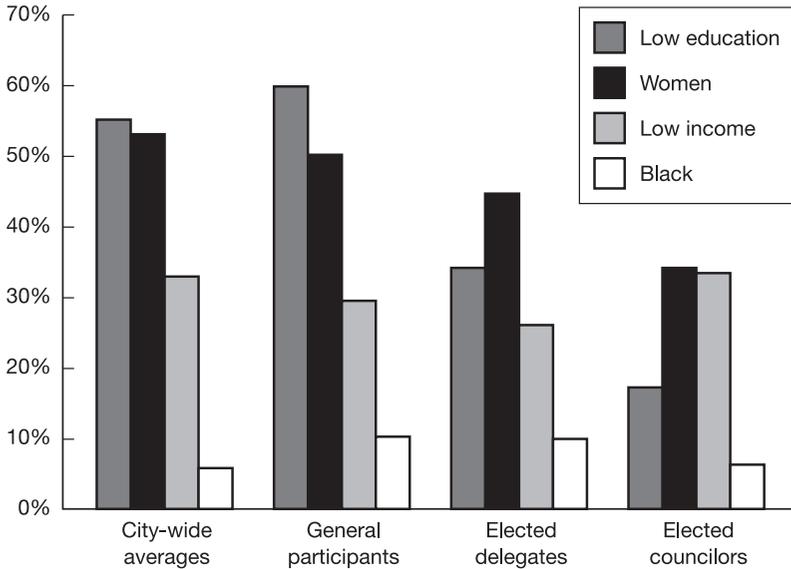
These patterns imply that the psychic costs of participation are greater and the benefits fewer for lower status citizens. In contacting town officials, for instance, they feel more defensive beforehand and less likely to get results afterward. In speaking at meetings they feel more subject to ridicule and are less likely to convince anyone. Each act of participation not only costs them more but also usually produces less.<sup>23</sup>

While ethnographic and life-history evidence would be crucial to account for the full effect of deep inequalities in these meetings, it is possible here to deploy survey and participation evidence to consider some of these effects. The survey, discussed above, was administered at meetings in all districts of the city.<sup>24</sup> Figure 2.3 shows the results as a comparison of the proportion of participants by gender, income, and education against city-wide proportions at each tier of the process.

There is some stratification at the higher tiers of the process, with participation by women and persons of low education falling off, while low income does not seem to affect election. Women are just over 50 percent of general participants, though they make up only 35 percent of councilors.<sup>25</sup> Low-educated persons<sup>26</sup> are just over 60 percent of general participants, but constitute only 18 percent of councilors. Persons of low income<sup>27</sup> make up 33 percent of general participants, and 34 percent of councilors. The best estimate of race<sup>28</sup> of participants also suggests that there is no evidence of lack of parity on racial grounds.<sup>29</sup> Education appears to have the most pronounced effect, and particularly so at the highest tier.

There is no evidence, however, that lack of education or gender pose insurmountable barriers to effective participation, or that this stratification results from masculinist prejudice or prejudice against

*Figure 2.3* Proportion of Low Education, Women, Low Income, and Black Participants against City-Wide Averages, 1998



less-educated speech. Ethnographic evidence from district-level meetings did not show any pattern of women or the less educated speaking less often or conceding authority to educated men.<sup>30</sup> Interviews among participants also revealed that they did not perceive such defects. Common perceptions among activists were like the ones offered by an old-time community activist, who was asked if low education among the poor was a problem for the PB:

No. I think it helps the OP, because it begins from below. It is not the suits<sup>31</sup> who come here and tell us what to do. It is us. I am a humble person. I have participated since the beginning. And like me, there are many more poor people like me who are there with me, debating or helping in whatever way possible. And so I think the OP is enriching in this way, because it makes people talk, even the poorest one. It has not let the suits take over.

A survey question about how often a person spoke at meetings painted a similar picture. Responses to the question: “Do you speak at meetings?” (Always, almost always, sometimes, never) showed that there was parity between the poor and non-poor, and between the less educated and the rest. It also found, however, that women reported

speaking less often than men.<sup>32</sup> However, the number of years of participation in the PB also turns out to offset this pattern significantly; years of participation in the process are a powerful predictor of whether persons will speak. Once we consider only persons with a certain number of years of experience, we also find that there is no significant difference between men and women reporting participation, or between persons with or without formal schooling.<sup>33</sup>

Statistical analysis of election figures shows a similar pattern. When we consider several significant intervening variables – as years of experience, number of ties in civil society, being on the board of directors of a neighborhood association, and being retired or self-employed – neither gender nor education nor poverty significantly affected a person’s chances of election.<sup>34</sup> Each additional year of experience increased chances by 25 percent, and each additional tie in civil society increased the odds by 55 percent. Being retired increases the odds by over 200 percent, and being self-employed by over 80 percent.<sup>35</sup> These results together suggest that experience offsets education and gender disadvantages, and that education effects stem from a person’s likelihood of being elected to a position in civil society and do not directly result from what counts within PB meetings.<sup>36</sup> This evidence also strongly suggests that the availability of time and women’s “second and third shifts” of household responsibilities account for many, if not all, of these differences, particularly with respect to gender. Opinions such as these are typical:

Men are always flying about. To be a councilor you have to be able to go to many meetings, in the evenings, and in many different places. So even if you don’t have a job outside, you still have to take care of the house. So I’d say this is more difficult for women.<sup>37</sup>

It’s difficult, but we always find time somehow, because I work, get home and then I feed the children, then I go to meetings. Sometimes my sister gives me a hand, sometimes the neighbor helps, but it’s difficult.<sup>38</sup>

This analysis of inequality within participatory budgeting yields several insights. First, lack of highly educated speech does not pose a high barrier. Bourdieu’s farmer, who did not “know how to speak,” might have found in the institutions of participatory governance in Porto Alegre a place where his type of speech might have been valued. Certainly there are other standards for valued speech, but these do not correlate with class or education. It is also clear that *outcomes* of participatory decision-making also do not reflect domination. This domination would be evident if outcomes were systematically distorted

in the direction of the distribution of investments toward more powerful citizens. If the more powerful had indeed been able to manipulate outcomes there would not be rules that privileged “regional need” over number of participants, for instance.<sup>39</sup> It is also clear that the heterogeneity of persons has not derailed deliberation.<sup>40</sup>

This experience highlights the importance of the didactic component of PB meetings. From the perspective of individuals, the institutional design includes many meetings devoted to learning procedures and rules, as well as more specific technical criteria for municipal projects. Persons acquire specific competencies related to budgeting, but also acquire skills in debating and mobilizing resources for collective goals. And the evidence suggests there are fair opportunities for advancement for newcomers.<sup>41</sup> One participant with only a few years of schooling, elected councilor early on in the process, discussed his experience as a less-educated person:

I had to learn about the process as the meetings took place. The first time I participated I was unsure, because there were persons there with college degrees, and we don't have it, so we had to wait for the others to suggest an idea first, and then enter the discussion. And there were things from City Hall in the technical areas, we used to “float.” But with time, we started to learn.<sup>42</sup>

An explicit part of the design of the PB is a didactic component inspired by the “popular education” methodologies of Paulo Freire and the Ecclesiastic Base Communities.<sup>43</sup> As is clear from early materials of the administration, the ideas of popular educators of urban social movements were an important source of inspiration in how to run meetings and how to develop norms of dialogue that were respectful of different types of speech.<sup>44</sup> Meeting facilitators are always aware of their function as partially didactic. One of these facilitators discussed her functions:

Another task [. . .] is to preserve and help diffuse certain values. The participatory budget demands the construction of cooperation and solidarity, otherwise the logic of competition and “taking advantage” becomes established, creating processes of exclusion. Therefore, negotiations inspired in a solidaristic practice must be a constant in the pedagogical actions of facilitators.<sup>45</sup>

This didactic component is one of the salient features of the PB and alerts us to the fact that while persons may “naturally” learn from attending deliberative meetings, intentional design features make the

learning more or less available to all. The evidence here both confirms the best expectations of deliberative democratic theory – that vast segments of participants are able to learn to participate effectively – and points to the importance of a self-conscious strategy to impart that learning. That this does not fully offset inequalities suggests that more institutional intervention is needed, though perhaps in novel ways that change time commitments necessary for effective participation. On the whole, however, the profile of the highest tier of participants in budget meetings shows that this institution is a tremendous advance over traditional democratic forms in Brazil.<sup>46</sup>

### III Interfaces with Civil Society

Interviews showed that as persons became deeply involved in negotiations and became acquainted with other persons in the district involved in similar problems, they established lasting bonds with activists of other parts of their district and developed solidarities. This collective learning lies at the root of the transformations in civil society in Porto Alegre. Many associations in civil society have emerged since the inception of the PB. In this section, I develop a second extension to the EPG proposal around the issue of interfaces with civil society.

One of the vexing issues for the model of empowered participatory governance is the relationship between deliberative democratic fora and civil society. Autonomous institutions of civil society are generally positively valued as the repositories of democratic practices and impulses in society; organizations in civil society might also have the best information and access to certain problems that the participatory scheme is designed to address. Relying on organized civil society in an institutional design might, for example, inadvertently favor citizens who are represented by formal and established organizations against citizens who do not enjoy such representation. It might also inadvertently reproduce and harden “movement oligarchies” by giving leaders of such organizations – that may not meet our normative democratic standards – additional legitimacy and political capital. There are also a number of negative expectations about the impact of participatory fora on civil society. If participatory fora run parallel to – coexist with – civil society, they may empty out fora of civil society by providing more efficient (and state-backed) channels for addressing collective problems. If participatory fora interface directly with civil society, might they co-opt movements? Or might local decision-making fora “balkanize” political life?<sup>47</sup> Cohen briefly addresses another possibility altogether,

that deliberative democratic institutions might foster new forms of solidarity and help construct civil society:

Notice, however that both the inclusion of nontraditional stakeholders and the development of deliberative arenas suggests a new possibility: that of constructing new bases of solidarity through a process of defining and addressing common concerns. [. . .] In short, these efforts – which could have very wide scope – have the potential to create new deliberative arenas outside formal politics that might work as schools of “deliberative democracy” in a special way.<sup>48</sup>

The Porto Alegre experiment has operated as a “school of deliberative democracy” rather than co-opting or hollowing out civil society. Participatory governance in Porto Alegre has, in fact, fostered new and more interconnected institutions within civil society. It has renewed leadership in civil society and “scaled up” activism from neighborhoods to municipal and district levels. Here I briefly explore the institutional features of participatory budgeting that account for these changes.

One of the most obvious transformations of civil society has been the rapid rise of new associations throughout the city. Although precise figures are difficult to establish, estimates for the number of neighborhood associations are shown in Table 2.1.<sup>49</sup> The table gives very general estimates of the trends in the transformation of civil society in Porto Alegre.

*Table 2.1* The Development of Civil Society in Porto Alegre, 1986–98

<i>Year</i>	<i>Neighborhood associations<sup>a</sup></i>	<i>Cooperatives<sup>b</sup></i>	<i>Regional popular councils<sup>c</sup></i>
1986	240		
1988	300		3
1990	380		5
1994	450	11	8
1996	500	32	11
1998	540	51	11

<sup>a</sup> Functioning neighborhood associations, estimated from unpublished documents from UAMPA, The Union of Neighborhood Associations of Porto Alegre, from CRC, the Center for Community Relations of the Municipality of Porto Alegre, and Baierle, *A explosão*.

<sup>b</sup> Estimated number of housing cooperatives from interviews.

<sup>c</sup> Popular councils are district-level voluntary entities that coordinate neighborhood associations.

The rise in the number of associations has been dramatic, and follows the increasing success of the PB throughout the years. By my conservative method<sup>50</sup> of estimation, associational density has almost doubled. Neighborhood associations are not the only type of organization in civil society. A number of other types of entity, such as Samba schools, religious and cultural groups, soccer clubs, mothers' clubs, social movements, professional organizations, and unions are part of civil society. In regional settings, many of these other entities revolve or center around the neighborhood association. There is also a limit to the number of neighborhood associations, which can help prevent an inflation in the measure due to credentialing. My survey of associational life in three of the city's districts found that 80 percent of associations held meetings at least once a month, and that over half had meetings more than once a month.

Popular Councils measure the interconnectedness of associational life. The creation of functioning popular councils was an innovation in civil society during this period. From Table 2.1 we see that the number of regional popular councils today is much greater than before, and almost all function with greater regularity. Popular councils are autonomous institutions that hold regular regional meetings on a weekly or bimonthly basis for representatives of neighborhood associations as well as independent citizens wishing to discuss the district's problems. The founding statutes of one of these councils, in the Partenon district, states that its purposes are:

1. To obtain and share information about the municipal administration . . .
2. To monitor public institutions . . .
3. To decide upon questions referent to our district, to the city, the state, and the country.
4. To create proposals to the public administration.
5. To define proper policies in the areas of transportation, social service delivery . . .
6. To participate in the planning of the city, state, and country.
7. To foster and support popular organizations.<sup>51</sup>

While popular councils do not exercise power over neighborhood associations, or over the PB, they often coordinate activities between neighborhood associations (to make sure a fund-raiser will not overlap with a cultural event in a nearby neighborhood), settle disputes among them and, more importantly, deploy collective resources to solve regional problems. Often popular councils act as intermediaries between associations and municipal government, approaching the government with the moral mandate of forty or fifty active associations. The founding

statutes above show how popular councils have political goals such as sharing governance and scrutinizing public administration.

This picture contrasts with the situation in 1988. While much of the city had little associative activity, neighborhood associations and oppositional social movements were active in five or six of the sixteen districts into which the city is today divided. There was a functioning umbrella group for neighborhood associations, UAMPA, which according to a 1988 count, had approximately 150 associations registered. Today, associational life has grown more dense throughout the city. The segregated geography of Porto Alegre means that these changes have occurred most dramatically in the city's peripheries, areas with the least prior organization. The poorest districts of the city have felt the greatest impact.

An activist in the poorest district of the city, Nordeste, who has followed the process closely, accounted for these changes:

New leaders appear with new ideas every year and they are hard workers and full of good intentions. Our district has benefited a lot. Many of the new vilas now have developed associations to fight through the participatory budget, and old ones are reopening to go and make their demands in the participatory budget. Every year two or three new associations appear.<sup>52</sup>

Activists describe a common pattern of neighborhood association development that begins with collective mobilization around common demands. Sometimes there already is a registered, but inactive, association for the area. Nonetheless, one or more concerned persons will begin to attend PB meetings and eventually mobilize a number of concerned neighbors who then attend as an ad hoc group that later becomes a more permanent association:

We began by attending the participatory budget meeting. There used to be an association here, but it was more social and less interested in the problems of our side of the vila. So we went with a different name, and today we are registered as an association. We were able to get part of the street paved but we are still going to go back because there is a lot we still need.<sup>53</sup>

A smaller survey I conducted among "key activists" (n = 104) – regular participants in a regional forum – in three districts of the city shows that most participate in a number of different fora. On average, activists participate in two to three meetings per week, and are regular attendees in three to four different fora. There were regional differences, but 44 percent of activists participated regularly in a forum with a regional or municipal focus other than the PB or regional popular

council. Almost all activists reported participating regularly in their local neighborhood association – which suggests that there are significant ties between local, regional, and municipal settings.

A number of respondents echoed that this indeed was an important process for developing more permanent networks of activists. For example, one woman described her trajectory from initial involvement in the Forum of Cooperatives to becoming an elected delegate and councilor, and the way the PB has helped foster enduring bonds:

After starting to participate in the Forum of Cooperatives, I started to become involved with community leaders and wound up being elected as a Delegate of the Participatory Budget. At first, I did not understand much, but with time I started to get it. I got a group together from our cooperative to come on a regular basis. I then was elected to the Council. There it was where I really learned what is a movement, what a community leader does. It was an incredible learning experience in becoming a community leader.<sup>54</sup>

And a number of municipal mobilizations have resulted. The hunger campaigns in 1991 and the Human Rights Municipal Conference of 1997 drew activists from all districts as regular participants. A kind of city-wide solidarity emerged from participatory governance. Some of these municipal initiatives such as the human rights conference are sponsored by City Hall, but they have been peopled and organized by community leaders from participatory fora. Participants in the process often recounted that civil society had changed in these directions – toward municipal and regional focus – and they often thought that the process had compelled them to broaden their own horizons and see themselves as activists for a larger collective:

As delegate and councilor you learn about the district, meet new persons, become a person who has to respond not only to your association, but also to the district as a whole and the city as a whole. I participated in the two congresses to decide the *Plano Diretor* [municipal planning priorities] and since I have worried about the city as a whole. After a year, I learned not to look only at the district, but that you have to look at the city as a whole.<sup>55</sup>

Consider the institutional features (and their alternatives) of participatory governance in Porto Alegre that account for these changes. One of the most salient features is its manner of recognizing participants and collectives. In the late 1980s, leftists in Brazil debated how leftist governments should interact with civil society. In São Paulo, for example, after the PT victory in 1989, some held that popular councils should be consultative and others argued that they should be deliberative. If

popular councils were consultative, they would be part of the government's organizational structure, and if they were deliberative they would remain as autonomous associations inserted into municipal government.<sup>56</sup> In Porto Alegre, an early vision of interaction with organized civil society – presidents of neighborhood associations, for instance – gave way to a “laissez faire” relationship to civil society.

A hallmark of the PB is that anyone can in principle participate in deliberations. At meetings of the PB where organizations are counted, participants are asked which organization they represent in order to tally votes, but the deliberative processes do not discriminate between “actually existing” neighborhood associations and a momentary association of persons who decide to call themselves a “street commission.” Some leaders of the neighborhood movement felt “slighted,” but the practice reduces the advantages of prior organization. It has created a system that actually fosters the creation of new associations, as well as the creation of parallel organizations to counter unresponsive ones.

But participatory institutions here address issues that were already central to civil society concerns. For instance, in Porto Alegre in 1989, many neighborhood associations contested the poor quality of urban infrastructure and services. Municipal government might also have created deliberative channels to address environmental issues or the cultural policy of city government, both of which have since become part of participatory governance. Both would have no doubt attracted activists, but would not have attracted the attention of civil society as the PB did, and would not have reshaped it. Because significant proportions of the activities of neighborhood associations went to securing urban services and the PB offered a completely novel way of achieving those goals, civil society evolved even as it transformed its relations with municipal government. As an interviewee reiterated:

Before you had to go to the *vereador's* (councilperson) office when you had to get something done, you had to go and sit in his waiting area, sometimes for more than a whole day. When you saw him you told him why you needed this street or materials for the (neighborhood) association building. It was always an exchange. Or you would bring a petition with lots of signatures to DEMHAB to show you had respect in the community. Today it is different. This brought big changes to the associations, because it was what we mostly used to do.<sup>57</sup>

Importantly, the PB has also made some of the principal tasks of neighborhood associations much easier. As another interviewee states,

Before the participatory budget, the associations used to work by themselves. Each one would write up its demands and go to the government. Today, 90 percent of the business of associations is through the participatory budget. All our main demands are through the participatory budget. And even complaints are through the participatory budget, because of the councilors. Councilors can speak directly with the government. Sometimes a president will take a month to get an audition from the government and a councilor will get it in a week.<sup>58</sup>

There is no direct incentive to create an association, as mentioned earlier, since formal existence is not a requisite for participation. But the calculus for forming an association has changed. For example, participants were asked if they used to participate more or less in civil society prior to the PB. While 10.2 percent of respondents did indeed participate less, 26.7 percent participated the same (in addition to now participating in the OP) and 26.7 percent participated more.<sup>59</sup>

While not part of the stated goals of the PB, its institutions provide a number of indirect “subsidies” for civil society. As mentioned earlier, the PB has individual didactic effects. But the PB also recruits activists into associations of civil society, and provides political education for most new activists today. In my smaller survey, of the 104 activists, approximately half had their start in associative life through the PB. Of activists with less than five years’ experience, the vast majority had their start in the PB. Another “subsidy” that it provides is the regional forum in which activists meet other activists, share information and learning, and coordinate mobilization across districts. Observers of the process, such as Gildo Lima, one of the architects of the participatory structures in the first administration, argue that civil society has indeed become less locally focussed as a result of the PB, and that a new form of mobilization has emerged:

This type of mass mobilization campaign has become rapid, dynamic, and has established a frequent “network of conversations.” While I don’t speak to my neighbor who lives in front of my apartment, [. . .] in this network the guy who lives here speaks with the guy who lives on the other side, and the one who lives really far away, every week because of this process. Many people do not realize that we have created the capacity for dialogue every week as a result of the participatory budget.<sup>60</sup>

In the case of the PB, unlike the Associative Democracy proposal of Cohen and Rogers,<sup>61</sup> there are no institutional checks on associations for standards of democracy. And while this design has succeeded in fostering new associations, there is no assurance of the “internal quality”

of these organizations. While architects and managers of the PB in Porto Alegre are well aware that certain neighborhood associations may leave something to be desired in terms of certain procedural standards, City Hall has nevertheless maintained the position not to interfere in popular organization. The experience of political repression, or of state-controlled labor unions and neighborhood associations in Brazil's recent past, accounts for this reluctance to interfere. But an additional feature functions as a potential check: just as the PB will recognize any association, the door is always open for parallel groups to lay claim as associations also. The PB allows for persons to associate informally and to represent a district or a neighborhood, whether or not it is officially in existence. If a recognized association is not sufficiently responsive to persons in a community, members may "secede" through the PB and eventually become dominant by earning respect by achieving goals in the PB.

#### IV The Context of Participatory Reform

A final issue for the model of empowered participatory governance is the enabling context of participatory reforms. Many of the other Workers' Party administrations that were elected in 1988 and 1992, such as that of São Paulo (1989–92), failed and so discredited the municipal branch of the party. Other municipal administrations who experimented with comprehensive participatory reforms, like the Florianópolis administration (1992–96) in the state of Santa Catarina, under the Popular Socialist Party (PPS) did not achieve re-election. While it is beyond the scope of this chapter to discuss in detail what background conditions perhaps made Porto Alegre different from some of these other cities, here I discuss "what went right" and suggest that the EPG model ought more fully to consider governance outcomes as a condition for the reproduction of deliberative institutions in competitive democratic arenas. More specifically, I suggest the issues of institutional capacity to deliver results for participation enable deliberative democracy to enhance the legitimacy of governance and sometimes extend that capacity.

One key to the generation of these positive civic outcomes was that the reforms delivered public goods promptly to convince skeptical and time-pressed residents that participation is worthwhile. The experiment would have failed as a participatory institution if it had not produced tangible material improvements.<sup>62</sup> Students of urban politics in Latin America have pointed to "bounded rationality" problems of

the poor in terms of democratic participation.<sup>63</sup> Participation may not make much sense for poor persons save for an assurance of timely returns. In highly fragmented social contexts, or where persons are not accustomed to civic engagement, the equation may be even more stark. In addition, effective deliberative governance may generate practical opposition as its redistributive consequences become evident.

Part of the explanation for the success is that “good governance” has always been central to the PT’s agenda. From this commitment, it has made significant resources available to the PB. With decentralization reforms codified in Brazil’s 1988 Constitution, cities gained new ways of raising revenue through vehicle, sales, and services taxes. Porto Alegre has been a relative winner by virtue of being a capital city in a wealthy state, and has raised enough revenues to keep pace with the increased fiscal burdens placed by the devolution of social services while carrying out new investments. The Porto Alegre administration, with yearly revenues today well over US\$150 per person, has the capacity to offer many more returns than some of the municipal governments around Porto Alegre. For example, the commuter cities of Viamão and Alvorada have elected PT mayors but, with per capita revenues at a fraction of Porto Alegre levels, have failed to draw sustained attendance in participatory meetings.<sup>64</sup>

But these successes stem from the way in which participatory governance in Porto Alegre enhances the legitimacy of government decisions; this has in turn extended the capacities of municipal government. After the first year’s budget was drawn up through the PB in Porto Alegre, the next legal step was to have it approved by the municipal legislative. While a majority of the city council was hostile to the PB and the Workers’ Party, the submitted budget was approved without alterations. Popular pressure protected the autonomy of the process; participants from meetings personally went to the office of councilpersons to exert pressure. Despite a negative media campaign, they succeeded in guaranteeing the budget’s approval.<sup>65</sup> The element of public justification from deliberations over the budget makes it difficult for politicians in the context of a democracy to oppose something that is a result of the “public will.” Today, although the PT has not achieved a majority in the municipal legislature, the budget has been approved every year without major alterations.

There are other ways in which the legitimacy of the municipal government has extended its capacities. Genro argues that the PB has generated public support for raising land-use taxes; these new taxes were largely responsible for the revenues available for public investment through the PB.<sup>66</sup> And as has been pointed out, the increased

compliance with taxation has also increased revenues; though it is difficult to establish the degree to which this results from the PB, the increased legitimacy of the administration's policies no doubt help account for it. The continued ability of the municipal government to secure financing for projects also comes from public scrutiny of several thousand citizens over public funds.<sup>67</sup>

In fact, the success of the Porto Alegre experiment comes from its legitimacy-enhancing aspects rather than from "exceptional features" of the city's history. While Porto Alegre has a unique history of left-populism dating back to the 1930s, the Workers' Party came to play a part in municipal politics in opposition to the left-populist party, the PDT, winning the 1988 municipal election in large part as a protest against the PDT's failures of governance.<sup>68</sup> Other cities in Brazil, like São Paulo, where the PT did not re-elect its administration, possessed comparable, if not stronger, community movements and supportive unions. One of the key problems of many early PT administrations was their inability to give voice to organized social movements within the administration without succumbing to the charge of privileging "special interests" and without becoming embroiled in interfaction disputes between social movements within the party.<sup>69</sup> The PT administration in São Paulo, for instance, came under attack for giving "special privilege" to social movements sympathetic to the party without considering "the whole city's interests." Without a broad-based participatory system that drew participants from outside organized movement sectors, the municipal government was open to the charge of "left patronage."<sup>70</sup> And without a clear system of rules for negotiating competing interests, the administration in time also came under attack from segments of the Party that accused the administration of "class treason" for attending to the interests of business in certain decisions.<sup>71</sup>

Enhancing the legitimacy of government may not, by itself, always assure the reproduction of EPG institutions. But in the case of participatory budgeting, both of these types of problem – charges of patronage, and attacks from segments of the base of support of the party for not giving enough resources – are averted in an open, and transparent, participatory system like Porto Alegre's. In fact, PT administrations have become more successful in gaining re-election as the open style of participatory reform of the PB has become the standard for municipal governance. PT municipal governments with Porto Alegre-style participatory budgeting systems were re-elected more often in 1996 than in 1992, and the PT has continued to gain municipal administrations on the basis of the well-known success of participatory budgeting in delivering effective governance.

## V Conclusion: On the Fertile Grounds for Utopias

The model of empowered participatory governance offers a set of institutional designs intended to solve many of the problems of both command-and-control institutions and inefficient New Left proposals. Deliberative decision-making that is sufficiently empowered in the correct way holds promise for efficient, redistributive, and fair decision-making. The Porto Alegre experiment I have described seems to both fit the model and confirm its optimistic expectations: high numbers of participants from several strata of Porto Alegre's society have come together to share in a governance structure that has been efficient and highly redistributive. I raised three issues that I believe are important across the range of EPG cases by extending the "real-world question" to a range of situations that ought to be difficulties for the PB.

I have suggested that despite the strong inequalities of urban Brazil, participation of the poor and uneducated is present and that the wealthy and educated do not dominate. The institutional feature of relevance is the didactic component that appears to offset these tendencies. The lesson is that participatory institutions should include mechanisms to deal with inequalities specific to their settings, and that we should reframe "the problem of inequality" as a problem of contexts rather than as a problem of persons. The difficulty with lack of education or of the poverty of participants is not that these are in themselves barriers to deliberating or collective problem-solving. Persons across all walks of life are effective problem-solvers and discussants in their own affairs. The difficulty involves establishing settings in which certain types of speech are not more valued than others, and in which opportunities for learning are broadly available. The data also showed lack of parity on gender dimensions; however, this may have more to do with the availability of time and schedules of meetings than deliberative competence per se. It is also clear that the participation of women in the higher tiers of the PB represents a significant advance over traditional democratic institutions. The proportion of women in the city council in Porto Alegre has never been above 10 percent, compared to over a third of the Council of the Budget.

I also discussed the impact of institutions on civil society. The remarkably positive impact of the reforms here stems from the type of interface with civil society and the incentive structures to participation. The PB supports civil society in a number of indirect ways, creating a "network of conversation," training activists, and making the task of neighborhood associations easier. This impact is not trivial; an

organized and intermeshed civil society can help sustain a participatory experiment such as this one by sharing in its responsibilities in ways that individual citizens cannot. A survey question about how persons came to find out about budget meetings showed that among poorer persons, face-to-face interactions, through neighborhood associations and popular councils, was the main channel. A survey of the sixteen regions showed that popular councils supported budget meetings directly and indirectly through advertising them, recruiting new participants, and running meetings. The impact on civil society may be more appropriately described as a set of “synergies” than simply as a one-way support.

I also explored the enabling context for these reforms, the “politics” that make it possible, and pointed to legitimacy-enhancing features of participatory reforms that may extend the capacities of government to carry them out. The ability to satisfy participants’ expectations is, in the context of strong need and a competitive electoral democracy, crucial to the survival and reproduction of the institution.

Another sense in which its “politics” are important is related to the origins of this utopian experiment. One question left for further research and reflection concerns the role of motivating political visions. In this case, the *raison d’état* driving Porto Alegre’s participatory experiment was a radical democratic vision of popular municipal control and the inversion of government priorities away from downtown and toward the peripheries. For many PT administrators, participatory reforms are part of a broader transformative project. An early debate in terms of progressive administrations was whether municipal governments should function with the goal of most efficient and democratic delivery of services, or play a role in a larger culturally transformative project. One prominent PT intellectual, Jorge Bittar, writes in an official publication that:

The inversion of priorities and popular participation are necessary, but not sufficient, components for a transformative project. An alternative project of local power must consider actions on two levels: at the municipal political power and in local society [. . .] the clash with the values that sustain local hegemony at the local level becomes a conflict that must cross all of our actions.<sup>72</sup>

Writings from the early days of the process document lofty objectives for a popular administration, as when the PT candidate for mayor Olivio Dutra wrote that popular councils would “restore the historical legacy of the working classes in giving form and content to

democracy.”<sup>73</sup> Early activists within these reforms were guided by visions of radical democracy borne of the Ecclesiastical Base Communities, of labor and urban movements, and of activism within socialist parties. These “true believers” helped establish popular deliberation early in the various districts.<sup>74</sup> One of the more experienced activists described his concern for new persons in terms that tell of an activist calling:

The most important thing is that more and more persons come. Those who come for the first time are welcome, we have a lot of patience for them, there is no problem, we let them make demands during technical meetings, they can speak their mind and their anxieties. We have patience for it because we were like that once. And if he has an issue, we set up a meeting for him, and create a commission to accompany him. You have the responsibility of not abandoning him, of staying with him. That is the most important thing.<sup>75</sup>

As Cohen writes, deliberative democracy is at its best a process whereby participants reconsider and reconstruct their preferences.<sup>76</sup> The question we can ask is if it makes a difference if deliberation takes place not just under the aegis of rationality and problem-solving and with the goal of reforming government, but also under the aegis of empowerment of the poor and social justice, and with a goal of social transformation and rupture, visions borne of social movement activism and oppositional politics.

At the time of writing (2001), the PB appears to have become fully consolidated. In its fourth term, the administration concentrated on increasing the quality of the meetings rather than increasing the numbers of participants. Civil society activists have become concerned, in fact, with whether the PB has become too successful and whether civil society has become too oriented toward it.<sup>77</sup> The PB has been extended to state-level government, with ex-Porto Alegre Mayor Olívio Dutra as governor of the state since 1999, and a number of experiments with variants of participatory budgeting currently ongoing in over a hundred PT-controlled cities in Brazil. This large and decentralized experiment in empowered participatory governance, in a variety of diverse settings, will show whether variants of PB-style participatory reforms are robust enough to guarantee successes in a wide variety of contexts, or whether local variations more suited to local conditions will generate other novel forms. In either case, the legacy of this experiment should be watched with interest by students of participatory governance and deliberative democracy.

## Appendix 1: Statistics

I analyzed a representative sample of PB participants drawn from first plenary meetings in March and April of 1998. Respondents were randomly selected from participants at each regional and thematic meeting and were asked to answer a questionnaire. If the person had difficulty in answering the questionnaire in written format, an interviewer would complete the questionnaire. The sample of participants was roughly 10 percent of the total number of participants. The survey was designed and applied by myself, members of an NGO, CIDADE, in Porto Alegre, and municipal government employees. For this analysis, the models were restricted to variables of interest. Independent variables of interest included Female, an indicator variable that assumed 1 for female; Poor, an indicator dummy variable for income up to two minimum wages; Low Ed, an indicator variable for education up to the 8th grade. Important intervening variables were the indicator variables Retired and Self Employed based on self-reporting; Experience was a count of years of participation in the OP; Ties was the number of ties in civil society, and Directorate, was an indicator variable of whether the person had been elected to a directory position.

### Logistic Coefficients Predicting the Likelihood of Election to Delegate Position in the OP, 1998

<i>Independent variables</i>	<i>Model 1</i>	<i>Model 2</i>
Female	-0.53 (0.20)**	-0.48 (0.26)
Poor (1)	0.004 (0.23)	0.10 (0.28)
Low Ed (1)	-0.50 (0.21)*	-0.21 (0.26)
Years	—	0.23 (0.04)***
Ties	—	0.44 (0.09)***
Directorate	—	0.82 (0.26)**
Retired	—	1.18 (0.31)***
Autonomous	—	0.59 (0.28)*
Constant	-1.64 (0.11)***	-2.11 (0.27)***
Chi-Squared	13.95**	141.91***
-2L.L.	683.53	473.33

Note: numbers in parentheses indicate standard error.

\* p < 0.05

\*\* p < 0.01

\*\*\* p < 0.001

## Appendix 2: Weights and Criteria for Allocating Resources

Once municipal priorities for the year's budget are established by the Municipal Council of the Budget, specific investments are divided among the city's districts according to three criteria:<sup>78</sup>

1. Lack of the specific public service
  - Up to 25% of district's population: 1
  - 26 to 50%: 2
  - 51 to 75%: 3
  - 76 to 100%: 4
2. Total population of the district, in thousands:
  - Up to 49,999: 1
  - 50 to 99,999: 2
  - 100 to 199,999: 3
  - above 200,000: 4
3. How the district prioritized the specific service
  - Fourth or below: 1
  - Third: 2
  - Second: 3
  - First: 4

## Appendix 3: Development of Participatory Structures in Porto Alegre, 1983–98

- |         |   |
|---------|---|
| 1983    | City-Wide Organization of Neighborhood Associations founded   |
| 1986–89 | Failed attempts at City Hall participatory structures   |
| 1987    | First Popular Councils developed throughout the city  |
| 1988    | First Health Councils developed   |
| 1989    | PT victory, participatory budget announced  |
| 1990    | First rounds of participatory budget meetings, in five regions  |
| 1991    | Direct voting for Tutelary Council introduced<br>Number of regional meetings increased to 16  |
| 1992    | Number of participants in participatory budget takes off  |
| 1992–95 | Participatory structures widened to include municipal councils on housing, social assistance, child and family services, and technology |

1993	City-Wide Congress to debate directives Municipal Health Council
1994	Direct voting for municipal school directors introduced Theme-oriented meetings introduced
1995	City-wide Forum of Child and Adolescent Services
1996	Human Rights Council instituted Municipal Councils on human rights, environment
1997	City-Wide Forum of Cooperatives Participatory planning of schools
1998	Human Rights Conference Second City-Wide Congress, Health Congress
2000	Thematic meetings expanded to six areas

## Notes

\* As noted in the article originally published, this work would not have been possible without the generosity of CIDADE, in Porto Alegre, the *Prefeitura* of Porto Alegre, and the participants of the OP, or the participants in the Real Utopias conference.

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1. For similar experiments in Brazil, see Gianpaolo Baiocchi, ed., *Radicals in Power: Experiments in Urban Democracy in Brazil*, forthcoming: Zed Press; William Nylen, "Popular Participation in Brazil's Workers' Party: Democratizing Democracy in Municipal Politics," *The Political Chronicle*, vol. 8, no. 2 (1998), pp. 1–9; Ivo Lesbaupin, *Prefeituras do povo e para o povo*, São Paulo, Brazil: Edições Loyola (1996); Lucio Kowarick and Andre Singer, "The Workers' Party in Sao Paulo," in Lucio Kowarick, ed., *Social Struggles and the City*, New York: Monthly Review Press (1994); Sonia Alvarez, "Deepening Democracy: Popular Movement Networks, Constitutional Reform, and Radical Urban Regimes in Contemporary Brazil," in Robert Fisher and Joseph Kling, eds., *Mobilizing the Community*, Newbury Park: Sage Publications (1993). For other examples from Latin America, see Gerd Schonwalder, "Local Politics and the Peruvian Left," *Latin American Perspectives*, vol. 33, no. 2 (1998); Marta Harnecker, *Frente amplio: los desafios de un izquierda legal. Segunda parte: los hitos mas importantes de su historia* (Montevideo: Ediciones La Republica, 1991).

2. "Participation in government" has witnessed an explosion of interest from various quarters and perspectives, particularly in the context of the decentralization of government. For some representative positions see Benjamin Barber, "Three Challenges to Reinventing Democracy," in Paul Hirst and Sunil Khilnani, eds., *Reinventing Democracy*, Cambridge, MA: Blackwell (1998); John Keane, "The Philadelphia Model," in Takasi Inoguchi, Edward Newman, and John Keane, eds., *The Changing Nature of Democracy*, Tokyo: United Nations University Press (1998); Peter Evans, "Government Action, Social Capital and Development: Reviewing the Evidence on Synergy," *World Development*, vol. 24, no. 6 (1996).

3. For the city of Porto Alegre, see Rebecca N. Abers, *Inventing Local Democracy: Grassroots Politics in Brazil*, Boulder, CO: Lynne Rider Publishers (2001); Gianpaolo Baiocchi, "Militance and Citizenship: The Workers' Party, Civil Society, and Participatory Governance in Porto Alegre, Brazil," Ph.D. dissertation, University of Wisconsin (2001); Luciano Fedozzi, *Orçamento participativo: reflexoes sobre a experiencia de Porto Alegre*, Porto Alegre: Tomo Editorial (1997); José Utzig, "Notas sobre of governo do PT em Porto Alegre," *Novos estudos cebrap*, no. 45 (1996), pp. 209–22; Sergio

Baierle, *A explosao da experiencia; a emergencia de um novo principio etico-politico em Porto Alegre*, unpublished MA dissertation, UNICAMP (1991).

4. Fung and Wright's proposal stands alongside Cohen and Rogers's proposal of associational democracy as the most institutional accounts of deliberative democracy. Other theorists certainly pay attention to institutional conditions and arrangements, but do not engage in the thorough analysis of institutional design characteristic of the EPG proposal. See also Joshua Cohen and Joel Rogers, *Associations and Democracy*, London: Verso (1992).

5. Joshua Cohen, "Procedure and Substance in Deliberative Democracy," in Seyla Benhabib, ed., *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ: Princeton University Press (1996).

6. The phrase, "*o modo petista de governar*" has since become part of the lexicon of political discussions about governance. See Jorge Bittar, *O modo petista de governar*, São Paulo, Brazil (1992).

7. See Tanya Barcellos, *Segregação urbana e mortalidade infantil em Porto Alegre*, Porto Alegre: F.E.E. (1986); Prefeitura Municipal de Porto Alegre, *Regioes do orçamento participativo de Porto Alegre – Alguns Indicadores Sociais*, Porto Alegre: Fundação de Educação Social e Comunitaria (1999).

8. The number of delegates for a district is determined as follows: for the first 100 persons, one delegate for every 10 persons; for the next 150 persons, one for 20; for the next 150, one for 30; for each additional 40 persons after that, one delegate. To cite an example, a district that had 520 persons in attendance would have 26 delegates. An association with 47 members in attendance would have two delegates (9 percent of the delegates). See Leonardo Avritzer, "Public Deliberation at the Local Level: Participatory Budgeting in Brazil," paper presented at the *Experiments in Deliberative Democracy* Conference, Madison, WI, January 2000.

9. Resources are allocated to each district based on a system of weights that considers the district's population, its need for the service, and its chosen priorities. I describe this system of weights in the appendix.

10. Adapted from CIDADE, "Ciclo do orçamento participativo," in *De olho no orçamento*, Porto Alegre: CIDADE (1995).

11. In practice, these fora also function as a space for community demands and problems in general to be aired, for information to be divulged about the functioning of government, and as a regular meeting place for activists of a district. My own research showed that meetings were often "taken over" by activists who make use of this regular forum to discuss issues beyond budgeting matters. See Baiocchi, "Militance and Citizenship."

12. As has been noted, councilors fulfill functions that would in other cities be associated with the official municipal legislative, though councilors are subject to immediate recall and have term limits of two years.

13. Tarso Genro and Ubiratan de Souza, *Orçamento participativo: a experiencia de Porto Alegre*, Porto Alegre: Fundacao Perseu Abramo (1997), discuss the increase in the property tax in the first tenure of the PT administration. This is also discussed by Utzig, who describes the reforms undertaken by the administration to modernize fiscal procedures: José Utzig, "Notas," pp. 215–20.

14. This is a measure of the overall efficiency of the administrative apparatus. Though national-level changes, as making municipal governments responsible for the provision of health services, complicate this comparison, all evidence points to increased efficiency. Of course, it is impossible, without suitable comparisons, to determine what portion of that increased efficiency is due to the OP and what portion is due to simply the fact that an outside political party has come into power.

15. Prefeitura Municipal de Porto Alegre, *Anuario estatístico*, Porto Alegre: GAPLAN (1997).

16. Regina Pozzobon, *Porto Alegre: os desafios da gestao democratica*, São Paulo: Instituto Polis (1998).

17. This figure, based on published numbers of municipal government, is the best

available estimate of the actual number of participants from a figure of attendees at first-round meetings. On the one hand, persons at these first-round meetings are not the actual participants throughout the year, and as many as 15 percent of participants at district-level meetings also come to thematic meetings. But, on the other hand, much higher estimates of participation exist based on extrapolations of informal meetings that go on throughout the year, but there is no way precisely to assess its magnitude.

18. A “minimum wage” is a convenient unit to measure income in Brazil with currency fluctuations. As of January 2001 it is fluctuating at near US\$60 per month, and “poverty” is often informally set at a household income of two minimum wages.

19. Pozzbon, *Os Desafios*, pp. 3–9.

20. Pierre Bourdieu, *Language and Symbolic Power*, Cambridge: Polity (1991).

21. *Ibid.*, p. 146.

22. *Ibid.*, p. 147.

23. Jane Mansbridge, *Beyond Adversary Democracy*, Chicago: University of Chicago Press (1980), p. 103.

24. Survey results are published in CIDADE, “Orçamento participativo – quem e a populacao que participa e que pensa do processo,” Porto Alegre: Centro de Assessoria e Estudos Urbanos (unpublished report, 1999). See the statistical appendix of this essay for details.

25. 1998 Survey data. Women are 53 percent of the city’s residents, and persons with low education are 55 percent of the city’s residents.

26. The count of persons with education up to the eighth grade.

27. Persons with a household income of up to two “minimum-wages” per month, which comes to approximately US\$124 (November 1999).

28. It was not possible to include the question of race on the 1998 survey. Nonetheless, using other estimators for the race of participants strongly suggests that “race” by itself does not prevent participation or the achievement of elected positions, though the question certainly merits further inquiry. The general participant data comes from an existing earlier survey (1996), but which does not permit any tests as a result of the numerically small sample. The data on councilors and delegates comes from my own count of councilors and a sample of delegates. Here I considered specifically the category “black” (*negro*) which, as per the conventions of the Brazilian census, is based on self-identification. “Blacks” make up approximately 5 percent of the city’s population, and persons of mixed descent (*pardos* – “browns”) make up approximately 10 percent. For a discussion of race in this part of Brazil see Ilka Boaventura Leite, *Negros no sul do Brasil*, Ilha de Santa Catarina, SC: Letras Contemporaneas (1996). A survey fielded in 2000 by CIDADE did include the race question, but its results are not available at the time of writing.

29. These apparently surprising results are consonant with the available literature on race relations and urban poverty in Brazil. This process draws persons from the city’s urban periphery, which is where non-whites tend to live, but which is also relatively integrated. Observers of the community-based “neighborhood movement” have pointed to the fact that its leadership is also relatively integrated. Ney dos Santos Oliveira, “Favelas and Ghettos: Race and Class in Rio de Janeiro and New York City,” *Latin American Perspectives*, vol. 23, no. 4 (1996), pp. 71–89; Peggy Lovell, “Race, Gender, and Development in Brazil,” *Latin American Research Review*, vol. 29, no. 3 (1994), pp. 7–35; Edward Telles, “Residential Segregation and Skin Color in Brazil,” *American Sociological Review*, vol. 57, no. 2 (1992), pp. 186–97.

30. This was based on a year and a half of attendance of meetings between 1997 and 1999 in three of the city’s districts. What did emerge was that there was an informal gendered division of labor among activists around types of issue for which women and men were suited. This does not mean, however, that women were prevented from effective participation.

31. *Colarinho-branco*, literally, the “white-collars.”

32. The logistic coefficient predicting participation (model not reported here) based solely on gender gives the odds at 28.33 percent lower, with a standard error of 0.09. and

Chi-Squared of 13.75, statistically significant at  $p < 0.001$ .

33. Once we consider years of experience, gender ceases to be a significant predictor.

34. It should be noted, for example, that analyses, not shown here, that considered education in number of years, or income in terms of tiers, found that the highest levels of education and income negatively affected chances of election.

35. See the logistic models reported in the appendix.

36. Being elected to a directorate of a neighborhood association, for instance, is associated with education. Another result that suggests that this interpretation is correct is that conditional logistic regressions (not reported here) that estimate chances of election to councilor from the pool of delegates do not show any factor other than experience to be significant. Static data cannot be any more conclusive, however, since we cannot control for factors that may cause persons to be long-term participants.

37. Adriana, interview, May 1999. N.b. participants' names here are pseudonyms.

38. Marina, interview, June 1998.

39. The system of weights has changed over the years. "Popular mobilization" was an original criterion that was changed in favor a system that considers "needs" in the system of weights. These criteria are always in debate and revision by councilors. The current system, which considers need, followed by the district's priorities and population, clearly advantages a few of the city's districts in distribution of resources every year. The poorest district, Nordeste, for example, always takes resources regardless of the results of deliberation. For a discussion of the emergence and transformation of these principles, see Genro and Souza, *Orçamento*, chapter 1.

40. Although no standards exist against which to judge these outcomes, through the PB citizens have been able to decide upon more projects and on the allocation of more resources each year, deciding upon more than several hundred projects over the last few years.

41. The income level of two minimum wages against which I have tested for parity is less than a third of the city's median household income of 6.4 minimum wages, and the education level of eighth grade is well below the city's average. See Pozzobon, *Os Desafios*, pp. 3–9.

42. Gilberto, interview, 1997.

43. Paolo Friere, *Pedagogy of the Oppressed*, trans. Myra Bergman Ramos, New York: Herder and Herder (1970).

44. See, for instance, the discussion in Sergio Baierle, *A explosao da experiencia*.

45. Euníce de Andrade Araújo, cited in Genro and Souza, *Orçamento*, p. 30.

46. If we compare the profile of city council-persons with the councilors of the budget meetings, we find that there are much greater proportions of women, of poorer persons, of the less educated, and of blacks involved in budget meetings. For instance, the average percentage of women in city councils since democratization has been less than 10 percent, and the percentage of poor persons or persons without formal education has been close to zero.

47. Fung and Wright, Introduction to this volume, p. 37.

48. Cohen, "Procedure," pp. 112–13.

49. One of the main reasons it is difficult to establish how many active associations existed at any one point in time is that there are many more groups "in law" than in practice. For this reason listings of officially registered organizations, which I do not use here, do not help assess activity in civil society.

50. There are at least twice as many associations officially registered with City Hall. I counted associations that either paid dues to the union of neighborhood associations or appeared listed with participants in the PB meetings.

51. Conselho Popular do Partenon, *Regimento interno*, Porto Alegre (1992), p. 1.

52. Fernando, interview, 1998.

53. Marília, interview, 1997.

54. Maria, interview, 1999.

55. Antonio, interview, 1997.

56. In São Paulo, the deliberative vision of mayor Erundina won. Popular power was

“instituted” as a fourth branch of government, after the legislative, executive, and judiciary. See Kowarick and Singer, “The Workers’ Party.”

57. Nelsa, interview, 1988.

58. Antonio, interview, 1997.

59. Survey data, 1998. These results are also reported in CIDADE, *Orçamento*.

60. Gildo Lima, interview, 1999.

61. Cohen and Rogers, *Associations and Democracy*.

62. One survey question, “Do you think the population really decides on the results of the Participatory Budget?,” showed significant association with “Has your district or thematic area received benefits?” Positive answers to the perceived popular control and positive answers to having received benefits were very clearly linked. Crosstabulations of “population really decides” and “received benefits” show that positive answers to perceived popular control and receiving benefits were very clearly linked (Spearman correlation = 0.247. Chi-Squared = 47.161; Degrees of freedom = 1;  $p < 0.001$ .) An analysis of district-level participation for the first few years over time also shows that it was responsive to investment.

63. Henry Dietz, *Urban Poverty, Political Participation and the State*, Pittsburgh, PA: University of Pittsburgh Press (1998).

64. Marcelo Kunrath, in personal conversation, May 1999. On the other hand, there are PT administrations that have reported success in developing participatory schemas based on the Porto Alegre model in small towns with similar revenues as those of Viamão; this suggests that a combination of factors may offset the revenue constraint. See Nysten, *Participation*.

65. Gildo Lima, interview, May 1999. See also Abers, *Inventing Local Democracy*. For a comparison of PT cities in Brazil see Baiocchi, *Radicals in Power*.

66. Genro and Souza, *Orçamento*, p. 26. See also the discussion in Guilherme Cassel and João Verle, “A política tributária e de saneamento financeiro da administração popular,” in Carlos Henrique Horn, ed., *Porto Alegre: o desafio da mudança*, Porto Alegre: Ortiz (1994), p. 45.

67. Luciano Brunnet, in personal conversation.

68. Baierle, *A explosão*.

69. Some of these difficulties, which led in some cases to splits in the Party, are discussed in Margaret Keck, *The Worker’s Party and Democratization in Brazil*, New Haven: Yale University Press (1992).

70. Kowarick and Singer, “The Workers’ Party,” pp. 240–47.

71. *Ibid.*, p. 249.

72. Bittar, *O modo*, p. 8.

73. Arno Agostin Filho, “A experiência do orçamento participativo na administração popular da prefeitura municipal de Porto Alegre,” in Carlos Henrique Horn, ed., *Porto Alegre: o desafio da mudança*, Porto Alegre: Editora Ortiz (1994) p. 50.

74. Based upon interview accounts of the development of the PB in various districts of the city.

75. Nino, interview, 1999.

76. Cohen, “Procedure.”

77. Interviews.

78. Genro and Souza, *Orçamento*, p. 95.

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# Democracy and Development: Decentralized Planning in Kerala

*T.M. Thomas Isaac and Patrick Heller\**

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## I Introduction

By any conventional measure India's democracy is a vibrant one. A competitive and robust party system complements its diverse, vocal, and autonomous civil society. But if Indian democracy has been rightfully celebrated for its ability to weather conflict, and its toleration and pluralism, the effectiveness of its democratic institutions are increasingly in doubt. Over a half century of almost uninterrupted democratic rule has done little to reduce the political, social, and economic exclusion of India's popular classes.<sup>1</sup>

Fung and Wright's exploration of Empowered Participatory Governance (EPG) begins with the assertion that the institutions of liberal democracy – representative democracy and techno-bureaucratic administration – are limited in their ability to address the challenges of just and equitable development. Nowhere is this more palpably the case than in India. On the one hand, representative structures have been dominated by elite interests. A fiercely competitive political party system grafted onto a highly unequal and fragmented social structure has privileged narrow and opportunistic interest politics over more encompassing forms of representation. In the absence of programmatic political formations (the Communist Party of India-Marxist – CPM – is an exception) oligarchical parties built on clientelistic networks have reduced politics to a frantic, zero-sum scramble for public resources that Bardhan has aptly described as “equal-opportunity plundering by all interest groups.”<sup>2</sup>

On the other hand, state structures born at the intersection of an imperial bureaucracy, Soviet-inspired visions of planned revolution and Brahmanical social supremacy have produced a caricature of the

command-and-control state. If the significant bureaucratic capacities of the Indian state have allowed for a degree of rule-bound and predictable administration that approaches the Weberian ideal-type, the state's monopolistic appropriation of planning and developmental functions has led at least one commentator to characterize state elites as "resource omnivores."<sup>3</sup> The developmental failures of the Indian state are all too well documented<sup>4</sup> and bear tragic testimony to the shortcomings of insulated, top-down, and unaccountable decision-making. The resulting crisis of Indian democracy has become so acute that across the political spectrum a consensus has emerged for promoting more decentralized and democratic forms of governance. However, the obstacles to such reforms remain significant. With the exception of Kerala, few states have decisively implemented the 1993 Constitutional mandates to increase local government power.

When the Left Democratic Front (LDF) coalition returned to power in Kerala in 1996, the CPM-led<sup>5</sup> government moved swiftly to fulfill one of its most important campaign pledges by launching the "People's Campaign for Decentralized Planning" (the Campaign). Though the Campaign is only in its fifth year, it has already empowered local government to a far greater degree than in any other Indian state. It has made significant progress along the three axes that James Manor<sup>6</sup> has identified as necessary components of any genuine and meaningful effort at democratic decentralization. First, there has been administrative decentralization. All local governments – municipalities and the three rural tiers of district, block, and Grama Panchayats (the all-India term for village councils) – have been given new functions and powers of decision-making and officials from many line departments have been brought under the authority of locally elected bodies. Second, there has been fiscal decentralization: 40 percent of all developmental expenditures have been allocated directly to LSGIs (Local Self-Governing Institutions). Third, there has been decentralization of political power. Elected local representatives now have the authority to design, fund, and implement a full range of development policies and projects.

But the Campaign represents far more than a simple devolution of governance powers to lower-level elected bodies. Its political and institutional design reflects its socially transformative ambition – similar to that in Porto Alegre – to compensate for the deficits of representative structures and bureaucratic decision-making. It stands out as a bold experiment in Empowered Participatory Governance (EPG) for these reasons. The first is the sheer scope and scale of the experiment. The decentralization of a wide range of developmental responsibilities to 1,214 elected local governments (encompassing municipalities, district,

block, and village panchayats) represents a profound reconfiguration of the state and its relationship to society. By fortifying local governments, the Campaign has the potential to transform dramatically the everyday practice of democracy for Kerala's thirty-one million inhabitants.

Second, the nested design of the Campaign's core institutions – Grama Sabhas (ward-level assemblies), development seminars, task forces, and local governments – represent a deliberate attempt to broaden avenues for citizen participation. In every year since 1997, local governments in Kerala have formulated and implemented their own development plans. These plans take shape through a multi-stage process of iterated deliberation between elected representatives, local and higher-level government officials, civil society experts and activists, and ordinary citizens (see Table 3.1). The process begins in open local assemblies, called grama sabhas, in which participants discuss and identify development priorities. Development seminars formed by the grama sabhas are then tasked with developing more elaborate assessments of local problems and needs. The development seminars give way to multi-stakeholder task forces that design specific projects for various development sectors. These projects are in turn submitted to local elected bodies (municipal councils called panchayats) that formulate and set budgets for local plans. Final plans are presented back to grama sabhas for discussion. These local plans are then integrated into higher-level plans (blocks and districts) during which all projects are vetted for technical and fiscal viability.

The whole process closely conforms to three core institutional design principles of EPG. First, by devolving planning and implementation functions to local arenas, the Campaign has for the first time in India meaningfully empowered local governments and communities to address practical problems. The entire planning cycle – which begins with the collection of local data and ends with the formulation of a comprehensive local plan that consists of hundreds of projects – is an extended exercise in practical problem-solving. Second, both the institutional and political character of the Campaign has been centrally concerned with promoting bottom-up participation. The devolution of authority and resources to LSGIs has significantly reduced the transaction costs of participation, and the knowledge–capacity gap that has traditionally excluded ordinary citizens from playing an effective role in governance has been considerably narrowed by mass training programs, the active mobilization of civil society expertise, and concerted efforts to empower historically marginalized groups – women, adivasis (“tribals”), and dalits (“untouchables”).

Third, the participatory institutions of the Campaign are self-

consciously deliberative – based on inclusive and reason-based decision-making – and directly empowered because they tie project choice and formulation to actual implementation. At a broader level, the Campaign is a historically significant attempt to dismantle entrenched forms of bureaucratic domination and patronage politics by reinvigorating Kerala's tradition of direct and mobilized democracy.

### **Background: the Struggle for Democratization**

While the CPM's return to power in 1996 provided a critical opening, the Kerala State Planning Board formulated, designed, and drove the Campaign for Democratic Decentralization. In doing so, the Board has relied on a stock of practical knowledge, ideas, and experiences drawn from twenty-five years of local-level experiments conducted by NGOs, most notably the Kerala Sastra Sahitya Parishad (KSSP) – the People's Science Movement. Moreover, the KSSP has played an active role within the SPB and at the grassroots level in implementing the Campaign. The historical and political circumstances under which this synergy of state, political party, and civil society has evolved has been explored elsewhere.<sup>7</sup> This chapter describes and evaluates the key institutions and processes of the Campaign. It is informed primarily by the direct involvement of one of the authors – T.M. Thomas Isaac, who was a member of the SPB during the first five years of the Campaign as well as a long time activist in the KSSP – and by research conducted by both authors.

As an institutional reform program, the Campaign was specifically designed to nurture and facilitate greater direct participation by citizens in authoritative decision-making and was predicated on two basic principles. The first was that local government institutions should be transformed from simple service delivery conduits for national and state schemes into fully fledged governing institutions with functional, financial, and administrative autonomy. Devolution of functions and resources should be based on the principle of subsidiarity: what can best be done and decided at local level should be done there.<sup>8</sup>

The second principle was that traditional representative structures should be complemented by more direct forms of democracy. Popular participation would make elected representatives continuously rather than just periodically accountable to the citizens and would introduce transparency into bureaucratic operations. Increasing levels of direct and informed participation required both mobilizing citizens and creating institutions that enable ordinary citizens to play an active role in the selection, design, and implementation of local development plans.

The Campaign's designers (mostly the members of the SPB and key department heads) also realized from the outset that the instrumentalities of the state would be inadequate, both politically and practically, for advancing these two principles. Given the inertia of existing institutions and the power of vested interests, legislation alone could never sustain such profound changes. The success of Kerala's land reforms in the 1970s – widely recognized as having been the most far-reaching and equity-enhancing in the sub-continent – was made possible by a powerful peasant movement. A highly successful mass literacy campaign in 1991 also pointed to the importance of mobilizing popular initiative. Building on these lessons, and the recognition that Kerala has an impressive reservoir of capacity in non-state entities, the strategic emphasis from the outset was to conduct the reforms as a campaign that would mobilize civil society actors.

In the rest of this section we outline four key concepts that have informed the strategy of creating synergies between state intervention and mobilization. In Section II, we present a detailed discussion of the Campaign's institutional design and how it has sought to reconcile the democratic objectives of extensive participation and effective deliberation with the need for technical competency and inter-level coordination in the formulation and implementation of development plans. Section III critically evaluates the success of these mechanisms in achieving the objectives of democratic decentralization.

### **Reversing the Sequence of Decentralization Reforms**

Democratic decentralization requires changes in administrative structures, in the allocation of functions and powers, and in the control of resources. Each of these three reforms depends on the other and so they should be pursued simultaneously. In the technocratic model advocated by multi-lateral development agencies, decentralization has been seen as an exercise in incremental institution-building informed primarily by public administration and managerial sciences.<sup>9</sup> Advocates of this model typically argue that certain sequenced preconditions, defined by a clear demarcation of functions among the various levels, must be met before genuine authoritative decision-making power can be successfully devolved: administrative support structures must be created, new organizational procedures should be in place, government staff have to be redeployed, a new information base has to be developed, and new personnel – both voluntary and official – have to be trained. The devolution of financial resources must be carefully calibrated to match the absorptive capacity of these nascent institutions.

A major difficulty with this linear model of decentralization is its assumption that the task of transforming the very mode in which government works can be achieved through a prescribed process that introduces a discrete set of technically and managerially rational solutions. The world is seen as largely frictionless and apolitical. But successful and sustainable democratic decentralization has been the exception to the rule, frustrated more often than not by bureaucratic inertia – most notably the resistance of powerful line departments – and vested political interests. Kerala certainly has its share of entrenched bureaucratic fiefdoms and political formations with stakes in the status quo. Yet, in the short history of the Campaign, devolution has already gone far beyond formal laws and executive orders.

Reform in Kerala reversed this linear prescription by first devolving fiscal control and then building local institutions. Since 1997, LSGIs have controlled between 35 and 40 percent of the annual developmental budget. During 1997–98, the total resources devolved (the “grant-in-aid”) amounted to Rs. 10,250 million and, in 1998–99, Rs. 11,780 million, sums that do not include funds from centrally sponsored schemes and institutional loans to local governments. Before 1996–97, LSGIs received approximately Rs. 200 million in untied funds. There is little doubt that the administrative capacity and the management experience of the newly elected local government representatives was hardly up to the task of accommodating such large-scale transfers. But devolving fiscal resources and control – even while the immense task of building a new regulatory environment and administrative capacity was only getting under way – has had two critical strategic effects. First, because local governments now enjoy significant budgetary discretion, local planning exercises have a tangible and immediate character. This, as we shall see, has attracted high levels of participation. Second, shifting budgetary authority to lower levels has limited the ability of patronage politicians and top-down line departments to dominate or derail the process.

### **Planning as an Instrument of Social Mobilization**

The second distinctive feature of the decentralization experiment in Kerala is the central role accorded to the planning function of the LSGIs. As a statutory precondition for receiving the grant-in-aid from the government, LSGIs must prepare comprehensive area plans. The planning process, as prescribed by the SPB, includes holding grama sabhas (ward-level assemblies), and convening sectoral task forces in which non-official experts and volunteers directly prepare reports,

formulate projects, and draft sectoral plans. The various stages of plan preparation constitute new participatory spaces in which citizens, elected representatives, and officials deliberate and prioritize developmental goals and projects.

In order to ensure transparency and participation without compromising the technical requirements of planning, the planning process is divided into discrete phases with distinct objectives, key activities, and associated training programs. Though modifications to the sequence have been made every year, the basic model inaugurated in 1997 (Table 3.1) remains the same.

A critical component of the Campaign has been an elaborate training program that has become one of the largest non-formal education programs ever undertaken in India. In the first year, in seven rounds of training at state, district, and local level, some fifteen thousand elected representatives, twenty-five thousand officials and seventy-five thousand volunteers were given training. About six hundred state-level trainees – called Key Resource Persons – received nearly twenty days of training. Some twelve thousand district-level trainees – District Resource Persons – received ten days of training and at the local level more than a hundred thousand persons received at least five days of training. All the elected representatives were expected to participate in the training program at one level or another. Each round of training focussed on specific planning activities. Separate handbooks and guides, amounting to nearly four thousand pages of documentation, were prepared and distributed for each round.

### **Building Civic Engagement**

Following Putnam's seminal analysis,<sup>10</sup> it is now widely accepted that a robust civil society – defined in terms of its “norms of reciprocity and networks of civic engagement” and embodied in different types of civic institution – enhances the effectiveness of democratic institutions. Putnam's understanding of the contribution that associational life can make to deepening democracy is, however, informed by an essentialist interpretation that construes civic-minded behavior as deeply engraved in culture and history. It is, as Skocpol and Fiorina have argued,<sup>11</sup> a social-psychological view that leaves little room for the role of conflict in building democratic capacities. Critics have moreover pointed out that the forms of civic life that contribute to securing developmental goods (i.e. social capital) are in fact politically constructed<sup>12</sup> and that associational life is in large part artifactual, the product of institutional environments, shifting social relations, and state interventions.<sup>13</sup>

*Table 3.1* Phases of the People's Campaign in its Inaugural Year, 1997–98

<i>Phase</i>	<i>Period</i>	<i>Objective</i>	<i>Activities</i>	<i>Mass participation</i>
1. Grama sabha	Aug.– Oct. 1997	Identify the “felt needs” of the people	Grama sabha in rural areas and ward conventions in urban areas	2 million persons attended grama sabhas
2. Development seminar	Oct.– Dec. 1997	Assessment of the resources and problems of the area and formulation of a local development strategy	Participatory studies: preparation of development reports, organization of development seminars	300,000 delegates attended seminars
3. Task forces	Nov. 97– Mar. 1998	Preparation of projects	Meetings of task forces	100,000 volunteers in task forces
4. Plans of grass-root tiers – municipalities and panchayats	March– June 1998	Formulation of plan of grass-root tiers	Plan formulation and meetings of elected representatives	25,000 volunteers in formulation of plan document
5. Plans of higher tiers – blocks and districts	April– July 1998	Formulation of plans of higher tiers	Plan formulation meeting of elected representatives	5,000 volunteers in formulation of plan documents
6. Volunteer technical corps	May– Oct. 1998	Appraisal and approval of plans	Meetings of expert committees	5,000 volunteer technical experts worked in the Appraisal Committees

Kerala's contemporary history fully illustrates this mutability of civil society.

Many observers have noted that Kerala boasts a vibrant and robust associational life, marked not only by the activism of citizens, but also by a proliferation of NGOs and community-based organizations and the highest rates of unionization in the country. Indeed, Kerala's

celebrated achievements in the area of social development have been ascribed to high levels of public action marked both by state intervention and civic activism.<sup>14</sup> Yet in the early part of the twentieth century, Kerala was anything but fertile ground for civic republicanism. Kerala's caste system was generally considered to have been the most rigid and severe in the subcontinent and its agrarian economy was marked by pronounced land inequality and the deeply rooted labor-repressive institutions. Contemporary civil society in Kerala certainly did not, as such, rise from deep civic traditions (as Putnam argues for Northern Italy). Instead, the birth of a vibrant and effective democracy in Kerala must be located in its political history of conflict and social mobilization, the interplay of these dynamics with the process of state-building and the resulting transformation of social structure.<sup>15</sup> Kerala's class-centered mobilizations emphasized distributive demands and built associational ties across caste and communal divisions. Social reforms including the building of a modest but effective welfare state, land reforms, and labor market policies have all eroded the hold of patron-client relations and strengthened associational autonomy.

But if Kerala's long history of social mobilization has directly contributed to the vibrancy of its civil society, it has also created conditions that limit the capacity for civic action. Class-based redistributive conflicts had two notable effects. First, Kerala's political landscape has polarized into two highly mobilized left and right wing formations that have systematically politicized civil society organizations. Thus schools, cooperatives, shopfloors, and local institutions have all become objects of fierce political competition. This pervasive politicization has made it increasingly difficult to separate the provision of public services and goods from narrow political-organizational imperatives. Second, much as in the case of European social democratic states, redistributive demands expanded the size and role of the state and the power of bureaucratic structures. Though large-scale interventions in education, health, and social protection directly contributed to Kerala's social development, the growth of the bureaucracy has severely circumscribed the scope for civil society initiative. Because the bureaucratic development process is top-heavy and more responsive to highly organized rent-seeking interests than popular forces, ordinary citizens retain an interest in government programs only inasmuch as they concern narrow, individual returns. As the politics of pork replaced the politics of community improvement, Kerala's strong traditions of popular grass-roots development action eroded.

The Campaign grows directly from a critique of these corrosive effects. On the one hand, the centralized, command-and-control state is

no longer capable of driving Kerala's development. Thus the supporters of the Campaign have been very vocal in arguing that the existing political climate of sectarian and partisan division has become an obstacle to development and that a key objective of the Campaign – much as in the case of participatory budgeting in Porto Alegre – is to break the hold of clientelistic politics. On the other hand, civil society initiatives require more avenues and opportunities for engagement with public authorities. Emerging as it has from within a party that has a long history of popular mobilization, and in particular a key group of activists and officials with close ties to a mass-based civil society organization with a track record of community participation (the KSSP), the Campaign's political project has been to create new spaces for associational life by promoting local democratic institutions.

In conceptualizing planning as an instrument of social mobilization, the Campaign has sought to deepen democracy along three different axes. First, devolving planning and authoritative decision-making to local arenas constitutes a more integrated approach to development that directly challenges the hold of hierarchical line departments and their extensive powers. Second, providing visible and substantive incentives for participation and emphasizing deliberative processes may reinvigorate civic action and loosen the grip of partisan patronage politics. Third, by fundamentally transforming the mode and channels of decision-making, the Campaign has created new political configurations and public policy networks. Thus elected local representatives whose functions were previously mostly ceremonial have now been brought directly into positions of authoritative decision-making, including authority over local administrative officials. Similarly, NGOs and Community-Based Organizations (CBOs) have been offered new opportunities for engaging directly in development and there has been a concerted effort to create new linkages between professionals and academic institutions and communities in order to bring expertise (especially during the transitional phase in which the bureaucracy has been less than cooperative) to the grass roots. This later development parallels the dynamic blurring of state–society relations marked by the emergence of new associational networks that Chalmers *et al.* have identified as the defining characteristic of revitalized civil societies in Latin America.<sup>16</sup>

In short, the objective of the People's Campaign for Decentralized Planning has not been simply to draw up a plan from below. The very process of planning has been conceived as a means to fundamentally transform the character and scope of participation and the nature of interest mediation. Such a transformation cannot be secured through

government directives or institutional design alone. It requires the creativity and integration with the logic of social movements.<sup>17</sup>

### **Institutionalization**

Fung and Wright<sup>18</sup> argue that one of the greatest challenges of promoting EPG is to develop institutional forms that are robust enough to withstand efforts by traditional interest groups to either subvert or circumvent deliberative processes. In Kerala's highly volatile political climate, in which the two political fronts have historically more or less alternated in their control of state power, this problem is particularly acute. Governments formed by the Congress Party have a track record of reversing decentralization reforms, most notably by packing newly created local institutions with political appointees.

The Campaign has addressed this challenge of institutionalization by encouraging popular involvement as a counterweight to entrenched officialdom. High levels of participation have already yielded significant payoffs as some opposition parties – and most interestingly the conservative Muslim League – have expressed their support for the Campaign. The Campaign's localized planning structures have created spaces in which new political alliances and commitments have been forged. By replacing the conventional systems of vertical accountability to political parties and bureaucracies with horizontal forms of cooperation and autonomous sources of authority, the Campaign's locally integrated planning structures have provided local politicians and officials with a direct stake in the new system.

Political uncertainty has also underscored the need to institutionalize the Campaign through the passage of appropriate legislation. Thus the LDF government comprehensively amended the existing Kerala Panchayathi Raj Act of 1994 and the Kerala Municipality Act of 1994 to secure the autonomy and accountability of LSGIs. New laws concerning the transparency of administration and access to information have also been passed. Moreover, hundreds of government orders creating new accounting systems, devolving authority to local officials and establishing new procedures for reporting have engraved many of the Campaign's design features into the everyday workings of government.

But in India's highly fluid electoral environment, regime support for radical experiments can be fleeting. In May 2001, in keeping with a pattern of defeat of incumbent parties that has long been the norm in Kerala, the LDF was ousted from power by a Congress Party-led coalition. Most observers concur that the CPM's defeat was not a judgement about the Campaign.<sup>19</sup> At the time of writing (November 2001), it is

too early to evaluate the impact of this change in government on the Campaign. In contrast to 1991, when the UDF returned to power and immediately scuttled a much less ambitious experiment in decentralization (one that had focussed on the district level), the new government has declared its commitment to the Campaign and to addressing its weaknesses. Two factors have pre-empted a frontal assault on the Campaign. One is its popularity at the grass-roots level. The Campaign had succeeded in building supportive bipartisan local coalitions that favor decentralization. Eroding the autonomy and authority of LSGIs will be difficult, therefore, not only because it would require significant legislative efforts, but also because such efforts would alienate the Congress Party's own rank and file. The second is the prestige that the Campaign had gained in national and international circles. In addition to significant media attention, the Campaign has attracted the attention of officials from other Indian states and even figured in the remarks made by the President of India (who is from the Congress Party) in his 2000 Independence Day national address.

## II Participatory Plan Formulation and Implementation

Planning in India has historically been a highly insulated and top-down affair. In keeping with their high-modernist impulses, state planners have generally been skeptical of mass participation in the planning process.<sup>20</sup> In general, area planning has occurred at the level of districts, which encompass hundreds and even thousands of panchayats but do not have elected governance bodies. The modal pattern has been for teams of experts to draw up district- or block-level plans in consultation with groups of key informants such as officials, "progressive" farmers, representatives of cooperatives, local self-governments, and so on. Participation was carefully controlled from above. The Report of the Working Group on Block Level Planning expressed characteristic scepticism regarding direct public participation:

First, we should be clear as to who we do have in mind when we talk of the people: their representative political institutions such as the district and taluka panchayats or class organizations where they exist (khedut mandals or trade unions), political or caste leaders or target groups. It is well known that the public is not a harmonious entity; it really comprises groups with conflicting interests. If we wish to plan for the weak, the plan may have to be imposed from above and cannot be a product from below in which "the below" is dominated by the rich and the strong.

Second, people can make a contribution to planning only if they are presented with a well-articulated and feasible framework of approaches, objectives, measures, and alternatives. If, however, they are asked to indicate their needs in a vacuum, they are bound to put up a charter of demands, which will be far beyond the capacities of the government.<sup>21</sup>

A number of model block- and district-level plans were prepared during the 1970s by voluntary agencies and professional bodies that have provided important methodological experience in local-level planning. By the early 1980s some form of district planning machinery existed in most states, but the planning process was anything but participatory. It was described by the Report of the Working Group on District Planning (Government of India 1984) as follows:

Usually, after the state budget is voted in the assembly, the different heads of departments are requested to make a district-wise break up of the outlays provided in the plan budget. This is then communicated to the districts, either by sectoral departments or by the planning department of the state. This usually takes four to five months after the commencement of the financial year. After this communication is received, the district attempts to incorporate a write up for the district-wise outlay and a document called "district plan" emerges in this manner, which is *purely an aggregation of departmental schemes* [our emphasis].

District planning was decoupled from budgetary discretion, and as such devoid of any authoritative decision-making. The major departure from this pattern took place in Karnataka and West Bengal where conscious attempts were made to link the district planning process to local self-governments. The Karnataka experiment was remarkable for the autonomy given to district panchayats in plan preparation and the involvement of lower panchayats and grama sabhas through a consultative process. However, it disintegrated after the state's ruling coalition was defeated in 1990. The West Bengal experiment has proved to be more enduring. West Bengal created a tradition of local democracy by organizing elections for local bodies at regular five-year intervals. Though the scope of powers of these bodies has grown, planning processes have remained centered around the district with lower-tier local bodies and grama sabhas playing only consultative roles. In contrast to Kerala, line departments of the state government continue to dominate the planning and implementation of schemes and programs that were supposedly transferred to local bodies.

This brief discussion of the theory and practice of decentralized planning in India provides a point of comparison with the decentralized

planning procedures adopted in Kerala. The focus of decentralized planning is not the district but different tiers of local self-governments, the most important being the grass-roots tier – the grama panchayat or municipality.<sup>22</sup> Under the Campaign, the planning process begins at the lowest level of democratic representation, the grama panchayats and municipalities. Block- and-district level panchayats come into play only after local governments have prepared their plans, and then only to ensure regional coordination. There are 990 grama panchayats, 58 municipalities,<sup>23</sup> 152 blocks, and 14 districts in Kerala. The councils for each of these levels of local government are directly elected in a first-past-the-post constituency system. At the block and district levels, the democratic character of planning is ensured through the involvement of elected officials and a range of citizen committees. At the municipal and grama panchayat level, the planning process is driven by direct mass participation.

Autonomous decision-making power was granted to local governments by providing untied “grants-in-aid.” The heavy hand of bureaucratic tradition has been blunted by continuous, mass, non-official participation in every phase of plan preparation and implementation. In building continuous deliberative structures, the Campaign has tackled two micro-level design challenges. The first was to create institutional forms that can correct for the asymmetries of power among local agents. The second was to make local participation effective by creating space for grass-roots intervention and deliberation without sacrificing the technical and economic requirements of planning.

### **The Grama Sabhas**

Grama sabhas, assemblies of ward- or panchayat-based residents, represent the key deliberative moment in the planning process. By law, these meetings had to be held at least twice during the initial years of the Campaign. In later years, amendments to enabling laws required four meetings in each panchayat per year. The first grama sabha serves as an open forum in which residents identify local development problems, generate priorities and form subsector development seminars in which specific proposals take shape. In the second grama sabha, plans approved by the elected panchayat council are presented to the public and departures from the original grama sabha proposals are explained. Beneficiaries for particular projects are also selected at the grama sabhas.

Rousseau notwithstanding, there is nothing spontaneously democratic about a general assembly, especially in a society as inflected with

complex and durable inequalities as India's. The Campaign's architects and activists devoted substantial time and energy to enhancing the deliberative quality of these large meetings. An obvious innovation, but one that nonetheless required significant organizational effort, was to adopt a small-group approach. In each grama sabha, after an introductory general body meeting (usually of several hundred people), participants are divided into smaller groups, each dealing with a particular development sector, to discuss issues and problems in depth. This small-group arrangement made it possible for ordinary people, particularly women, to be able to participate in the discussions. A second innovation was to create a semi-formal discussion format and provide a trained facilitator for each group. Working with a basic template of questions and useful planning concepts, locally recruited facilitators encouraged participants to list and analyze local problems based upon their real-life experiences.

### **Local Information-Gathering**

Asymmetries of information are a key source of domination in nominally deliberative institutions. Even in Kerala's social climate of highly politicized and highly literate citizens,<sup>24</sup> durable social and status inequalities and official prerogative has severely skewed access to useful information. Moreover, though available planning data are a source of significant power, they are often inaccurate or maladapted to the requirements of local development. Taking much of its inspiration from the KSSP – which since its foundation in 1962 has been dedicated to “bringing science to the people” – the Campaign has taken local information-gathering as a first critical step in the planning process.

After a first round of grama sabhas, panchayats in the first year of the Campaign were required to make formal assessments of the natural and human resources of their localities. The idea was to promote effective integration of planning and resource optimization by actually comparing expressed needs with local assets. With assistance from specially trained resource persons and using techniques developed by the Campaign, a series of participatory studies was undertaken in every grama panchayat and municipality. These included the collection and organization of data available from various local-level offices, identifying and mapping local eco-zones using transect walk techniques, a review of ongoing schemes to be prepared by each local department, a social audit, and a review of local history. The widespread refusal of departments to cooperate often hampered local planning and inter-local coordination. Though the quality of data varied dramatically

between localities, the exercise itself helped many individuals develop useful skills and, importantly, incorporated local knowledge into official development planning.

### **Development Reports and Seminars**

The outcome of these data collection exercises was a “development report” prepared according to guidelines set down by the SPB. With a five-year strategic outlook, the reports serve as the basis of annual planning. Running on average seventy-five to a hundred pages, reports provide a comprehensive overview of local development. They include a chapter on local social history intended to underscore the role that social mobilization can play in meeting development challenges. The body of each report consists of 12 chapters assessing the current status of various sectors such as agriculture, energy, health, and drinking water, a review of ongoing schemes and problems and a list of recommendations. An assessment by the SPB revealed that the majority of the reports were of higher quality than any other existing department planning documents and offered by far the best benchmarks for local development.

Because the recommendations of the development report can differ from the demands raised in the grama sabhas and because demands from different wards had to be integrated into an area-wide perspective, the reports were submitted to development seminars. The majority of delegates to the seminars were elected from the subject groups of the grama sabhas with, in principle, equal representation for men and women. Local-level government officials and other relevant experts were asked to participate. On average, development seminars had 231 delegates, with officials accounting for 13.8 percent, SC/STs (Scheduled Castes and Scheduled Tribes – the official designation for “untouchables” and tribal groups) for 10.5 percent and women for only 22.1 percent.<sup>25</sup> Extensive preparation went into the organization of the seminars including the distribution of the development report to all delegates and widespread publicity in the form of leaflets, festivals, jathas (marches), and exhibitions. The seminars were given a very high profile, with a member of the legislative assembly or a state minister inaugurating half of the seminars. A major proportion of the seminar time was devoted to sector-wise group discussions in order to facilitate in-depth analysis of the development reports and to propose amendments. The recommendations of the different groups were then presented to a plenary session for ratification.

### **Task Forces and Preparation of Projects**

At the conclusion of development seminars in the first year of the Campaign, task forces of around ten persons each were constituted to prepare the project proposals on the basis of the recommendations of the seminar. In subsequent years, task forces became the starting point of the planning process in which development seminars were convened at a later stage to review the work of task forces. A key challenge of EPG is that experts, rather than simply deliberating among themselves, should also engage in direct deliberation with citizens.<sup>26</sup> The work of task forces in fact goes beyond simply leveling the playing field by guaranteeing that the process of project design is informed by experts but led by citizens. Each development seminar was composed of twelve task forces, one for each development sector. Delegates selected from the development seminars were ordinary citizens, though many have undergone specialized training through the Campaign. The chairperson of each task force was an elected ward councilor. This ensured that the work of the task force would be directly represented in subsequent deliberations of the panchayat or municipal council. In order to secure the relevant expertise as well as coordination with state structures, the convenor of the task force was an officer from the concerned line department.

The sustainability of a participatory institution is in large part determined by its demonstrated capacity for effective problem-solving. In order to ensure a degree of quality control and effective monitoring, task forces are required to prepare detailed project proposals in accordance with a set of criteria and standards established by the SPB. Thus all project proposals must include a definition of objectives (as far as possible in quantitative or measurable terms), criteria for beneficiaries or areas, a time frame, an organizational overview of the role of implementing agencies, a financial analysis including identification of funding sources, a social and environmental impact review, and details of the proposed monitoring mechanisms.

### **Plan Documents and Coordination**

The fourth and final stage of the local planning process is marked by the prioritization and integration of projects prepared by various task forces into a plan document for each panchayat. The final form of the local plan is the legal prerogative of the elected council which must formally vote to approve the plan. There are, however, a number of formal and informal mechanisms to ensure that elected representatives

abide by the recommendations and projects generated by the various participatory processes. The approved plan must conform to a detailed reporting format that lays out the general strategy and objectives of the plan as well as sectoral and redistributive criteria. Authorized projects must be specifically linked to the strategic statement and the full text of the proposed project must be listed in a separate appendix. This process not only guarantees accountability, but its sheer complexity ensures that the council – which has limited administrative support – has no practical alternative to building on the work of task forces. The fact that ward councilors participate actively at every level of the participatory process, from attendance at grama sabhas and training seminars to chairing the task forces, also ensures integration between participatory processes and the council's final deliberations.

Since the beginning of the Campaign, plan allocations have been separately indicated in the state budget, with broad guidelines regarding sectoral allocations to be made by the local body. These guidelines are both of a functional (sectoral) and redistributive character and are designed to coordinate and integrate local allocations with state-wide objectives. For example, to shift public investments away from Kerala's traditional strengths in social services and infrastructure, the SPB mandates that 40–50 percent of plan allocations must be directed to productive sectors such as agriculture. On the redistributive front, local governments are required to spend not less than 10 percent on projects targeted to women, and to proportionally direct funds to projects for scheduled caste and scheduled tribe portions of their population.

Block and district panchayats start the preparation of their annual plans only after grama panchayats have drafted their plans. The sequential ordering is intended to ensure that the plans of the various tiers are integrated and the plans of the higher tiers complement, rather than duplicate or overrule, those of the lower tiers. A matrix-based analytical tool has been developed to assist blocks and districts in integrating the analysis and programs of the grama panchayats into their own plans. Blocks have also been tasked with integrating into their plans the different centrally sponsored poverty alleviation schemes that have traditionally been implemented at the block level. There has been strong resistance to this move from both bureaucrats and elected representatives. This comes in part from genuine problems in maintaining separate guidelines for centrally sponsored programs, but also from fear of losing significant decision-making powers.

### Plan Appraisal

In the first year of the Campaign, a sample review of the projects prepared by the local bodies revealed that a significant proportion had to be modified to ensure their technical soundness and viability before they could be approved for implementation. In all, more than a hundred thousand projects had to be evaluated. The object of evaluation was to rectify the technical and financial weaknesses in the proposals. This monumental task had to be undertaken within a span of three to four months. The official machinery lacked the capacity and will to accomplish this task.

The SPB responded to this problem by launching the Voluntary Technical Corps (VTC). Retired technical experts and professionals were encouraged to volunteer to help appraise the projects and plans of the local bodies. A professional or postgraduate degree or officer-level experience in a development sector was the minimum qualification for VTC membership. A volunteer expert committed herself/himself to spending at least one day a week giving technical assistance to the panchayats. District-level conventions were arranged for the experts who formally offered to join the VTC. More than four thousand technical experts enrolled in the VTC.

Expert Committees were then formed at block (BLEC), municipal (MLEC), and corporation (CLEC) levels, drawing from the VTC members and certain categories of mandatory officers. Each expert committee had a non-official as its chairperson and the block panchayat secretary or officer from the Town Planning Department as its convenor. The expert committees functioned through subject committees with membership confined to those who had expertise in the particular field. A non-official expert acted as the chairperson and a senior officer from the related department was appointed as the convenor of the subject committee.

The expert committees acted both as advisory arms of the District Planning Committees, helping to appraise the plans and projects, and as advisors to local planners. The committees were not empowered to modify priorities set by the local bodies. They were tasked only with providing technical and financial advice, appraising projects, and suggesting modifications. The district planning committees approved plans on the recommendations of these expert committees.

The formation of expert committees in the course of the Campaign's first year was an important organizational innovation which helped to debureaucratize the project approval process. Without this extra-bureaucratic expertise, line departments would have paralyzed local planning through inertia and outright resistance.

### Financial Procedures

In Kerala's traditional system, development planning was the arbitrary and patronage-driven domain of elected representatives and implementation was the prerogative of the bureaucracy. A key rationale for making the decision-making process more participatory was to ensure the involvement of the beneficiaries and the public at large in project implementation. As Fung and Wright note,<sup>27</sup> "direct participation of grassroots operators increases accountability and reduces the length of the chain of agency that accompanies political parties and their bureaucratic apparatus." Popular involvement increases problem-solving efficiency through better and more rapid feedback and increases accountability by multiplying the points of scrutiny. The Campaign has developed a wide range of new fora and rules to maximize participation and transparency.

The Campaign's financial procedures for regulating the flow of grant-in-aid funds to local bodies and to specific projects has been designed to maximize effective monitoring. To begin with, officers can be held more directly responsible for financial flows because they have become directly responsible to locally elected councils. Financial allotments to local bodies are released in four installments annually. All funds must be specifically tied to approved panchayat projects or state schemes. They are held in special accounts that are managed by the implementing officer. Actual disbursement of funds requires co-authorization from the head of the elected body.

The creation of democratically accountable beneficiary committees has also been an important innovation. Instead of implementing public works through contractors, local bodies were encouraged to form committees of project beneficiaries to undertake the task. The objective was to break the ties of collusion between contractors, politicians, and government engineers that have historically been the most important source of corruption in Kerala. Doing so, however, required creating beneficiary committees that were sufficiently autonomous and empowered to resist capture by rent-seeking interests. Toward this end, officially ratified local market rates were adopted for estimation of cost of works so that the beneficiary committees could execute the work in a transparent manner and maintain credible financial records. A second step was to shift effective authority for the technical sanction of projects from department officials to block- or municipal- and district-level expert committees. Department officials continue to convene subject committees and grant technical sanction. However, they now make decisions in their capacity as members of a committee of peers

rather than as officials in a departmental hierarchy. A third procedural innovation has been to shift responsibility for examining finished work and authorizing payment from official to non-official engineering experts from the VTC.

### **Beneficiary Selection**

A major change introduced by the Campaign was in its procedure for selecting beneficiaries of development projects. Beneficiaries are individuals who receive direct benefits from projects, such as houses, irrigation systems, or construction-work opportunities. In the past, beneficiary selection has been little more than a concerted exercise in patronage that has enjoyed the tacit collusion of all political parties. Campaign rules call for grama panchayats to publicize the criteria for beneficiary eligibility and prioritization. Notices listing the projects and criteria must be prominently displayed in public places as well as printed and circulated. Applications must be printed in Malayalam and made freely available. The rules also provide for a system for verifying statements made in the applications. Verification can be conducted by designated officers or by a committee appointed by the panchayat. Finally, the list of applicants must be presented to the grama sabha with sector subject groups tasked with processing applications.

The responsibility for consolidating and finalizing the priority list of beneficiaries received from each grama sabha rests with the panchayat. The final priority list must be created on the basis of clearly stated norms. Members of the public and the local press can attend the proceedings of this final selection. The draft list must be exhibited prominently. All public objections must be given consideration and reasons for rejection stated.

### **III Critically Assessing the Campaign**

So far we have discussed the history and formal institutional design of the Campaign. How have these new structures actually worked on the ground? Most critically, has the planning process been deliberative? Have local projects been effectively implemented and integrated with higher levels of planning? Given the sheer complexity and scale of the project, the inevitable teething problems, and the absence of cumulative data, it is still too early to reach definitive judgement. The institutional learning that has already taken place does, however, hold

some important lessons for our understanding of EPG. Furthermore, several robust trends have already emerged.

### **Financial Resources**

As we noted in the introductory section, the decision in 1996 to earmark 35–40 percent of plan funds for local self-governments kick-started the Campaign. The most important achievement of the Campaign to date has been sustaining the political will to maintain and increase the scale of devolution in subsequent years, despite very severe financial constraints faced by the state government. Consequently, local governments have enjoyed a continuous and substantial flow of financial resources.

The redistributive character of this resource devolution has improved significantly since the start of the program. In the first year, financial devolution was based on a straight per capita formula that did not take levels of interregional poverty and development into account. However, what was lost in policy was gained in politics. With its simplicity, this formula resisted political manipulation and criticism from partisan opponents. Moreover, the formula effectively corrected the highly skewed patterns of patronage-driven allocation of the past (in which underdeveloped northern Kerala was consistently short-changed) and so did have a *de facto* redistributive effect. In subsequent years, the devolution formula has progressively incorporated additional weights for poverty and underdevelopment.

A major weakness of local-level plans has been their weak credit linkages. Both commercial and cooperative banks have by and large been unwilling to link official credit planning to the local planning projects. Resources from voluntary labor, donations, and beneficiary contributions have fallen short of anticipated levels. However, a number of panchayats did successfully mobilize substantial resources from these sources, indicating their as yet untapped potential.

### **Plan Formulation**

For the first time in India, grama panchayats and municipalities throughout an entire state have prepared local area plans. This is itself an important milestone. Given the sheer enormity of the task and the absence of local capacity, plan preparation in the first year ran six months over schedule. However, the dramatic returns of learning-by-doing have been reflected in the steadily increasing proportion of promptly completed plans.

A major objective of decentralized planning has been to match local needs to actual public expenditures. A rationalization of resource allocation based on more direct, informed, and deliberated inputs into decision-making processes is a critical gain for both fairness and efficiency from decentralized planning. Because of the empirical difficulties of comparing pre- and post-Campaign expenditures patterns (there are no subdistrict figures available for the pre-Campaign period) a definitive assessment must await more intensive research efforts. However, three important general trends are already apparent. First, the investment priorities in the plans prepared by the local bodies (after decentralization) differ significantly from priorities in prior district plans. Local bodies have accorded much greater priority to basic needs such as housing, drinking water, and sanitation. In the productive sectors, there has been a discernible shift toward animal husbandry, garden crops, and minor irrigation. Both these shifts have significant redistributive implications. Second, in contrast to past patterns, investment priorities in special plans prepared for scheduled castes and tribals differed significantly from the overall investment patterns. The low income, asset, and skill position of these marginalized communities has been taken into account. Third, in contrast to the one-size-fits-all logic of the past, there are significant interregional differences in the investment priorities of local bodies.

The most glaring weakness of the plan preparation in the first year was the quality of the proposed projects. Many of the projects proved to be little more than modified versions of standardized department schemes. There was often little consideration of forward and backward linkages and fully integrated plans were rare. The reflex to mechanically allocate funds on a ward basis proved tenacious, particularly among the higher tiers (blocks and districts). Beginning with the second year, measures were adopted to improve the quality of projects and programs. The most important measure has been to introduce subject-specific training programs for task force members. In the second year, the training program consisted of a series of locally organized stopgap measures that produced limited results. In the third year, the training program was formalized into a state-wide program linked to specialized institutions such as the Kerala Agricultural University, the Institute of Management in Government, the KSSP's Integrated Rural Technology Centre, COSTFORD (a low-cost housing NGO training institute), and NGOs involved in watershed management. These specialized training programs, coupled with the greater involvement of VTC members in the task forces, improve the quality of project design.

The spatial integration of projects on a watershed basis was a key

planning goal of the Campaign. In practice however, block panchayats lacked the technical expertise and support to plan at this level. In the third year, the SPB launched a scheme to assist block panchayats in mapping all the micro-watersheds in the state and in preparing master plans for them. Administrators hope that this program will improve local spatial plans, raise awareness of ecological issues, and introduce the concept of sustainability into the planning process.

### Physical Achievements

A major criticism of the Campaign has been that the attention paid to process and participation has come at the expense of actual project implementation as measured by physical achievements (the process-product trade-off). The logic of this criticism is misplaced inasmuch as it fails to recognize that the quality of participation is “an independent desiderata of democratic politics.”<sup>28</sup> To focus on financial targets and expenditures, as many of the Campaign’s critics have done, reflects a narrow technocratic understanding of development. But even if EPG institutions can be justified on the grounds of extending citizenship alone, their long-term viability, especially under the circumstances of the liberalization of the national economy, will rely on their capacity to provide tangible developmental goods.

At this stage, an accurate appraisal of physical achievements is complicated by practical problems of monitoring and aggregating existing data. Physical results, particularly in productive sectors such as industry and agriculture, require time to materialize. And even in the case of social and infrastructural sectors, the task of measuring the quality of project implementation is virtually impossible given the absence of a local data gathering system.<sup>29</sup>

However, the most readily measured physical achievements of the first two years of decentralized planning are impressive. From 1997 to 1999, 98,494 houses have been built, 240,307 sanitary latrines constructed, 50,162 wells dug, 17,489 public taps provided, and 16,563 ponds cleaned. A total of 2,800,179 individual beneficiaries received support from the plan for seedlings and fertilizers. 8,000 kilometers of roads were built. These figures far outpace public construction from previous comparable periods.<sup>30</sup>

Because the pace of delivery has surpassed expectations, the state government has taken steps to encourage institutional financial loans to the local bodies to provide additional resources. For the first time in Kerala (or any state in India), the government has set a target date (2003) for delivering shelter, sanitary latrines, and drinking water

(within two hundred meters) to all households in the state. The universalization of pre-primary education, improvement in the quality of education and health care centers, and completion of rural electrification have also become imaginable. Tangible achievements such as these could play a critical role in sustaining and stabilizing the process of democratic decentralization.

### **Recombination**

Effective decentralized planning must by definition be integrated. This is critical not only to optimize resource allocation, reduce duplication, and ensure sustainability, but also, as Fung and Wright argue, to capture and diffuse the innovations generated in decentralized units. The comparative advantage of “decentralized coordination” lies in increasing the “learning capacity of the system as a whole by the combination of decentralized empowered deliberation and centralized coordination and feedback.”<sup>31</sup> This coordination has been one of the most daunting challenges faced by the Campaign.

In the first year, a number of factors contributed to weak coordination between the plans of the different tiers of local bodies and that of the state government. First, the functions of the local bodies were listed in the law by subject rather than by activity. This resulted in considerable overlap. Second, the decentralizing logic of the Campaign was a global one. Negotiation of schematic or activity-wise demarcation of functions would have been difficult and time-consuming due to resistance from line departments. LSGIs were instead granted full autonomy to formulate any project within their capabilities. The devolution of discretionary budgeting authority introduced a de facto functional division of labor between the state government and LSGIs. During the first year of the decentralized planning, most departments insisted on continuing their traditional schemes and there was considerable duplication between the state department programs and those of the LSGIs. This created considerable strain on the overstretched financial resources of state departments and most have gradually withdrawn their schemes that overlap LSGI projects. Thus village roads and minor irrigation have virtually disappeared from the state government’s plan. And though all piped water supply schemes are by law the monopoly of the Kerala Water Authority, the Authority no longer undertakes small-scale projects.

Though prescribed planning procedures called for higher tiers to take the priorities and programs of lower tiers into account, in actual practice there was little coordination in the first year (in no small part

because of a shortage of time). More detailed guidelines were issued in the second year, but problems persisted. In the third year, the format and logic of district-level planning was significantly revised. New procedures emphasized the district's role in (1) providing a macro-perspective for sustainable development of the district, (2) improving integration by consolidating lower-level plans and identifying gaps and duplications, and (3) providing a long-term strategic vision for future annual plans.

In the first two years, the planning process only provided feedback from below. In the absence of coordination from above, integration between the programs of different tiers was inadequate and insufficient attention was given to the spatial dimension of the planning process. District plans are now conceived of as providing the primary source of feedback from above. The intention is that this feedback should not take the form of instructions or commands, but of guidelines evolved in a participatory manner by the local bodies in the district. This in turn will allow for local plans at every level to be prepared with simultaneous feedback from both above and below.

### **Quality of Deliberation**

The Campaign has created numerous opportunities for ordinary citizens to actively participate in the different phases of plan formulation and implementation. But how many citizens have made use of these opportunities? Were the discussions manipulated by locally dominant groups? Were the fora merely a means to legitimize decisions made by the elites?

Every ordinary citizen, irrespective of his or her membership in political or non-political social formations, has the right and opportunity to intervene in the planning process by participating in the grama sabhas. One of the greatest achievements of the Campaign has been to demonstrate that popular assemblies can function effectively. In the year before the Campaign, grama sabhas were called after the formation of the new local bodies, but a majority failed to actually convene. In the first grama sabhas of the Campaign in August–September 1996, over two million people participated with an average of 180 persons per grama sabha, representing 11.4 percent of the voting population and roughly one of every four households. Though participation rates have dropped slightly in subsequent years (possibly because the number of annual grama sabhas was increased from two to four), these popular assemblies have become an essential feature of Kerala's political landscape.

There are, however, significant limitations to the deliberative character of grama sabhas. To begin with, they are too large and unwieldy for meaningful deliberation. Due to Kerala's dispersed settlement pattern, grama sabha participants must travel significant distances and meetings cannot run more than two or three hours. This does not allow for serious discussion of the large number of complex issues that are normally included in the agenda of the grama sabha.<sup>32</sup> Participation across socio-economic groups has been uneven. Middle-class participation has been low, and most participants have been from lower classes that are the targeted beneficiaries of most development projects. In the first year the participation of scheduled castes and scheduled tribes was below their population share and women constituted a disappointing 25 per cent. In subsequent years, the percentages have increased, but participation remains uneven.

The formation of Neighborhood Groups (NHGs) consisting of forty to fifty families has been a response from below – often initiated by KSSP activists – to the limitations of the grama sabhas. Though not formally required, NHGs have been formed in around two hundred panchayats. One study found that, in one hundred panchayats,<sup>33</sup> NHGs function as mini-grama sabhas that discuss local issues and priorities, review plan implementation, and select beneficiaries. NHG representatives often constitute a Ward Committee which in many cases becomes the de facto executive committee of the grama sabhas. NHGs have also taken up other activities such as conflict resolution, after-school educational programs, health clinics, cultural activities, thrift schemes, and project implementation. There is currently a campaign being led by the KSSP to extend NHGs to the entire state and institutionalize what is in effect a new layer of grass-roots democracy. The crowding-in effect that the Campaign appears to be having on associational life in Kerala is also manifest in the proliferation of a variety of self-help groups, particularly women's micro-credit schemes.<sup>34</sup>

### Corruption and Nepotism

One of the most important criticisms of decentralization is that it often does little more than devolve corruption. Indeed, funneling substantial funds to localities, without proper safeguards, inevitably fuels rent-seeking behavior and possibly community conflict. The media and opposition parties in Kerala have raised serious allegations of nepotism in beneficiary selection and corruption in the implementation of projects. Critics allege that a substantial number of beneficiary committees are led by nominees of contractors (so-called *benami* committees).

State investigating agencies have also pointed to widespread irregularities in the first year's plan implementation.<sup>35</sup>

In its own evaluation the State Planning Board concluded that irregularities during the first annual plan resulted more from inexperience and haste than corruption. For example, when local bodies in the first year found it difficult to absorb and properly distribute funds, many transferred the funds to non-plan accounts or deposited the money with government or quasi-government agencies such as electricity boards or the Kerala Water Authority so that they could claim full utilization before the spending deadline. Even though regulations were bent and even broken, there was little leakage as such. Irregular expenditures that were identified by the government were disallowed and new rules have substantially curtailed such improprieties.

There is little doubt that many beneficiary committees have fallen prey to vested interests. But there is also little doubt that the traditional nexus of corruption between contractor, engineer, and politician has been decisively broken in a large number of local bodies. For example, in the district of Kannur – a CPM stronghold – one investigation revealed that beneficiary committees have been carefully constituted and run according to the Campaign's criteria of transparency and democratic accountability. Strengthening the capacity and accountability of beneficiary committees remains one of the most important priorities of the Campaign, and a number of important reforms have already been introduced.<sup>36</sup> Despite some leakage of funds, most observers agree that the multiplication of checks and balances and the increased scrutiny associated with citizen participation is a dramatic improvement over the routinized plunder that characterized the traditional system.

Institutional fine-tuning and increased community experience have visibly improved the beneficiary selection process. During the first year, complaints about the selection process were registered in a majority of local bodies. The volume of registered complaints is in itself indicative of the increased transparency of the system. The traditional system was entirely based on patronage. Complaints were rare simply because the information was accessible only to the patrons and their clients. The rules for beneficiary selection have been modified in every year of the Campaign. By the third year, less than a fifth of panchayats registered complaints.

### **Promoting Equity**

As much as the Campaign has been concerned with the efficacy of deliberative institutions, it has also, in keeping with Kerala's long history of

redistributive struggles, promoted the strategic goal of building equitable forms of participation and reducing substantive inequality. Gender justice in particular has been declared to be one of the major objectives of the Campaign. We have already noted efforts to increase participation of women in grama sabhas, and the extension of neighborhood groups and self-help organizations are clearly strengthening the associational capacities of women. Two other important strategies have been efforts to build on the constitutional provision for one-third reserved representation of women in LSGIs and the introduction of a special Women Component Plan amounting to 10 percent of the plan outlay. What has been the experience so far?

The Kerala experience certainly bears out the importance of affirmative action ("reservations" in the Indian context) in representative structures and indeed suggests that the principle should be extended to higher levels of government. But affirmative action alone is insufficient. An in-depth study of elected representatives in Kerala revealed that while elected women representatives are better educated than their male counterparts (a social fact that is unique to Kerala in the Indian context), the women were on average younger, much less politically experienced, and less knowledgeable about rules, regulations, and administrative issues. Women representatives have moreover had to bear a triple burden of public office, income-earning activities, and domestic duties. From its outset, the Campaign has run an in-depth and continuous capacity-building program for women representatives. The training program, which has evolved significantly to adapt to new challenges, has yielded impressive results. A self-assessment survey of elected women representatives shows that their administrative knowledge and management skills, as well as the ability to officiate at public functions and interact effectively with their constituencies, have improved significantly over the last three years.<sup>37</sup>

The WCP for the first year failed to meet its targets, both in terms of overall allocation and the relevance of projects. In part, this failure stemmed from insufficient representation of women among trained resource persons. This problem has been directly addressed in subsequent rounds of training. As women activists and representatives have started to play a more proactive and informed role in the Campaign, the effectiveness, content, and scope of the WCP has improved. First, more than the statutory minimum requirement of 10 percent of the plan grant-in-aid was earmarked for the WCP in all districts. Second, an undue emphasis on credit and beneficiary contribution in development projects for women was reduced and more realistic patterns of project financing were adopted during the second year. Third, the

quality of projects improved. The tendency to include the general sector projects in the WCP on the basis of notional (indirect) benefits to women has declined and the number of projects that specifically address the gender status of women has significantly increased.

The fear that the interests of scheduled castes and scheduled tribes are more readily subverted at the local level, where severe caste inequality persists, has often been raised by SC/ST leaders. How have SC/STs fared under decentralized planning in Kerala?

The Special Component Plan (SCP) and Tribal Sub-Plan (TSP) in Kerala have been formulated and implemented in a decentralized manner since the mid 1980s. But this decentralization lacked real participation by any elected representatives, let alone members of the community. Under the Campaign, 75 to 80 percent of the SCP and TSP funds were devolved to LSGIs, taken from the coffers of the state bureaucracy.

The first visible effect has been a significant increase in the funds actually earmarked and spent for scheduled castes and scheduled tribes. Careful disaggregation shows that a substantial part of the SCP and the TSP have always been calculated on the basis of notional flows, i.e. by including general schemes that encompass, rather than target, SC and ST communities. The Campaign abolished this accounting method. As a result, the SPB estimates that real resources for the weaker sections have increased by 30 to 40 percent as compared to the pre-Campaign period. The SPB plan appraisal also revealed that fears that local bodies would divert funds were misplaced. Except in rare instances, local bodies have fully accounted for grants-in-aid from the SCP and the TSP. And even though it was permissible to allocate up to 30 percent of the grant-in-aid from the SCP and the TSP for infrastructure projects such as roads and bridges, actual expenditure under this heading was less than 20 percent. Local bodies emphasized projects that could be specifically targeted for individual beneficiaries from SC and ST communities such as housing, latrines, and income-producing animals.

## IV Conclusion

The Campaign represents a watershed in the post-Independence history of Kerala. It has made the very nature and institutions of the state itself an object of contestation, with the goal of deepening and widening democracy. With every local plan formulated and every project implemented, the new institutions and procedures of decentralized participation deepen their roots. Because this in turn strengthens civil

society and brings previously excluded or marginalized actors into the political arena, this democratic deepening may well become self-sustaining. But because the Campaign's mobilized mode will become increasingly difficult to sustain as local planning becomes routinized, sustaining the integrity and efficacy of deliberative institutions will require institutionalizing the authority and resource base of local governments. Many of the laws and regulations to accomplish this institutionalization have already been passed. But these gains may unravel quickly if the new institutions fail to deliver. And sustainable delivery rests first on maintaining adequate levels of financial devolution and second on successfully reforming the bureaucracy. Both factors in turn rest on features of the political environment.

With the return of Congress to power, the Campaign has lost political leadership and significant state support. Already, despite its public declarations of support for the Campaign, the government has weakened the institutional moorings of the Campaign by promoting parallel structures. Thus it has split the panchayat department into two separate entities, introduced new regulatory authorities that are outside of the Campaign's integrated structures, and has pledged to provide members of the legislative assembly with funds for local development that in effect bypass panchayats. The government has also undermined the Campaign's formal and informal support structures by demobilizing trained resource persons, providing only minimal training programs, and freezing the redeployment of department officials to the local level.

But even if the Campaign now finds itself settling into a less energized equilibrium, it nevertheless represents a dramatic advance over the pre-Campaign period. Local government plays a far greater role in development than anywhere else in India. Five years of experimentation with decentralized planning in Kerala has created new sources of democratic authority and generated lessons that are certain to have a lasting impact. Politically, the most important lesson has been that decentralization and people's participation can and do work. Even if only a small proportion of panchayats have approximated the ideal of local planning, the demonstration effect of what is possible has had profound reverberations. Very concretely, these hundreds of points of experimentation have brought countless innovations to project design and implementation. These in turn have been energetically diffused through training programs in which panchayats teach each other. Once impervious and all-powerful, the bureaucracy has in hundreds of local communities been displaced by the collective efforts of ordinary citizens. Ordinary citizens who have never been afforded an opportunity

to effectively engage the state outside of campaign-oriented social movements now routinely deliberate and cooperate with elected representatives and local officials in deciding how to spend large sums of money. And a generalized discontent and even cynical despair about politics has in part been replaced by an open, articulate, and relentless attack on patronage politics and by the beginnings, through everyday participatory practices, of a new kind of transformative politics. At a very minimum, this is reflected in the new-found respect that political parties have for civil society.

The second broad lesson is that there are no blueprints, and that any successful reform effort of this scope and depth will of necessity consist of learning-by-doing. Being confident about the normative desirability of EPG institutions thus also implies being comfortable with the notion that making EPG institutions work is a process of trial and error that requires continuous feedback and institutional fine-tuning. The required flexibility certainly calls for particular kinds of institution built most notably on the principles of coordinated decentralization. Kerala's experience, however, suggests that such institutions themselves are most likely to emerge from dynamic political reform networks that span state and society and from the creative and even mischievous logic of social movements.

## Notes

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1. See Patrick Heller, "Degrees of Democracy: Some Comparative Lessons from India," *World Politics*, vol. 52 (July 2000), pp. 484–519.

2. Pranab Bardhan, "Sharing the Spoils: Group Equity, Development, and Democracy," unpublished paper, University of California, Berkeley (1997), p. 16.

3. Madhav Gadgil and Ramachandra Guha, *This Fissured Land: An Ecological History of India*, Delhi: Oxford University Press (1992).

4. Jean Drèze and Amartya Sen, *India: Economic Development and Social Opportunity*, Delhi: Oxford University Press (1995).

5. The Communist Party of India was unified until 1965 when it split into the CPI and the CPM. The CPM has emerged as the much larger of the two communist parties, and is the dominant partner of the Left Democratic Fronts that have come to power in Kerala and West Bengal.

6. James Manor, *The Political Economy of Decentralization*, Washington, DC: The World Bank (1999).

7. The origins of the Campaign are treated at length in Thomas Isaac, with Richard Franke, *Local Democracy and Development: People's Campaign for Decentralized Planning in Kerala*, New Delhi: Left World Press (2000). For a detailed examination of the interplay of political parties and social movements in shaping institutional reforms

see Patrick Heller, "Moving the State: The Politics of Decentralization in Kerala, South Africa and Porto Alegre," *Politics and Society*, vol. 29, no. 1 (2001), pp. 131–63.

8. The basic principles of local self-government – autonomy, subsidiarity, role clarity, complementarity, uniformity, people's participation, accountability, and transparency – were first formulated by the Committee on Decentralization of Power (popularly known as Sen Committee, after its late chairperson Dr. Satyabrata Sen) appointed by the Government of Kerala.

9. For a critique of the technocratic vision see Bardhan, "The State against Society: The Great Divide in Social Science Discourse," in Sugata Bose and Ayecha Jalal, eds., *Nationalism, Democracy, and Development*, New York: Oxford University Press, pp. 184–95, and Heller, "Moving the State." For an excellent case study see James Ferguson, *The Anti-Politics Machine: "Development," Depoliticization and Bureaucratic Power in Lesotho*, New York: Cambridge University Press (1994).

10. Robert D. Putnam, *Making Democracy Work, Civic Traditions in Modern Italy*, Princeton: Princeton University Press (1993).

11. Theda Skocpol and Morris P. Fiorina, eds., *Civic Engagement in American Democracy*, Washington, DC: Brookings Institution Press (1999).

12. Peter Evans, "Government Action, Social Capital and Development: Reviewing the Evidence on Synergy," *World Development*, vol. 24, no. 6 (1996), pp. 1119–32.

13. Joshua Cohen and Joel Rogers, *Associations and Democracy*, New York and London: Verso (1995).

14. Drèze and Sen, *India*.

15. Patrick Heller, *The Labor of Development: Workers in the Transformation of Capitalism in Kerala, India*, Ithaca: Cornell University Press (1999).

16. Chalmers *et al.*, "The Associative Network: Emerging Patterns of Popular Representation," in Douglas Chalmers, Carlos M. Vilas, and Katherine Roberts Hite, eds., *The New Politics of Inequality in Latin America*, New York: Oxford University Press (1997).

17. T.M. Thomas Isaac, *The Socio-Economic and Political Context of People's Planning Campaign*, National Workshop on Decentralised Governance, Organised by Kerala Institute of Local Administration and Swiss Agency for Development and Co-operation, Thrissur (1999a); Andrew Szasz, "Progress through Mischief: The Social Movement Alternative to Secondary Associations," in Erik O. Wright, ed., *Associations and Democracy*, London: Verso (1995).

18. Introduction to this volume.

19. A variety of factors contributed to CPM's defeat despite the People's Campaign. There was a consolidation of all casteist and communal groups and parties around the Congress Party-led opposition. The organizational problems within the Left-front including splits in some of its minor constituents also contributed to the electoral setback. The second set of factors are related to the omissions and commissions of the state government including a near paralyzing fiscal crisis of the government on the eve of the elections, a botched reform initiative in education, and a series of high-profile corruption scandals and embarrassing controversies. A third factor was the severe economic crisis that the state economy has been plunged into due to a sharp decline in prices of rubber, coconut, and other commercial crops that are the basis of Kerala's agricultural economy. The collapse of commodity prices was a direct result of trade liberalization and the national government's WTO agreement. The incumbent party in power in Kerala was, however, made to pay the price.

20. Government of India, *Guidelines for the Formulation of District Plans*, New Delhi: Planning Commission (1969); Government of India, *Report of the Working Group on Block Level Planning*, New Delhi: Planning Commission (1978); Government of India, *Report of the Working Group on District Planning*, New Delhi: Planning Commission (1984).

21. Government of India, *Report of the Working Group on District Planning*.

22. Village panchayats have an average population of ten to fifteen thousand and are broken down into ten to twelve wards each represented by a single councilor. In Kerala's highly competitive party system, most panchayats have multiple-party representation.

23. The grama, block, and district levels under the Indian constitution represent a continuous set of structures and are all referred to as panchayats. Municipalities stand alone.

24. At 93 percent, Kerala's literacy rate is almost twice the national average. The information returns of Kerala's high literacy are reflected in the fact that it boasts more daily newspapers (twenty-seven at last count) than any other Indian state, despite being among the smallest.

25. Tabulated from evaluation forms collected from development seminars, 1996.

26. Fung and Wright, Introduction to this volume, pp. 16–18.

27. Introduction to this volume, pp. 16–17.

28. Fung and Wright, Introduction to this volume, p. 27.

29. The Kerala Information Mission has been set up to rectify this situation. The mission's goal is to network the local bodies, train the personnel and generate software for effective plan monitoring and service provisioning by the local bodies. By mid 2001 the Mission plans to have installed a computer in all panchayats with links to all other panchayats and to the State Planning Board.

30. All figures are from the SPB.

31. Fung and Wright, Introduction to this volume, p. 25.

32. A number of steps have been initiated to strengthen the grama sabhas. The minimum number of legally required grama sabhas meetings in a year has been raised from two to four. The quorum has also been raised from fifty to a hundred or 10 percent of the voters. An official coordinator for each grama sabha is now appointed and made responsible for keeping records.

33. T.M. Thomas Isaac, "Janakeeyasoothranavum Ayalkoottangalum – Anubhavangalum Padangalum" [People's Planning and Neighbourhood groups – Lessons from Experience], in *Ayalkootta Sangamam* [Neighborhood Groups] vol. I, Kerala State Planning Board, Thiruvananthapuram (1999c).

34. T.N. Seema and Vanitha Mukherjee, "Gender Governance and Citizenship in Decentralized Planning," paper presented at the International Conference on Democratic Decentralization, Thiruvananthapuram, May 23–27, 2000; B. Manjula, "Voices from the Spiral of Silence: A Case Study of Samatha Self-Help Groups of Ulloor," paper presented at the International Conference on Democratic Decentralization, Thiruvananthapuram, May 23–27, 2000.

35. T.M. Thomas Isaac, "Gunabhokthra Samithikalude Anubhava Padangal" [People's Planning and Beneficiary Committees – Lessons from Experience], in *Gunabhokthra Samithikalum Janakeeyasoothranavum* [People's Planning and Beneficiary Committees] Kerala State Planning Board, Thiruvananthapuram (1999d).

36. The reforms include new standards of transparency, a new training program and the creation of a Technical Audit Team.

37. T.M. Thomas Isaac *et al.*, "Gender and Decentralised Planning – The Experience of People's Campaign" (unpublished working paper), Center for Development Studies, Thiruvananthapuram (1999).

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# Deliberative Democracy, Chicago Style: Grass-roots Governance in Policing and Public Education \*

*Archon Fung\*\**

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## I The Emergence of Accountable Autonomy

The city of Chicago hardly seems fertile ground for deliberative democratic institutions to take root and bear fruit. Although its history and environs have many contradictory strands – a tradition of machine politics, insular administrative bureaucracies installed in reaction to political manipulations, a vibrant tradition of neighborhood activism, and an extreme socio-economic inequality typical of urban areas in the United States – none is particularly friendly to a politics of fairness and reason.<sup>1</sup>

It is altogether surprising, then, that two recent institutional reforms have remade Chicago's public school and police systems into the most formally participatory and deliberative departments of their kind in the United States. Consider the basic features of these organizations. The Chicago Public Schools (CPS) consists of some 540 elementary schools and high schools. Since 1988, each of these has been governed by its own elected Local School Council (LSC). LSCs are elected every two years. Each consists of six parents, two community representatives, two teachers, the school's principal, and an additional non-voting student for high schools. They enjoy substantial powers and responsibilities such as hiring and firing principals of their schools, spending discretionary funds, and developing and implementing strategic plans for school improvement that address issues such as curriculum, instruction, physical design, and administrative operation. While individual schools thus gain wide latitude in determining their own affairs, they are by no means isolated from the larger city-wide

system. District offices and city headquarters at the Chicago Board of Education support the governance and improvement efforts of individual schools by training LSC members and others in, for example, techniques of principal selection, school budgeting, curriculum design, and strategic planning. They also hold individual schools accountable for producing good educational outcomes first by monitoring performance across schools and then by making the system more transparent. The Board publicizes various dimensions of school operations such as test scores, student-body demographics, funding levels, and attendance and graduation rates. Schools that perform poorly are subject to disciplinary mechanisms such as increased scrutiny, active intervention to modify sub-par elements of a school's plan or its personnel, or complete "reconstitution" and receivership for cases of extreme failure.

The Chicago Police Department (CPD) implemented an architecturally similar reform in 1995. Disillusioned with the evident failure of classic policing strategies, the Department embarked on a major reorganization designed to encourage officers to actively identify and address sources of crime and disorder in their patrol areas. Unlike most other American cities that embraced problem-oriented policing,<sup>2</sup> however, the CPD reforms presumed that problem-solving efforts would work best with deep citizen involvement. On this view, residents often possess superior knowledge of problems in their neighborhoods and might have different priorities even when both were equally well informed. Therefore police-resident partnerships might better identify and act upon critical problems than police acting alone. Partnerships might also be more effective because police and neighborhood residents have different capacities and resources. Finally, more than a few public safety and police-reform activists thought that bringing citizens closer to sworn officers would enable them to monitor police activities better and hold the police more accountable for doing their jobs.

These sentiments were institutionalized into a distinctive form of community policing that, like the LSC reforms, creates a kind of neighborhood governance over public safety measures. Now, in each of Chicago's 279 police beats, patrol officers and their sergeants meet regularly with residents to identify which public safety problems (e.g. a crack house) constitute the neighborhood's most urgent priorities, to develop strategies involving both police and civilian action to deal with those problems, to report back on the emergence of new problems and the success or failure of past strategies, and to develop new approaches if initial plans prove disappointing. Like the LSC reforms, neighborhood residents and officers do not operate autonomously from

higher, more central authorities or broader publics. Departments in the Mayor's Office and CPD provide training to both police and residents in the procedures and techniques of successful problem-solving and also deploy community organizers to mobilize resident participation in the ongoing effort. These teams must also document their problem-solving activities and outcomes for review by managers and supervisors.<sup>3</sup>

This chapter attempts to understand the form, potential, and implications of these reforms for the values of empowered deliberation. It does so by casting their deep structure as one of *accountable autonomy*. Though the parts of this term may seem to be in tension, the following analysis will show that either alone is insufficient and that together they offer a deliberative institutional form that can generate fair and effective public outcomes.

In Chicago LSCs and beat meetings, groups of citizens and street-level public servants (teachers, principals, and police officers) are autonomous in the sense that they set and implement, through deliberative processes, specific ends and means toward broad public aims such as school improvement and public safety. In contrast with command-and-control arrangements under which these public servants would follow the instructions of superiors, this autonomy affords greater voice to citizen-users, perhaps deploys more information in problem-solving, and allows those closest to concrete public problems to innovate and utilize their ingenuity.

Many theorists and political observers have correctly warned of localism's dangers. Foremost among these dangers are domination or capture by powerful factions or persons in small groups, the paralysis of local groups due to conflictual deadlock, and their lack of capacity and sophistication.<sup>4</sup> Circumstances of pervasive inequality and conflict, describing many Chicago neighborhoods, further compound these difficulties. These problems might well overwhelm the benefits to autonomy understood as pure neighborhood decentralization. The Chicago reforms, however, do not leave neighborhoods to their own devices. As mentioned, the central offices of the CPS and CPD support local actors by providing training, resources, and various kinds of coordination. When effective action requires these additional capacities, external supports enhance local autonomy. More importantly, central managers also monitor the deliberative processes and performance outcomes of local groups. When they detect shortfalls in local process or performance, they can intervene and even apply sanctions. Thus neighborhoods are subject to mechanisms of accountability that attempt both to check the tendencies of autonomy to degenerate into

license and to assure that limited devolution advances broader public ends.

This structure of accountable autonomy, however, is an ideal type that the Chicago reforms only approximate imperfectly. The experience there falls short of the promise of empowered participatory governance. While some beats and school councils draw substantial citizen engagement, others elicit little. Some groups have coalesced into deliberative, effective, and innovative partnerships between residents and street-level bureaucrats, while others have degenerated into conflict or inactivity. Centralized efforts to find and bolster flagging local efforts often succeed admirably, but these interventions are sometimes as problematic as the situations they attempt to rectify. Throughout, both the CPD and CPS have thus far failed to leverage local innovations into broader improvements through the diffusion of “best practices.” Though a few official programs and informal efforts at this kind of learning have taken place, the efforts are neither widespread nor systematic.

Nevertheless, these Chicago experiences provide opportunities to interrogate the theory, practice, and promise of Empowered Participatory Governance. Conceptually, the institutional architecture is a touchstone from which to generate a grounded account of *practical* deliberation that has been for the most part ignored in the abstractions of contemporary political theorists of deliberation. Empirically, the Chicago experiments provide a rich opportunity to examine how one variant of deliberative democracy plays out under quite diverse urban conditions. The harsh political and socio-economic climate in which these institutions operate also throws several pitfalls of deliberative democracy into sharp relief.

Part II begins this exploration by describing the neighborhood foundations of accountable autonomy in the Chicago reforms. Part III then shows how central authorities in the CPS and CPD have partially reinvented themselves to support, monitor, and discipline decentralized deliberations to both bolster autonomy and provide accountability. Part IV describes levels and biases of participation in the Chicago experience thus far. Part V uses two neighborhood-level case studies to illustrate the vulnerabilities and benefits of accountable autonomy. Part VI concludes by reflecting upon two critical, but still very open, questions: the effectiveness of this reform strategy compared to conventional alternatives and its political stability.

## II Participatory Devolution: the Kernel of Autonomy

Far from being the result of masterful design, these institutions arose haphazardly – themselves the result of fitful informal deliberations – as reformers inside city offices and activists outside them groped toward more effective ways of organizing their police departments and schools. This process began in the late 1980s, when both agencies came under mounting criticism for their ineffectiveness and unresponsiveness. Though the CPD and CPS had withstood many such attacks throughout their histories without fundamental reorganization, this round of skirmishes was different. Conservative forces failed to rebuff demands for change, and consequently the agencies – though independently and through very different paths – were deeply reconfigured. Both moved decisively away from centralized command by devolving authority to school staffs, parents, police beat officers, and neighborhood residents.

In the Chicago schools, reform resulted from a pitched battle that pitted a diverse social movement – composed of parent organizations, “good government” civic groups, educational reform activists, and a coalition of business groups – against traditional school insiders such as the Chicago Teacher’s Union and the Board of Education. Two proximate events – media fallout from a blistering 1987 evaluation in which then Secretary of Education William Bennett called Chicago’s school system “the worst in the nation” and a grinding teachers’ strike that delayed the opening of classes for four weeks – crystallized long-standing sentiments against the CPS into concrete and well-supported proposals for reform.<sup>5</sup> Though they varied in their particulars, most reformers blamed the large organizations that traditionally controlled the Chicago schools – the Board and the Union – for poor school performance. The old guard seemed beyond the pale of reform: so long as they controlled the schools, reformers thought, the system would remain among the nation’s worst.

Education reformers eventually took their battle to the Illinois Assembly in Springfield, and there won a decisive victory. For better or worse, reformers got almost everything they asked for when the Assembly passed the 1988 Chicago School Reform Act. The law created the decentralized school governance arrangements described above. These bodies enjoy considerable powers. LSCs are responsible for hiring, firing, evaluating, and determining the job definitions of the principals of each school. They also approve school budgets. LSCs also develop a required document called the School Improvement Plan. Improvement plans are three-year, long-term plans that articulate

improvement goals (attendance, graduation rates, achievement levels, school environment) and steps necessary to reach those goals for each school. The principal has primary responsibility for implementing the plan, while the council is charged with monitoring its progress. Finally, reform legislation shifted control of “Chapter 1” funds, discretionary state monies allocated to schools on the basis of economic disadvantage, to LSCs. This reform package made CPS the most decentralized and participatory urban educational system in the United States.

Through a very different path, the Chicago Police Department recently adopted strikingly similar organizational reforms under its “Chicago Alternative Policing Strategy.” At the end of the 1980s, police forces and chiefs in many U.S. cities were engaged in self-reflective doubt about whether their two traditional methods – preventative patrols that demonstrate presence through marked vehicles and rapid response to “911” calls for emergency service – could address the diverse and severe crime and disorder problems they faced.<sup>6</sup> Typically, the reforms they proposed fell under the broad rubric of “community policing.” They called for officers to use their initiative and ingenuity to tackle particular problems of crime and disorder, and for them to operate closer to citizens and sometimes to build partnerships with community groups. In Chicago, two extradepartmental forces supplemented these professional internal impulses and shaped the eventual course of reform.

Leaders from a sophisticated city-wide public safety organization called the Chicago Alliance for Neighborhood Safety had used their policy expertise and position as a community voice to advance a community-centered vision of community policing. From the Alliance’s perspective, based upon its experience as advocate, police policy analyst, watchdog, and neighborhood organizing entity, other cities had largely excluded citizens from their reforms, and so they amounted more to policing of the community than in partnership with it. Alliance activists thought that citizens ought to be full partners in community policing because they could provide important local knowledge, generate distinctive resources, and, most importantly, monitor police officers and hold them accountable. The second important force was City Hall. Mayor Richard M. Daley and his staff seized on community policing as a good government issue to demonstrate the city’s innovative spirit and commitment to fighting crime. Interest from the Mayor’s Office increased the pace of community policing reform.

Without the street heat and legislative pressure that drove school reform, these discussions at the intersection of professional, political, and civic interests led quietly to the formulation of a participatory

variant of community policing that was piloted in five of the city's twenty-five police districts beginning in 1993 and then expanded to the entire city in 1995. Its basic outlines resemble the central features of the 1988 school devolution. Recognizing the need to address situated issues with focussed and contextualized attention, police officers were organized into some 279 neighborhood-sized "beat teams" that would, in addition to their ordinary patrol and response duties, familiarize themselves with specific neighborhoods and their idiosyncratic problems. Presuming that neighborhood residents possessed detailed knowledge of these problems, resources for addressing them, and strong motivations to do so, the reform created channels for resident participation. Specifically, open "community beat meetings" would be held in each beat every month for the officers serving that area and its residents to jointly engage in problem identification and resolution efforts.

Thus the CPS and CPD both reorganized themselves through radically devolutionary measures that set in place three central planks of participatory local autonomy in police and school governance.

First, the reforms created opportunities for ordinary citizens to participate continuously and directly in the micro-governance of two important institutions of urban life: schools and police. Parents and community members who desire formal authority and are willing to devote substantial energies to school governance can run for election to one of the six parent or two community seats on each school's LSC. Those with less intense interests can attend and voice their views at their LSC's regular, typically monthly, meetings. By contrast, the community policing program has no formal governance councils. Instead, it requires police officers in each beat to attend open meetings (usually held monthly) with residents to engage in joint problem-solving on neighborhood issues of crime and disorder. Before these reforms, residents relied upon attenuated, less regular, and undoubtedly less effective methods to influence the decisions of these local institutions such as voting for their city council representative, contacting their offices about specific concerns and relying on the efficacy of subsequent constituent service efforts, or directly contacting police or school officials to lodge complaints or raise suggestions. These channels of participation increase citizens' and officials' knowledge of each other and allow citizens to hold officials accountable through continuous scrutiny of their priorities and actions.

Second, participation under this devolution instituted deliberative

decision procedures. In most forms of political action, such as aldermanic elections and informal contacting, citizens express their preferences for this policy or that candidate or occasionally register a complaint. In LSC governance, by contrast, deliberation occurs in the process of constructing, approving, and implementing school improvement plans. Under the 1988 legislation, each LSC is required periodically to submit a plan that lays out their three-year goals and steps to achieve them. Those involved – usually led by the principal but drawn from a school’s staff and parental and community ranks – first develop an educational vision or mission statement for the school, analyze their present strengths and weaknesses, then construct curricular, instructional capacity, and physical plant strategies to advance their mission statement, and finally allocate staff and financial resources to implement and monitor the progress of those strategies. The outcomes then feed back into subsequent LSC deliberations and plan revisions.

Deliberation in community policing beat meetings is structured according to a similar problem-solving process. Police and residents begin by using a “brainstorming” process to generate a comprehensive list of crime and safety problems in their neighborhood. They then agree to focus on two or three listed items as priority issues, then pool information and perspectives to develop analyses of these problems. From these analyses, they construct strategies and a division of labor to implement these strategies. The success of the strategies is assessed in subsequent meetings. Groups typically try to develop additional strategies to address stubborn problems or take on new problems after resolving old ones. This short feedback loop between planning, implementation, and assessment increases both the practical capabilities and the problem-solving success of residents and police officers in each beat.

Third, these devolutions establish an element of empowerment: the expectation that citizens’ participation and deliberation will directly affect public action. Ordinary channels of political influence and public discussion are less empowered in this regard. When one participates in deliberation in the public sphere of mass media as a spectator or even as an author, votes for a candidate to represent one’s views, or even serves on advisory committees, there is but a thin connection between one’s views and official actions. In such processes, a citizen’s views must be aggregated with those of many other voters, weakened by considering them across multiple-issue spaces, filtered up through the ranks of political representation, and then once again diluted by administrative discretion as interpreted down the chain of bureaucratic command. The Chicago reforms increase citizen power over public affairs in at

least two dimensions. First, since citizens join with “street-level” public officials such as teachers, principals, and police officers to analyze localized problems and develop plans to respond to them, citizens expect their input to shape directly the subsequent official priorities and actions. Second, even if particular contributions are not incorporated into interim plans, they will at least have been publicly considered against other proposals and reasons.

### **III A New Center: Building Capacity and Imposing Accountability**

Compared to hierarchical bureaucratic forms, these devolutions in police and school organization increase the scope for citizen participation and deliberation. From their inception, however, even reformers who viewed bureaucracies as hopelessly ineffective and unresponsive recognized the dangers inherent in decentralization and sought to remake central authority to mitigate them. Additional early experience with these new institutions of neighborhood governance revealed more pitfalls that in turn required further reconfiguration of administrative centers to support their action units in the neighborhoods. Building on this insight, the CPS and CPD central offices have moved away from attempting to direct local level operations to supporting and monitoring the self-directed governance efforts of their neighborhood units. Accountable autonomy requires that the center both support the capacity of schools and beats to act autonomously through various supports and hold them accountable through monitoring, sanctioning, and intervention.

#### **Support: Training, Mobilization, and Institutional Intervention**

From the outset, advocates of police and school decentralization recognized that many citizens would find constructive engagement with professionals difficult. They therefore urged that training programs be developed and provided on a city-wide basis. As it turned out, professionals would undergo exactly the same training as lay citizens, for the difficulties associated with deliberative problem-solving were new to both. Since there was no body of off-the-shelf expertise or experts in deliberative local governance, training was necessarily a bootstrapping process. In community policing, activists and officers from the police academy developed a group problem-solving method and hands-on curriculum based on their early experiences with informal

community-police partnerships. Under a US\$2.9 million contract, the city hired the Chicago Alliance for Neighborhood Safety to teach this curriculum to residents and officers. The Alliance dispatched teams of community organizers, civilian trainers, and experienced police officers to each of the city's beats.<sup>7</sup> Over the three or four months that they spent in each beat, teams taught deliberative problem-solving by leading residents and beat officers through practical reasoning processes. By the end of the period, residents had learned the process by applying it themselves. In many cases, they could see progress on a real-world problem that they had selected as part of the training exercise. In the two years of the Joint Community-Police Training Project, organizers estimate that they trained some twelve thousand residents and several hundred police officers. In a move that was controversial because this effort was generally regarded as successful, the city terminated the Alliance contract in 1997 in favor of conducting training and mobilization activities from within city departments.

School reformers also saw that LSC members might be initially bewildered by their new governance duties, and so developed their own series of training programs. During the first few years, groups within the CPS and non-profit community organizations like the Chicago Association of Local School Councils and the Beverly Improvement Association provided training on an ad hoc basis to schools and LSC members who sought it out. In response to the perception that many LSCs were failing, the Illinois legislature in 1995 passed a second major school reform law, this one focussed on school accountability. One of its provisions was that all new LSC members must undergo three days, or eighteen hours, of training or be removed from office. Training focussed on basic school governance issues such as principal selection and contract terms, school budgeting, LSC member responsibilities, teamwork, and school improvement planning. This program resembled community policing efforts in that training was centrally coordinated by a University of Illinois group, but was initially provided by experienced practitioners from community and school reform organizations as well as school system employees. Like the policing training program, the CPS brought the program in-house in 1998, preventing outside, mostly community-based, organizations from providing basic training.<sup>8</sup>

Just as the creation of opportunities for direct self-governance does not imply that citizens will possess capacities necessary to utilize them, neither does it mean that they will actually participate. Some may not know about the opportunities, others may know but not care to join. In a second area of support, then, centralized efforts also attempted to

boost awareness and participation in deliberative governance. Community policing outreach has employed both mass media and community organizing techniques. Between 1997 and 2000, the city spent US\$1.6 million annually on media efforts to advertise and educate residents about participation opportunities in community policing.<sup>9</sup> Partially as a result of these television and radio spots, billboards, and a weekly cable television program called *Crime Watch*, approximately 79 percent of Chicago's adults knew about the program in 1998.<sup>10</sup> These efforts have been supplemented by time-tested community organizing methods. First provided as part of the training program and then later managed from the Mayor's Office, the program deployed between thirty and sixty community organizers that publicized beat meetings and partnership possibilities by visiting churches, neighborhood associations, and individual residences.

In contrast to continuous outreach in community policing, mobilization for local school governance has focussed on the biannual LSC elections and been funded primarily through private sources rather than from city coffers. In the first year of elections, 1989, charitable foundations donated some US\$750,000 to community organizations to recruit LSC candidates. But this sum dropped to US\$318,000 and US\$215,000 for the 1991 and 1993 elections respectively.<sup>11</sup> In 1996, community organizations received only US\$216,000 in private donations to recruit and train LSC candidates.<sup>12</sup> Though causality is of course difficult to establish, many associate declines in both the number of LSC candidates and voter turnout (discussed below) to this decrease in funding for outreach.

Central authorities can also help local units through institutional interventions that make the external legal, political, and administrative environment more conducive to local deliberative problem-solving. Local experience often reveals the most urgent and fruitful subjects for centralized intervention. Many LSCs proposed restructuring their school day to allow more time for teachers to collaborate and plan classes. The collective bargaining agreement between the CTU and Board of Education, however, established precise work rules that prohibited local modification. In the next round of negotiations, the Board performed its facilitative role by building into the collective agreement a waiver option through which schools could modify the work day if their teachers supported the alterations.

In another example, community policing groups often faced the drug houses that had become foci of street violence and other disturbances. Although acting separately, dozens of police-resident groups converged upon a workable strategy. Residents would try to persuade a

landlord to clean up his property by evicting tenants who dealt drugs, by reporting criminal activity on the property to police, by screening out potentially problematic tenants, and by upgrading the property's condition. If a landlord responded to these entreaties, his cooperation with residents might eliminate the problem. If the landlord refused to cooperate, residents would begin to build a legal case that could be used in housing court to seize the property and thereby eliminate the drug house. The Illinois nuisance abatement law was an important instrument in this strategy. According to that statute, a court may act against a drug house by "restraining all persons . . . from using the building for a period of one year" if it establishes that "nuisance was maintained with the intentional, knowing, reckless or negligent permission of the owner."<sup>13</sup>

Officials in the police department and Mayor's Office took note of this strategy and secured two institutional changes that increased its effectiveness. First, a 1996 city ordinance enacted a stricter version of the Illinois nuisance abatement law.<sup>14</sup> This ordinance imposed the burden of monitoring illegal activities on the property owner and created a fine for allowing a nuisance to occur. Furthermore, whereas the Illinois law requires the illegal activity to occur inside the premises,<sup>15</sup> the new law only requires a geographic nexus between the problem property and the nuisance.

Second, the city's Law Department created a Drug and Gang House Enforcement Section that helped community policing groups utilize this law. They send staff lawyers to community beat meetings to provide expertise in the formulation and implementation of problem-solving strategies.<sup>16</sup> If residents identify a drug house as a priority problem, the lawyer will deploy the Law Department's resources to help them. According to the Section's supervising attorney, the office uses the strategy of persuading first and prosecuting second described above, but now backed by the power of the city.<sup>17</sup> They first send city inspectors to document all code violations in addition to the nuisance. They then invite the landlord to a meeting whose goal is to secure voluntary compliance with the law. If the landlord does not respond to an initial letter, rejects voluntary compliance, or does not show up to the meeting, corporation council pursues measures in administrative court. It asks for fines, and then for criminal contempt charges that can result in 180 days' imprisonment. These two background measures, then, increase the autonomy of beat groups by using state power to strengthen strategies invented by communities themselves.

**Accountability: Monitoring, Adjudicating, Intervening, and Learning**

Beyond providing these supports, central authorities can also enhance the public accountability and deliberative quality of police and school governance by monitoring, publicizing, and, when necessary, intervening in local activities. Though this design of democracy gives local schools and neighborhood beats power to construct their own plans of action, it does not grant license to refuse to plan either by unreflectively continuing old habits or by doing nothing at all. Due to capriciousness or incapacity, the processes of some local units may unfairly exclude some citizens, be controlled by powerful and self-interested local individuals, or fail to address priority problems. Local units subject to these various kinds of “deliberative breakdown” will be often unable to restore the integrity of their internal democratic process. It falls to centralized powers to ensure that local actors are deliberating effectively by constructing appropriate incentives and monitoring routines.

To assure that localities fulfill their minimal obligation to engage in structured problem-solving, both the CPS and CPD require LSCs and beat groups respectively to document their deliberative processes and consequent actions. As mentioned above, each LSC must prepare and submit annual school improvement plans that follow uniform CPS guidelines that prescribe the form, but not the content, of their deliberations. Similarly, community policing groups must submit both long-term and monthly reports to document their deliberations and strategies. The officers in each beat, frequently working with residents, must prepare detailed reports called beat profiles that describe available resources, local institutions, demographics, and persistent problems. In addition to this baseline information, they must document their problem-solving deliberations, including descriptions of priority targets, strategies to address them, justifications of those strategies, actions taken, and observable results for their district supervisors in “beat plans.” Both the CPS and CPD supervisors review school improvement and beat plans and return facially unsatisfactory plans – e.g. those with missing plan elements – to local actors to help assure that the stages of structured deliberation have been followed.

Such reporting offers a basic but imperfect indicator of the quality of deliberation. Two additional methods offer more accurate assessments: inspection and complaint. Inspectors from central offices visit local units both to learn from those that seem most inventive and to identify those that are performing poorly. The CPS plans to establish a quality assurance agency that dispatches teams of educational experts – including consultants, master teachers and principals, and agency officials –

to individual schools. Over the course of several days, the review team would observe classes, interview staff and students, and review planning documents in order to develop performance assessments.<sup>18</sup> The CPD has instituted a more hierarchical process in which top staff under the police superintendent meet with each of the twenty-five district commanders to review local police performance. District commanders report on the activities of their individual beats, and in particular on whether they have developed and implemented beat-level problem-solving effectively.

But such inspections are costly and difficult to execute. Passive means that rely upon citizen complaints can also detect procedural breakdowns. When participants to local deliberation notice violations of deliberative norms (for example principals who disregard parent input or police officers who refuse to implement actions set out in beat plans), they can lodge complaints with higher authorities (such as district commanders or regional school staff). Ideally, these complaints would then trigger active official scrutiny, and if necessary direct intervention. Though this dynamic occurs informally, on an ad hoc basis, neither the CPS nor CPD has implemented official citizen complaint systems and procedures.

Other measures also attempt to assess the outcomes of local problem-solving. Centralized performance evaluation provides important tools both for external supervision and local intervention. In formulating their school plans, for example, LSC members often use trends in standardized test scores to identify weak instructional or curricular areas. By comparing their methods with those of similarly situated but better-performing schools, LSCs sometimes discover promising school improvement strategies. Careful monitoring of outcomes can also alert central authorities to laggards that deserve disciplinary intervention and leaders that merit praise.

Developing and applying outcome measures that can realize the potential benefits of monitoring is, however, no simple matter. The difficulty lies in constructing measures that accurately reflect the impact of local strategies but that do not punish schools for conditions beyond their control. Though current tools fall short in this regard, both the CPS and CPD leaderships seem satisfied with traditional metrics such as standardized test scores and crime rates. Status quo metrics may enjoy favor because they are familiar and seem objective. The primary tool to assess student achievement in math, reading, writing, science, and social studies in Chicago, for example, is the Iowa Test of Basic Skills (ITBS) which has been published continuously since 1942 and is used by school districts across the nation. Similarly, crime statistics for

the city of Chicago have been gathered at both the municipal and federal level (by the FBI Uniform Crime Reports) for more than fifty years and reflect obvious dimensions of public safety such as murder, rape, robbery, and assault. Altering these metrics would require new administrative machinery and probably spark intense political conflict akin to the current battles over standardized testing.<sup>19</sup>

Nevertheless, some reformers have offered performance metrics that are useful not only for comparing and assessing general conditions, but also potentially for judging and improving the success of local governance efforts. Education researchers at the Consortium on Chicago School Research have developed a metric to measure the productivity of a school, or grade within a school, that attempts to capture academic gains that result from programming.<sup>20</sup> They propose the following two-step method of calculating the productivity of a grade within a single school. First, consider only the subset of children who attended that grade for the entire year. Second, subtract the scores of that subset for a test administered at the beginning of the year from year-end test scores. This method discounts students who attend classes for only part of the year. It also controls for differences in the preparation of students before their enrollment in a grade. Annual productivity gains (or losses) that result from school-specific factors can then be measured by subtracting a school's productivity in one year from that of the preceding year. Such a system allows central office administrators, LSC members, and the public at large to more accurately gauge school governance efforts.

Generally, the construction and application of performance metrics, like the practices whose performance is measured, is a complex matter that itself ought to be the subject of participatory deliberation and open-minded transformation. Venerable metrics like test scores and crime rates were designed to track broad changes in the academic abilities of students and safety of neighborhoods. They may perform reasonably in that regard, though many doubt even that. However, they were not designed, and are much too crude, to determine which particular educational or policing activities are more effective than others. Incremental steps, like the school productivity measures developed by the Chicago Consortium, seem to offer straightforward gains. But even these ought to be viewed as the beginning of a deliberative process to develop ever more useful metrics for assessing and thus enhancing school improvement and problem-solving strategies.

Central authorities can use existing or improved metrics as tools of accountability to identify local bodies that are laggards or leaders in deliberative governance. They can intervene to improve the performance of laggards through support or discipline. Conversely, they can

publicize leaders, study their sources of success, and reward them as incentives to spur groups. The CPS and, to a lesser extent, the CPD central offices have begun to implement comparative programs of this kind. In 1995, a series of reforms led from the center by Mayor Daley and his long-time associate and newly appointed CEO of Schools, Paul Vallas, sought to increase LSC and school accountability by disciplining laggards.<sup>21</sup> One of its central provisions created an “academic probation” status that marked schools in which less than 15 percent of the students score at or above national norms on standardized reading tests. This program placed 109 schools on academic probation status – designating them for centralized assistance and scrutiny – in 1996, its first year of operation.

Far from re-establishing centralized direction over these schools, the probation program attempted to improve the quality of each school’s deliberative planning and problem-solving processes. First, the center provided additional educational resources by requiring each school to form a partnership with outside educational experts in the private or university sector. Second, they dispatched an intervention team, led by a probation manager assigned to the school, to work with staff and parents to review and improve their school improvement plan by conducting an external review, use that report as the basis of LSC discussions to develop a Corrective Action Plan, and incorporate changes into successive improvement plans. Finally, the Office of Accountability assigned a probation manager to monitor implementation of the new plan. Though the program has been in operation only a short time, experience so far suggests that staff and parents at probation schools, while at first wary of heavy-handed CPS intervention, have generally experienced the program as a sometimes painful, but collaborative and essentially self-directed, project in enhancing their own capabilities.<sup>22</sup>

The center–locality collaboration in Chicago’s community policing and school governance reforms differs from devolution in several ways. First, the current institutional structure is neither centralized nor decentralized. Although local officials and ordinary citizens enjoy much more power and voice than under the previous, more top-down, arrangements, they remain dependent on central offices for various kinds of support and accountable to those offices for both process integrity and performance outcomes. Second, the role of central power shifts fundamentally from that of directing local units (in the previous, hierarchical system) to that of *supporting* local units in their own problem-solving endeavors and *holding them accountable* to the norms

of deliberation and achievement of demanding but feasible public outcomes. Third, support and accountability from the center advance the three democratic goals of participation, deliberation, and empowerment that justify local autonomy in the first place. Each of these central functions involves complex dilemmas with no obvious solutions. Therefore the same principles that motivate the deliberative transformation of school and police governance also apply to the design of the central institutions. Even when practices like standardized testing are entrenched and enjoy wide support, alternatives might do better. Since the advantages of competing proposals are difficult to assess a priori (e.g. should support services be provided by a city agency or community-based organizations?), institutions should open spaces for competing proposals rather than advancing only the most politically expedient or administratively convenient proposal. Centralized interventions, themselves formulated through deliberation, could then further enhance the deliberative, participatory, and empowered character of otherwise isolated local actors. Although neither the CPS nor CPD has achieved such a fully deliberative transformation, many essential elements are in place in both these institutions.

We turn now to the performance of these institutions in light of general concerns about the demands and potential pathologies of empowered participatory governance.<sup>23</sup>

#### IV Who Participates?

These reforms aim to involve citizens more intensively in decision-making areas from which they were previously excluded. The first operational question, therefore, is who, if anyone, utilizes these new forms? Since participation in these local bodies requires much more time, knowledge, and energy from citizens than voting or contacting officials, engagement levels may be so low that school officials and police officers end up deliberating with one another rather than with those they serve. Since those who have less generally participate less,<sup>24</sup> this concern is especially pressing in poor neighborhoods. Relatedly, biases in participation may amount even to systematic exclusion.

This section examines levels of and socio-economic biases in participation. It then reflects on the implications of this dimension of the Chicago reform experience for empowered participatory governance.

### Overall Participation

To answer the question of how many citizens participate in Chicago's deliberative governance institutions, we rely on official CPS election statistics and beat meeting attendance records gathered by CPD beat officers and compiled by researchers at the Institute for Policy Research at Northwestern University. These records show that community policing and school governance exhibit a similar pattern of aggregate participation: generally, a community beat or LSC meeting draws between ten and twenty participants. The regular participants in LSC meetings are the elected representatives themselves, but meetings also draw interested parents or community members with no official position. Community policing offers no formal positions for residents and so attendance is always fully voluntary.

Beat meeting participation data shows that, on average, between five and six thousand residents attend beat meetings each month.<sup>25</sup> Since there are 279 beats and most meet monthly, between seventeen and twenty-one residents generally attend each meeting in addition to five or six beat officers. This number, while a small percentage of the four to six thousand adults who live typically in a beat, is more than enough for problem-solving planning and implementation. Although this structure of community beat meetings has existed only since 1995 and so trajectories are difficult to discern, there seems to be a slight upward trend in meeting attendance. This trend offers some preliminary evidence against the concern that the demands of participatory democracy may result in civic exhaustion and declining rates of participation.<sup>26</sup>

Participation in school governance exhibits comparable levels.<sup>27</sup> In terms of both candidacy and turnout, participation was very high in the first year of reform (1989) and then dropped off to a lower, but relatively stable, level in successive elections. In the last three elections, the ratio of candidates to positions has been less than 1.5 in all three categories, which means that more than half of the seats are uncontested. Accordingly, LSC service resembles volunteerism more than competitive selection. Furthermore, since the ratio is substantially greater than unity, few LSCs have empty seats. The number of citizens who actually engage in deliberation is much smaller than the number affected (roughly four thousand residents live in the area served by a school). However, there are usually enough members to engage in school improvement planning. Furthermore, the levels of participation are for the most part stable.

### Socio-Economic Bias

Who are these people who spend precious evenings discussing crime and schooling, and some portion of their days doing what they promised to do in those discussions? Two general patterns emerge in both school and police governance. Surprisingly, those in low-income neighborhoods participate as much or more than people from wealthier ones. Within any given neighborhood, however, the more advantaged – homeowners and those with more income and education – participate at disproportionately greater rates. This pattern confirms the well-grounded intuition that resources and other advantages influence citizens' abilities to participate.<sup>28</sup>

Engagement patterns in community policing are especially striking. There, contravening most empirical social science findings, residents from poor neighborhoods participate at *greater* rates than those from wealthy ones. The best predictor of neighborhood beat meeting attendance rate is the personal crime rate of the neighborhood, which tends to vary inversely with household income.<sup>29</sup> In a regression analysis for predictors of beat meeting attendance rate<sup>30</sup> that includes: (1) the percentage of beat residents that are African-American, (2) percentage Hispanic, (3) percentage of adults that have college degrees, (4) median household income, (5) personal crime rate, and (6) percentage of residences that are owned by their occupants, the only statistically significant factor in this regression – and the one with the most substantial coefficient – is personal crime rate.<sup>31</sup> According to this model, an increase of 40 crimes per 1,000 residents (mean personal crime rate in Chicago was 84 crimes per 1,000 residents in 1996) corresponds to an increase in beat meeting attendance of 8 persons per 10,000 adults, or some 4 persons per meeting in a medium-sized beat. The same predicted increase requires, according to this regression, an increase in neighborhood mean household income of US\$20,000 (almost doubling the average neighborhood median household income of US\$24,000). Interestingly, the effect of percent college educated on beat meeting attendance is small, but in the opposite of the expected direction; the regression model finds that the controlled effect of increasing the number of college graduates in a neighborhood weakly reduces beat meeting attendance.

Although participation patterns in local school council elections have been less well documented and the trends themselves more equivocal, the data also weigh against the expectation that those in less well off areas will also participate less. In their study of the 1991 LSC elections, the non-profit school reform organization Designs for Change

analyzed the number of candidates standing for election to parent seats on local school councils according to student body characteristics of race, income, and ethnicity. They found that an average of nine parental candidates stood for election at any given school and that there was no substantial relationship between levels of parental candidacy and percentage of Hispanic students, or percentage of African-American students.<sup>32</sup> The study also found a slight positive correlation between the percentage of low-income students at a given school and the number of parental candidates standing for election in 1991.

Using data from the 1996 Chicago local school council elections,<sup>33</sup> I independently analyzed the relationships between school-level variables such as school size, percentage of students from low-income families at a particular school,<sup>34</sup> student mobility,<sup>35</sup> percentage of African-American students, and percentage of Hispanic students and two indicators of LSC participation: the number of parental candidates standing for election at each school<sup>36</sup> and the parent turnout at each election.<sup>37</sup> In the regression, only school size bore a statistically significant relationship with the number of parental candidates. In a regression treating parental turnout rate in LSC elections as the dependent variable, poverty, race, mobility, and ethnicity variables were statistically significant. The magnitude of the coefficient on low income is small, but in the expected direction; as the percentage of low income students at a school increases, parent turnout rate declines slightly. An increase of 25 percent in the portion of low-income students at a school corresponds to a decrease of 4.5 percent in the fraction of parents turning out to vote in an LSC election. Similarly, increases in student mobility (and thus decreases in school stability) produce small declines in parental turnout rates. The coefficients on race and ethnicity variables are also small, but in the opposite of the expected directions. Whereas previous studies have found that African-American and people of Hispanic backgrounds are somewhat less likely to vote than others,<sup>38</sup> higher proportions of black and Hispanic students in a school correlated with slightly higher parental turnout rates in the 1996 LSC elections.

While these data show that participation rates compared *across* neighborhoods do not exhibit straightforward biases against the worst off, the same cannot be said for participation patterns considered *within* neighborhoods. Available data suggest that those who serve on local school councils and attend community beat meetings tend to be better off than their neighbors. A survey of all local school council members conducted in 1995 and 1996 reveals that LSC members were substantially better educated and more employed than other adults in

Chicago. Thirty-one percent of LSC members surveyed had a bachelor's degree or higher, compared to only 19 percent of adults in Chicago. Predictably, schools in more wealthy areas had more educated LSC members, but "even in schools with virtually all low-income students, the educational level of LSC members is almost equal to that of the general Chicago population."<sup>39</sup> LSC members are also more likely to hold professional jobs, less likely to occupy unskilled positions or be unemployed, and more likely to be "home with children" than the other adults in Chicago.<sup>40</sup> A similar pattern appears in community beat meeting participation: homeowners and English speakers are more likely to know about beat meetings and attend them than are their less well off neighbors.<sup>41</sup> As with rates of overall participation, these biases sketch an equivocal portrait for the Chicago style of deliberative governance. Contrary to skeptical expectations that reforms demanding active participation will further disadvantage badly off areas, residents of poor neighborhoods participate at rates equal to or greater than those from wealthy ones. Nevertheless, better-off residents are generally disproportionately well represented within neighborhood meetings.

### **How Much Participation is Enough?**

These results lead to no straightforward assessments, either positive or negative, regarding the operations of deliberative democracy as it actually exists in Chicago. On the one hand, the proportion of total adults who participate in these direct governance opportunities is much less than for conventional forms such as voting. If we judge desirability solely on the basis of how many people participate, then these experiments must be regarded as failures compared to voting. If we include additional desiderata – for example citizens' knowledge on issues about which they are asked to express opinions, the impact of those opinions on state action, and finally the effect of state action on social outcomes – then the current levels of participation exceed minima necessary for participatory problem-solving.

The eleven positions of LSCs are filled in the typical school and community policing beat meetings are on average attended by seventeen residents and six police officers. Meetings with much lower (say only two or three people) levels of average attendance would lead correctly to fundamental doubts about the viability of this variant of urban deliberative democracy. Very low participation would demonstrate lack of citizen interest, provide too few heads to generate information and effective solutions, and offer too few bodies to implement any

resulting group decisions. On the other hand, much greater participation also creates difficulties. Neighborhood crises such as drive-by shootings or serial rapes, for example, often draw dozens of additional participants to community policing meetings. When fifty or a hundred people attend, it becomes extremely difficult to conduct structured, much less sustained and inclusive, problem-solving deliberations. If there is a magic number for a group that is small enough so that all of its members can contribute seriously to an ongoing discussion, and yet large enough to offer diverse views and ample energies, it is probably not so far from the actual numbers of people that actually participate in groups constituted by the Chicago reforms.

Whereas voting is an infrequent activity for which there are few repercussions for either not voting or making poor choices, participation in local school councils or community policing groups requires much more knowledge and commitment. In exchange, such participation offers a modicum of real decision power. Only those with an abiding concern in specific issues are likely to join these efforts. If these reforms were expanded to include other public problems such as the environment, social services, or employment – a possibility not developed here – the ideal of participation would not be one in which every citizen deliberates every issue, but in which everyone seriously deliberates something. Current institutional arrangements do not offer such diverse opportunities for empowered discursive engagement.

Patterns of participation with respect to time and socio-economic status also ease some serious concerns about the sustainability and fairness of these intensively deliberative governance institutions. Although both are relatively new, their short track records of eleven years for school governance and five for community policing indicate that participation levels have been for the most part stable. Signs of citizen exhaustion have not surfaced. Regarding fairness, these institutions offer substantial advantages over more familiar forms of political participation – such as voting, contacting officials, and interest-group activism – that display strong biases favoring the better off. Despite this surprising absence of conventional biases, these quantitative characteristics of participation leave many open questions. While enough people participate across many kinds of neighborhood, their actions may not meet the demanding standards of deliberation. They may fall victim to pathologies such as domination, corruption, or incompetence. We turn now to these questions about the structure and quality of participation.

## V Deliberation or Domination? Problem-Solving in Two Neighborhoods

Do the diverse citizens and street-level bureaucrats<sup>42</sup> who join in Chicago school and police governance actually engage in open deliberation and fair exchange about how best to advance public ends? Or are these decision processes more often characterized by the domination of officials over residents, more advantaged citizens over the less well off, or factional paralysis? No study has yet examined all of the beats and schools in Chicago to determine definitively whether these governance transformations have produced substantial domination and corruption. Yet less systematic evidence and observation affords some purchase on this critical set of issues. Except in one or two well-publicized instances,<sup>43</sup> the most blatant forms of theft and fraud have not surfaced in either the community policing or school governance reforms. At the other extreme, no informed observer would argue that school and police governance processes have been fully deliberative or domination-free.

This section offers two accounts of typical conflicts to show how a structure of accountable autonomy that connects central supervisors to locally autonomous groups can set deliberation on track and reap its fruits.<sup>44</sup>

### Deadlock in Central School

Like many schools on the city's South Side, Central Elementary sits in a neighborhood that is 100 percent African-American and very poor. The median household income in 1990 was US\$15,000. In addition to contending with the typical problems of poor inner city neighborhood schools, this one also suffered paralyzing conflicts, stemming from old feuds, among the parents, teachers, and the principal. Many dimensions of the school's operation – including academic performance, discipline, and the condition of the grounds – suffered from the ensuing collective inaction.

The most visible signs of decay came from the building itself. The rooms and halls were ill-kempt and often dark. Though the building was overcrowded, failure to repair water damage rendered three classrooms unusable and so further increased class sizes. Insufficient resources cannot explain away this situation, as similarly funded schools elsewhere had superior physical plants. The school also suffered from chronic truancy rates. In 1996, 6 percent of its students missed more than 10 percent of the school days without excuse.<sup>45</sup> Teachers and other

school staff complained that they were unable to discipline children who attended class. Many classes were loud and unruly, and children often roamed the halls without supervision. Central's students also scored poorly on standardized tests. In 1996, only 14.6 percent of students met or exceeded national reading norms according to the Iowa Test of Basic Skills (ITBS), and only 13.4 percent met or exceeded that test's math norms. By these measures, Central fell within the lowest decile of worst-performing Chicago schools in math and reading.

These difficulties were compounded, and in some measure caused, by bitter political conflict within the school. In 1994, the LSC faced the difficult choice of selecting a new principal. Like some University tenure decisions, discussions were heated and some say duplicitous. Years afterward, the parties to school governance – active parents, community members, teachers, and the principal herself – were still divided along the factions that formed during the principal selection decision. To some extent, these rifts reproduced themselves as older participants transmitted their biases to newer ones. However, many of those who joined in the 1994 decision were still active and bore hard feelings over the conflict. As a consequence, the energies of the LSC between 1994 and 1996 were consumed with bureaucratic infighting and attempts by all sides to build complex alliances. The principal sided with one section of the parent representatives against a stable section of community representatives who were joined by parts of the school staff and other parents. These conflicts destroyed staff morale and paralyzed school governance.

Poor student test performance triggered an accountability mechanism called probation whereby the CPS dispatched an expert “intervention team.” Many at the school feared that these central office administrators would take back much of the autonomy given to its LSC under the 1988 law. To the surprise of LSC members, the next few months did not require them to give up power to external authorities. Instead, the probation team forced LSC members and others in the school community to break through their entrenched lines of conflict into more serious deliberations about strategies that might improve the school.

The intervention team conducted a review of the school that pointed out problems such as: LSC budgeting decisions, lack of teacher monitoring, ineffective use of school staff, poor instructional technique and classroom management, funded but vacant teacher positions, and poor physical plant. Although their report contained proposed solutions to these problems, the team made it clear that these were recommendations rather than orders. The LSC developed a corrective action plan

after reflecting on this report and incorporating the perspectives and knowledge of its own members. The intervention team was widely respected and thus able to facilitate the LSC's deliberative planning effort and set their group process on track.

After six months, LSC members seemed to have transcended their histories of conflict. They began to behave cordially to one another and, more importantly, to deliberate about substantive school improvements rather than using meetings as occasions for political maneuvering. Substantively, the LSC reached consensus on a corrective action plan that included funds to make capital improvements to increase classroom space, fill shortages of instructional materials, extend the school's computer network, and to purchase additional equipment for the science lab. Whereas a discussion of indicators of school progress such as test scores would have likely drawn accusations and defensive responses only six months earlier, LSC members used the June meeting as an occasion for thoughtful reflection on the school's weak grades. Whereas the principal had been a highly controversial figure several months earlier, the group gained respect for her through several months of facilitated deliberation and the LSC voted unanimously to renew her contract.

### **From Laissez Faire Domination to Structured Deliberation in Traxton Beat**

Consider now community policing in a neighborhood called Traxton, which also lies on Chicago's South Side, several miles distant from Central Elementary. This neighborhood is literally split in half by railroad tracks, with wealthy, mostly white, professionals living on its west side and lower middle class African-Americans on its east. It is only by administrative coincidence that these two groups lie in the same police beat, for their problems are very different. West-siders face occasional burglaries, illegal traffic and noise, loitering and drinking, and the like. East-siders, on the other hand, face armed robbery, occasional gunshots from houses or passing automobiles, and a house in the middle of their section where people come to buy narcotics. In one year, three people were shot to death within one block of this house.

Empirically informed critics<sup>46</sup> would not be surprised that community deliberations often led to an inequitable allocation of police resources. This group elected a beat facilitator each year. In 1996, the beat facilitator conducted meetings in a laissez faire, first-come, first-served, style in which residents raised problems as they came to mind. In this mode, wealthy and educated west-side residents dominated

proceedings with their concerns. Their priorities included a potentially dangerous abandoned building, noise from late-night patrons of a nearby pancake house, street peddlers, and generally poor 911 response. Police, often in cooperation with west-side residents, were able to resolve most of these issues. Yet the concerns of east-side residents, often more serious, went for the most part unaddressed.

This pattern began to change in 1997 upon the election of a new beat facilitator; call her Emily Crenshaw. Unlike the previous facilitator, Crenshaw had worked for the Chicago Alliance for Neighborhood Safety as an official community policing trainer.<sup>47</sup> Schooled in the procedures and techniques of problem-solving, she had instructed many beat groups in those techniques. When she became Traxton's beat facilitator, she utilized her experience to impose recommended structure on previously unstructured discussions. She directed the group to produce a "beat plan," required according to recent CPD directives, that would describe and justify the neighborhoods' top safety issues.

Crenshaw facilitated discussions by first asking participants to generate a comprehensive list of candidate problems. West-side residents raised many of the same concerns as in previous meetings. This "brainstorming" space, however, allowed east-side residents to bring up many items about which they had been previously silent. When it came time to designate priorities, participants from both sides of the beat easily reached consensus on an ordered list dominated by east-side problems: an alleged drug house on the east side, burglaries and armed robberies on an east-side commercial strip, and west-side residential burglaries. Once charged with ranking and discursively justifying an agenda of public safety problems, the better-off residents quickly agreed that the east-side house, around which shootings occurred and drugs were trafficked, topped the list and therefore deserved the lion's share of their attention and that of the police.

Having prioritized these problems, residents and police developed cooperative and effective strategies. Resident surveillance and police searches yielded arrests around the alleged drug house, court testimony from organized residents helped send some of those perpetrators to jail, and residents reported substantial reductions in criminal activity there. To address commercial burglaries, police increased their patrol visibility and worked with African-American storeowners to develop preventative measures and to enhance their own responsiveness. The proprietors report that thefts and robberies declined following these interventions. Due to their sporadic nature, residential burglaries are harder to address and progress against them is more difficult to assess. The group attempted to solve this third problem through plainclothes

surveillance and resident education. Police apprehended one serial burglar, but the problem lingered.

### **Redux**

These two experiences may seem to highlight the defects of deliberative decision-making. The “natural” course of autonomous discursive governance led to conflictual paralysis in Central Elementary and to domination by wealthy and well-educated residents in Traxton Beat. But both benefited from external forces – an intervention team in Central and community policing trainer/facilitator in Traxton – that set deliberation back on track.

The perspective of accountable autonomy suggests that these interventions ought to result from design rather than luck. Both interventions depended upon prior centralized initiatives: the CPS school probation program and the CPD training initiative. Yet not every troubled school or beat received external support. The probation team was assigned to Central Elementary as a result of its low standardized test scores, but many schools whose students test satisfactorily surely suffer similar governance challenges. It was even more a matter of chance that one of Traxton’s community policing participants was an experienced CPD trainer, willing to serve as beat facilitator, and elected to that position. A full model of accountable autonomy would prescribe developing institutions to make these interventions deliberate priorities rather than leaving them in part to fortune.

Both cases also illustrate two other benefits of autonomous deliberative local action. In both, opposed factions possessing unequal resources nevertheless overcame differences of interest and perspective when their discussions were appropriately structured and facilitated. Participants in each case were able to subordinate at least some of their interests for the sake of reasonable norms. In both cases, the process led some participants to broaden and transform their prior interests. Subsequently, both groups devised and implemented creative strategies and plans that were probably more effective than what school officials and police would have accomplished on their own. In Traxton Beat, for example, residents contributed information, resources, and organized to act in ways that police could not have done.

## VI Open Questions: the Effectiveness and Politics of Accountable Autonomy

Given the relative youth of these experiments and the constraints of a single chapter, this exploration into the actual and potential deliberative qualities of the Chicago community policing and school governance reforms necessarily raises more questions than it answers. By way of conclusion, consider two important and open issues: the overall effectiveness of these reforms in improving schools and beats and the political controversies surrounding these reforms.

First, scholars and citizens alike rightly wonder about the effectiveness of these reforms compared to other alternatives. In education, schools governed along the lines of accountable autonomy should ideally be compared to public school systems with small classrooms and well-trained teachers, high-stakes testing, charter schools, or fully privatized districts. Chicago-style community policing should ideally be compared to strictly professional problem oriented policing, enhanced managerialism, or privatized security. We can offer no such comparison of systematic alternatives at this point. Research on the Chicago reforms does indicate, however, that the reforms have achieved some gains compared to preceding arrangements.

Examination of test scores suggests that the effectiveness of Chicago schools has improved since the devolutionary reforms of 1988, but especially since the accountability amendments to those reforms in 1995. Anthony Bryk and his associates<sup>48</sup> developed the metric of school productivity, described above, to isolate the impact of school factors – such as teaching, curriculum, atmosphere – on student learning while discounting factors that cannot be controlled through site governance efforts such as the preparedness of children when they enter the school. Based upon this productivity analysis, Bryk and his team found that, from 1987 to 1997, the majority of schools have become more effective in educating students even though they have become increasingly disadvantaged and less well prepared:

Chicago school reform has precipitated substantial improvements in achievement in a very large number of Chicago public elementary schools. The governance reforms of 1988 and 1995 have significantly advanced the learning opportunities afforded to literally hundreds of thousands of Chicago's children.<sup>49</sup>

A similar metric to measure the productivity of the public safety efforts of police and residents would be much more difficult to construct. On a

more standard measure, however, the number of violent crimes has declined steadily since the city-wide community policing program began in 1995;<sup>50</sup> though not as dramatic as the much more publicized declines in New York City under Mayor Rudolph Giuliani's contrasting policing approach, declines in Chicago are in some areas comparable.

These gross trends offer no precise assessment of Chicago's reforms compared to other alternatives. Its approach is not at this time demonstrably better, but perhaps no worse, on aggregate performance measures than approaches based on more expert command or market mechanisms. Until more definitive assessments are available, then, the primary attraction of these reforms lies in their democratic quality. They create new channels of citizen voice, influence, and deliberation that are widely utilized in Chicago, especially by those who live in disadvantaged neighborhoods. According to surveys,<sup>51</sup> 14 percent of Chicagoans attended at least one beat meeting in 1997. By far the majority of people of color who are elected officials in Illinois serve on local school councils. This democratic experience, together with the conceptual arguments for the effectiveness of accountable autonomy offered above and the uncertain relative performance of other alternatives, favors keeping this institutional design in our repertoire of reform strategies.

Second, in a world where the politics and ideas of reform are dominated by the dichotomy between devolution – either as community control or the market – versus the centralization of expert managerialism, a hybrid model such as that just presented finds few predisposed supporters. In the case of Chicago school and police reform, the institutions that came to approximate accountable autonomy emerged fitfully from struggles between the neighborhoods and downtown. They began as a project in community control, developed in response to defects in the original reforms, and then changed again as central authorities reasserted a measure of control. Neighborhood and community participants fear that centralized power will infringe their autonomy while turning a blind eye to their own shortcomings. Conversely, many in the central offices of CPD and CPS worry that local autonomy will decay into paralysis or license. They are also oversensitive to criticisms from neighborhood and watchdog groups. If they could, many would impose commands that reach for effectiveness by short-circuiting local deliberation and reverse the 1988 CPS and 1995 CPD reforms.

At the moment, neither neighborhood nor center can impose its side of the dichotomy. The neighborhoods have tasted power, entrenched it

in law or administrative rule, and are reluctant to cede it. But City Hall and the agency heads are strong in Chicago, and have eroded many local and independent prerogatives. Officials have already reduced the roles of independent groups in providing training and mobilization services. In school governance, some of the original latitude for local principal selection and instruction has been narrowed, while some police administrators are reducing opportunities for community participation by decreasing beat-meeting frequency.

Occasionally because of this conflict but more often in spite of it, many elements of accountable autonomy have emerged in the CPS and CPD reforms. Absent an entrenched model, conflict and randomness have limited the extent to which the complementary sides of this structure can contribute to fair and effective police and school governance. The commands of central officials sometimes overrule sensible and perhaps more effective local deliberation. But sometimes accountability measures are well justified. Deepening the institutionalization of accountable autonomy in the CPS and CPD requires moving from happenstance to a stable vision of reform. With a model of accountable autonomy before them, proponents of localism would recognize the contributions of central power and the necessity of external accountability mechanisms. Those accustomed to managing and commanding might see the limitations in their own foresight and capability and come to respect the knowledge and ingenuity of those who work and live in the neighborhoods. The experience of Chicago makes it clear that practical deliberative democracy at the local level requires a language that reaches beyond the simple antithesis between centralization and decentralization.

## Notes

\* A previous version of the paper was presented at *Real Utopias V: Experiments in Empowered Deliberative Democracy* conference (Madison, WI, January 15–16, 2000) and at the American Politics workshop at Harvard University. I would like to thank participants of those meetings and other commentators, especially Alan Altshuler, Joshua Cohen, David Hart, Jane Mansbridge, Charles Sabel, Lynn Sanders, Deborah Satz, Theda Skocpol, Craig Thomas, and Erik Olin Wright for their generous and invaluable feedback. I would also like to thank the editorial board of *Politics and Society* for their incisive reflections.

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1. Among the many excellent books on the “blood and guts” of Chicago politics see William J. Grimshaw, *Bitter Fruit: Black Politics and the Chicago Machine, 1931–1991*, Chicago: University of Chicago Press (1992) and Milton L. Rakove, *Don't Make No Waves, Don't Back No Losers*, Bloomington: Indiana University Press (1975).

2. See, for example, Herman Goldstein, *Problem Oriented Policing*, Philadelphia, PA: Temple University Press (1992).
3. See Wesley G. Skogan and Susan M. Hartnett, *Community Policing: Chicago Style*, New York: Oxford University Press (1997).
4. For a discussion of the liabilities of small-group decision, see Jane Mansbridge, *Beyond Adversary Democracy*, Chicago: University of Chicago Press (1980) and John Gastil, *Democracy in Small Groups: Participation, Decision Making, and Communication*, Philadelphia, PA: New Society Publishers (1993).
5. Chicago Tribune Staff, *Chicago Schools: "Worst in America": An Examination of the Public Schools that Failed Chicago*, Chicago: Chicago Tribune (1988).
6. See Malcolm K. Sparrow, Mark H. Moore, and David M. Kennedy, *Beyond 911: A New Era for Policing*, New York: Basic Books (1990) and Herman Goldstein, *Problem Oriented Policing*.
7. See Archon Fung, "Contract Expired: Is Chicago Poised to Take the Community out of Community Policing?" *Neighborhood Works* (March/April 1997), pp. 8–9.
8. Dan Scheid, "Board Bumps Reform Groups from LSC Training," *Catalyst: Voices of Chicago School Reform*, vol. 10, no. 1 (September 1998), pp. 1, 20–21; Alison Pflipsen, "LSCs Lose 182 Members Who Didn't Complete Training," *Catalyst: Voices of Chicago School Reform*, vol. 10, no. 8 (May 1999), pp. 24–25.
9. The Chicago Community Policing Evaluation Consortium, *Community Policing in Chicago, Years Five–Six: An Interim Report* (Evanston, IL: Institute for Policy Research, 1999), p. 18.
10. *Ibid.*
11. William S. McKersie, "Private Funding Down for LSC Elections," *Catalyst: Voices of Chicago School Reform*, vol. 7, no. 6 (March 1996), p. 15.
12. Dan Weissmann, Jennifer Randall, Lisa Lewis, and Jason Grotto, "Did Community Groups Have an Impact," *Catalyst: Voices of Chicago School Reform* vol. 7, no. 8 (May 1996), pp. 1, 25–26.
13. *Illinois Compiled Statutes*, Ch. 720, Sec. 37–4 (1996).
14. The ordinance described in this paragraph went into effect on November 11, 1996. See City Council of Chicago, "Amendments of Titles 8 and 13 of Municipal Code of Chicago Concerning Liability of Property Owners and Management for Unlawful Activities on Property," *Chicago City Council Journal* (July 31, 1996), pp. 27, 730–35.
15. The state statute was originally targeted against prostitution.
16. This program, called the "Corporation Council Program," is presently being tested in five "prototype" police districts. It began on November 1, 1996.
17. Telephone interview (February 27, 1997).
18. See Steven R. Strahler, "It's Back-to-School Time: Daley's Crisis Plan Begins to Take Shape," *Craine's Chicago Business* (April 10, 1995), p. 3.
19. See National Research Council, *High Stakes: Testing for Tracking, Promotion, and Graduation*, Washington, DC: National Academy Press (1999).
20. Details in this paragraph are taken from Anthony S. Bryk, Yeow Meng Thum, John Q. Easton, and Stuart Luppescu, *Academic Productivity of Chicago Public Elementary Schools: A Technical Report Sponsored by the Consortium on Chicago School Research*, Chicago: Consortium on Chicago School Research (March 1998).
21. For a more detailed account, see Archon Fung, "Street Level Democracy: A Theory of Popular Pragmatic Deliberation and Its Practice in Chicago School Reform and Community Policing, 1988–1997." Doctoral dissertation, Massachusetts Institute of Technology Department of Political Science (1999).
22. Elizabeth Druffin, "Spotlight Brings Focus: One School's Probation Story," in *Catalyst: Voices of Chicago School Reform*, vol. 9, no. 9 (June 1998), pp. 112–15; See also Fung, "Street Level Democracy," especially chapters 8 and 15.
23. Described in Fung and Wright's introduction to this volume.
24. See, for example, Sidney Verba and Norman Nie, *Participation in America: Political Democracy and Social Equality*, New York: Harper and Row (1972); Jack Nagel, *Participation*, New York: Prentice Hall (1987).

25. Chicago Community Policing Evaluation Consortium, *Community Policing in Chicago, Year Seven: An Interim Report*, Illinois Criminal Justice Authority (November 2000).
26. For an argument that high frequency of elections depresses participation, see Robert Jackman and Ross Miller, "Voter Turnout in the Industrial Democracies during the 1980s," *Comparative Political Studies*, vol. 27, no. 4 (January 1995), pp. 467–92.
27. See Catalyst Staff, "Local School Council Elections," *Catalyst: Voices of Chicago School Reform*, vol. 7, no. 8 (May 1996), p. 26; and Rosalind Rossi, "School Races Attract Few Candidates," *Chicago Sun Times* (April 6, 1998), p. 8.
28. See Sidney Verba, Kay Lehman Schlozman, and Henry E. Brady, *Voice and Equality: Civic Voluntarism in American Politics*, Cambridge, MA: Harvard University Press (1995).
29. See Chicago Community Policing Evaluation Consortium, *Community Policing in Chicago, Years Five–Six: An Interim Report*, Evanston, IL: Institute for Policy Research (1999).
30. This rate is given as attendees per meeting per 10,000 residents, with the attendance for each beat averaged over all available meeting data from January 1995 until May 1997. Crime rate is calculated from 1996 figures, and other remaining demographic data is drawn from the 1996 census.
31. When %home owners is removed from the list of regression variables, both %College Educated and Median Income become statistically significant at the 0.01 level, indicating multicollinearity between these variables.
32. Designs for Change, *The Untold Story: Candidate Participation in the 1991 Chicago Local School Council Elections*, Chicago: Designs for Change (October 1991), p. 7. The authors did not report full regression results, and so the correlation may have been statistically insignificant.
33. Candidate and turnout data were very kindly provided by Mr. Doug Dillon of Management Information Services at the Chicago Public Schools. Demographic information on schools was taken from Chicago Public Schools, Office of Accountability, *The Illinois State School Report Card Data Book for 1995–96: An Analysis of Student, School, District, and State Characteristics*, Chicago: Chicago Public Schools (1996).
34. A student is classified as "low income" just in case he or she is from a family receiving public aid, lives in an institution for neglected or delinquent children, is supported in a foster home with public funds, or is eligible to receive free or reduced-price lunches. In 1996, approximately four-fifths of Chicago students were "low-income," compared to less than one-fifth of the students in the state of Illinois. See *ibid.*
35. Student mobility at a school is defined as the number of students enrolling in a school or leaving that school during a single school year. Students may be counted more than once.
36. Recall that each LSC provides six positions for parent representatives.
37. Parent turnout is given as the percentage of parents eligible to vote in the election who actually vote.
38. See Steven J. Rosenstone and John Mark Hansen, *Mobilization, Participation, and Democracy*, New York: Macmillan (1993) and Verba, Schlozman, and Brady, *Voice and Equality*, p. 233.
39. This survey was sponsored by the Consortium on Chicago School Research and its results are reported in Susan Ryan, Anthony Bryk, *et al.*, *Charting Reform: LSCs – Local Leadership at Work*, Chicago: Consortium on Chicago School Research (December 1999), p. 6.
40. *Ibid.*, p. 7.
41. Chicago Community Policing Evaluation Consortium, *Community Policing in Chicago, Years Five–Six*, pp. 28–9.
42. This term comes from Michael Lipsky, *Street-Level Bureaucracy: Dilemma of the Individual in the Public Services*, New York: Russell Sage Foundation (1980).
43. See Michael Martinez "Clement's Council Renews Principal War," *Chicago Tribune* (November 18, 1997).

44. These cases are described in much more detail in Fung, *Street Level Democracy*, chapters 13 and 15.

45. Chicago Public Schools, Office of Accountability, *The Illinois State School Report Card Data Book for 1995–96*. The Chicago-wide chronic truancy rate in that year was 4.7 percent.

46. See, for example, Lynn Sanders “Against Deliberation,” *Political Theory*, vol. 25, no. 3 (June 1997), pp. 347–76 and Mansbridge, *Beyond Adversary Democracy*.

47. See discussion of JCPT in section 3 above.

48. Anthony Bryk, Yeow Meng Thum, John Q. Easton, and Stuart Luppescu, *Academic Productivity*.

49. *Ibid.*, p. 44.

50. Source: Illinois State Police, Division of Administration, Crime Studies Section, *Crime in Illinois – 1998*, Springfield, IL: State of Illinois (April 1999).

51. Chicago Community Policing Evaluation Consortium, *Community Policing in Chicago, Years Five–Six*, p. 18.

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# Habitat Conservation Planning\*

*Craig W. Thomas\*\**

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## I Introduction

Habitat Conservation Plans (HCPs) have become the most controversial component of the U.S. Endangered Species Act (ESA). Some argue that HCPs undermine the purpose of the ESA by compromising species and habitat conservation for economic gain. Others counter that HCPs allow the ESA to work by avoiding prolonged political and legal conflicts over resource use. Some contend that HCPs are based on weak science. Others counter that they are based on the best science available. Some argue that HCPs increase public input into endangered species issues. Others respond that public participation is highly variable and not assured.

These debates result in part from the great variation that exists among HCPs. Given this variation, habitat conservation planning should not be viewed as a single example of the empowered participatory governance model, but rather as a range of examples that vary in terms of the model's six dimensions.<sup>1</sup> As of April 2002, there were 379 approved HCPs in some stage of implementation, covering roughly thirty million acres.<sup>2</sup> Many additional HCPs were in the planning stage. When viewed together, along with the federal guidelines, policies, and rules that govern how HCPs are prepared and implemented, it is possible to make some claims regarding how well the HCP experience fits these dimensions.

This chapter begins with a brief history of the HCP experience, and then evaluates habitat conservation planning according to the six dimensions and the six potential criticisms of empowered participatory governance. HCPs fit the model well in terms of empowerment. They fit less well in terms of participation. These are gross simplifications, however, because HCPs vary widely. Some departures from the model can be rectified through changes in federal policy, but it is not yet clear whether any HCP is now or ever will be an exemplar of the model.

## II What Are Habitat Conservation Plans?

HCPs are a peculiar product of the U.S. legal system. They exist solely because of the federal Endangered Species Act. In the absence of a similar law, one cannot assume that HCPs would appear in other countries because individuals and organizations would lack the fundamental motivation to expend the significant time and financial resources required to complete and implement an HCP. They proliferate in the United States because, to paraphrase Don Corleone in *The Godfather*, the federal government makes an offer that some individuals and organizations cannot refuse. HCP participation is voluntary, but some actors face little choice given existing alternatives.

The ESA is sometimes called the pit bull of environmental laws because it has extraordinary teeth, particularly in federal courts. Among other effects, lawsuits filed or threatened under the ESA have foreclosed economic use of public and private resources, shaped urban growth patterns, and reoriented state and federal agency missions.<sup>3</sup> These outcomes occur because the ESA prohibits certain actions. By contrast, the National Environmental Policy Act (NEPA) is a procedural law. NEPA requires federal agencies to produce environmental impact statements that evaluate the environmental consequences of major federal activities, but NEPA does not specify whether or not a particular federal activity should be carried out and it does not apply directly to nonfederal actors. The ESA actually prohibits public and private actions that push species toward extinction.

The ESA has two types of prohibitions, the most powerful of which is tied directly to HCPs. This is the Section 9 prohibition on “take,” which applies to all persons and organizations subject to U.S. jurisdictions. By contrast, the Section 7 “jeopardy” standard applies only to federal agencies, and is not tied directly to HCPs.<sup>4</sup> Section 9 prohibits any person or organization subject to U.S. jurisdictions from taking fish or wildlife species listed as endangered by the U.S. Fish and Wildlife Service (FWS), with “take” defined broadly in Section 3 to include “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”<sup>5</sup>

The FWS subsequently expanded this definition of take by issuing a rule that defines “harm” to include “significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.”<sup>6</sup> Therefore environmental activists can successfully sue a private landowner for altering the habitat of an endangered species (e.g. through logging, farming, or land development), and they can sue

a local or state agency for either engaging in such activities or permitting them to occur. If a federal court rules in favor of the plaintiff, it can prohibit these activities, or fine and even jail those committing the offense. Property owners have felt sufficiently threatened by the Section 9 prohibition on take that they have attempted (so far unsuccessfully) to reverse the charges, claiming that the federal government is “taking” their private property without just compensation, and so violating the Fifth Amendment.

Prior to 1982, the ESA was unyielding with regard to endangered fish and wildlife species. As Steven Yaffee has argued, the ESA amounted to “prohibitive policy.”<sup>7</sup> Only scientific research and conservation activities constituted permissible take for endangered animal species. This near-absolute ban posed economic, political, and ecological problems. Economically, if one knew about the presence of an endangered animal species, the ESA essentially implied an order to cease activities because they might cause take. Although the FWS lacked sufficient staff to monitor all such activities, environmentalists stood in the wings waiting to sue landowners and developers for such infringements, and to sue local and state agencies for permitting them to occur.

Politically, the prohibition on take was a time bomb because the ESA lacked a release mechanism to allow limited economic activity to occur within the habitat of a listed species. For this reason, economic interests lobbied hard to keep species off the list, which necessarily politicized the listing process.<sup>8</sup> Environmentalists also picked their fights carefully. They did not petition to list every species for which data supported a listing; instead they focussed on charismatic species, limiting the ability of property rights advocates to frame endangered species issues as pitting “rats against people” or “bugs against jobs.”

Ecologically, the absolute prohibition on take was also not entirely sensible. Endangered species suffer from the cumulative impacts of many activities, not simply the few activities someone happens to notice. Therefore many ecologists argued that it would be more effective to preserve a species’ habitat over the long run by acquiring property and adopting formal land-use restrictions than by blocking bulldozers at each site or punishing individuals after habitat is altered, perhaps irreparably. In other words, it would make more sense to develop and implement a plan to preserve habitat than to track individual activities eating away at the habitat on a site-by-site, project-by-project basis.

As the 1970s came to a close, economic, political, and ecological interests dovetailed when a novel idea emerged to preserve a butterfly habitat near San Francisco. Development creeping up the slope of San

Bruno Mountain had been a political issue for years, but it was framed in terms of open space and growth control, not species protection. The San Bruno conflict assumed a dramatically new form in 1975 when the FWS listed the mission blue butterfly as an endangered species and a local environmental group threatened legal action to stop residential and commercial development in the butterfly's habitat. In 1978, the FWS proposed listing an additional species, the callippe silverspot butterfly. Backed into a corner, the primary landowner and developer, Visitacion Associates, struck a deal with environmentalists, agreeing to set aside approximately 2,000 of its 3,500 acres on San Bruno Mountain as butterfly habitat and open space in return for being allowed to develop the remaining acres. The logic was simple. The developer would be allowed to take butterflies by building on part of the mountain because ecologists endorsed the HCP as a means for protecting sufficient habitat to maintain viable populations of both species. In other words, economic development would be allowed to destroy some of the habitat because credible scientists believed the HCP would preserve sufficient habitat to guarantee the long-term survival of both butterfly species.<sup>9</sup>

This agreement led to the first HCP. But it could not be implemented until Congress amended the ESA to authorize the FWS to issue a new kind of permit that would allow take. When Congress amended the ESA in 1982, new language authorized the FWS to issue permits to nonfederal actors who submitted satisfactory HCPs.<sup>10</sup> Taking endangered animal species for economic purposes was no longer prohibited absolutely. Take was now permitted under Section 10 if it was "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity."<sup>11</sup> Hence the coveted permit to implement an HCP is known as an "incidental take permit." The 1982 ESA amendments established common ground between economic and environmental interests by allowing incidental take during the course of economic activities, while creating a mechanism to compel private actors and local and state agencies to preserve habitat for the long-term survival of endangered species. In other words, Section 10 reframed endangered species debates from "species *versus* jobs" to "species *and* jobs," thereby providing a legal mechanism to avoid political impasses.

In practice, HCPs must meet several basic conditions for applicants to receive incidental take permits. Specifically, they must provide detailed information about the likely impacts resulting from the proposed take; measures the applicant will undertake to monitor, minimize, and mitigate such impacts; available funding to undertake such measures; procedures to deal with unforeseen circumstances;

alternative actions considered by the applicant that would not result in take, and the reasons why such alternatives will not be used; and any additional measures the FWS requires as necessary or appropriate for purposes of the plan.<sup>12</sup> How applicants meet these conditions is left largely to them. Thus the ESA and FWS regulations essentially compel nonfederal actors to forego all use of certain natural resources, act illegally and risk enforcement, or prepare an HCP that meets the above criteria. This is a difficult deal to refuse.

Yet, unlike Don Corleone's offer, the federal government empowers applicants to determine the institutional design of their HCP. For example, applicants define the planning area, choose the number of species covered, decide who will participate, and select the policy tools for habitat protection. Thus they can write an HCP covering one acre or a million acres; they can focus on one species or dozens of species; they can submit HCPs individually or with multiple partners; they can request extensive public input or largely ignore it; and they can select from numerous policy tools to implement the plan, including development fees to acquire or restore habitat, dedication of land for habitat preserves, land-use controls, and market-based approaches such as habitat mitigation banks and tradeable development rights. Large HCPs typically establish preserve areas, within which few human uses are allowed, surrounded by buffer zones of less restricted use; but there are numerous ways to acquire, regulate, restore, monitor, enforce, or otherwise manage these areas. To a large extent, these methods are determined by the applicants, subject to FWS approval. Discretion empowers applicants to be creative, and to tailor solutions to local problems.

In sum, the 1982 ESA amendments empowered nonfederal actors to develop HCPs as a means for complying with the Section 9 prohibition on take. The stage was now set for a grand experiment in land-use planning. Yet HCPs did not immediately proliferate. The FWS issued only fourteen incidental take permits in the first decade following the 1982 amendments (1983–92) – one each in Texas and Florida, and twelve in California. HCPs diffused slowly during this period because the initial expertise was in California, and because the FWS did not distribute draft HCP guidelines until 1990. With the new guidelines, and with strong support from the Clinton administration after 1992, HCPs spread rapidly. By April 2002, 379 HCPs had been approved, with some HCPs covering much larger planning areas than their predecessors.<sup>13</sup>

In light of this explosive growth, an increasing number of observers have wondered whether HCPs adequately protect species, and whether

the public is appropriately involved. Congress has also considered several bills to amend the ESA, and the Department of the Interior and FWS have experimented with new HCP policies. Yet these policies primarily provide economic assurances to applicants, not ecological assurances to species or democratic assurances to a broad range of stakeholders who may want to participate. In other words, the new policies are designed primarily to create incentives for applicants to complete HCPs.

One such incentive is embodied in the 1994 No Surprises Policy, which assures applicants that no additional land-use restrictions or financial compensation will be required with respect to species covered by an incidental take permit if unforeseen circumstances arise indicating that additional mitigation is needed.<sup>14</sup> Under the No Surprises Policy, the federal government, not the permit holder, assumes responsibility for implementing additional conservation measures that may become necessary as new knowledge and information arise. This means that the general public – not applicants – bears the risks associated with ineffective HCPs. This risk is magnified by the absence of federal programs to identify and buttress ineffective HCPs. With the guarantee that there will be no regulatory surprises forthcoming from the federal government, applicants have become much more certain about the future benefits that HCPs provide.

Fundamentally, applicants want to know what they can do within a given planning area. They are willing to spend substantial sums of money and devote years to developing and implementing an HCP because the incidental take permit provides them with great certainty about their ability to use natural resources in the future. Without a permit, the ESA's regulatory hammer looms, poised to foreclose any and all activities. With a permit, applicants know they can pursue activities specified in the HCP. Thus HCPs tend to occur where the Section 9 prohibition on take is enforced aggressively.<sup>15</sup> If the prohibition on take were not enforced by the FWS or citizen suits, then potential applicants would have no legal or economic incentive to prepare – let alone implement – HCPs.

While the No Surprises Policy is politically expedient and encourages growth in the number of HCPs, it is ecologically unsound because it reduces the incentive for participants to rethink HCPs during implementation. Adaptive management is more sensible because ecological knowledge and information are fluid.<sup>16</sup> As we learn more about species and their habitat requirements, HCPs should be revisited and redesigned.<sup>17</sup> After all, the ESA's purpose is to prevent extinctions. If new knowledge or information suggest that an HCP does not ensure

the survival of listed species, then the HCP should be adapted to new circumstances or the permit withdrawn. Adaptive management also provides an opportunity for public participation and continued deliberation after incidental take permits have been issued.

In an attempt to reconcile this conflict, federal officials issued revised guidelines for the *Habitat Conservation Planning Handbook* in 2000.<sup>18</sup> Under the revised guidelines, adaptive management is now encouraged for HCPs that pose a significant risk to species due to data gaps when a permit is issued. While these new guidelines lack the legal authority of regulations, they do offer a mechanism through which monitoring and deliberation can occur during implementation.

### III How Well Do HCPs Fit the Empowered Participatory Governance Model?

The previous section provided an overview of habitat conservation planning under the U.S. Endangered Species Act. This section evaluates the HCP experience according to the six dimensions of the empowered participatory governance model. Given that HCPs vary widely in many dimensions, some HCPs fit the model better than others. This section also considers the federal guidelines, policies, and rules that shape HCPs in relation to the model.

#### Deliberation

How genuinely deliberative are HCP decision-making processes? To be deliberative, participants must listen to and carefully consider each other's positions before making final decisions. Rather than simply voting or advocating preformed preferences, they must allow their preferred goals and strategies to evolve through collective deliberation. We should also consider how long deliberation occurs, how many actors are involved, and who these actors represent during both the planning and implementation phases.

These dimensions of deliberation vary widely during the planning phase. The best evidence in this regard was reported by a team of researchers who studied public participation in fifty-five large HCPs (i.e. those covering more than a thousand acres).<sup>19</sup> Within this sample, they surveyed the most recent FWS contacts for forty-five HCPs, and wrote in-depth case studies of fourteen HCPs. They found public participation varying widely from open, collaborative steering groups to closed-door processes in which the only opportunity for participation

beyond the applicant and the FWS came during the notice-and-comment periods required under the ESA and NEPA. The latter indicates a narrow deliberative scope because little (if any) deliberation takes place during notice-and-comment periods, which occur after an HCP is virtually complete and the FWS is ready to issue an incidental take permit. Moreover, NEPA does not require federal agencies to incorporate public comments into planning documents, which means the FWS need not ask applicants to consider the merits of such comments – let alone deliberate with those submitting them – during notice-and-comment periods.

While the authors of this study do not use the language of deliberation, their conclusions nevertheless suggest that deliberation does occur in some HCPs. “In those cases where public participation resulted in substantive changes to the HCPs, public participation invariably began early in the process, and often included a committee with members of the public.”<sup>20</sup> Yet such changes were relatively rare. Their survey of FWS staff “indicated that public participation resulted in significant substantive changes to only 3 out of 45 responding HCPs (7 percent)” while more than 75 percent of the sample reported that public participation led to “only minimal or moderate changes.”<sup>21</sup> These findings clearly indicate that public participation should be required early in the planning process to expand the scope of deliberation. Unfortunately, the new HCP guidelines simply encourage public participation for large HCPs; they do not require it for any HCP or establish standards regarding who should participate.<sup>22</sup>

The number of participants and interests represented by them varies greatly across HCPs because applicants define the scope of participation. Some HCPs are submitted by a single applicant. The Simpson Timber Company, for example, submitted an HCP in 1992 covering 380,000 acres of private timberland in three California counties. With only one applicant, deliberation likely occurred only between the Simpson Timber Company and the FWS. By contrast, the *Coachella Valley Fringe-Toed Lizard Habitat Conservation Plan* was completed in 1985 by a steering committee composed of a wide spectrum of stakeholders, including representatives from local governments, state and federal agencies, an Indian tribe, and a non-profit environmental group. Presumably, deliberation is more prevalent within a multi-organizational committee than a single firm. Indeed, the literature on the Coachella Valley HCP suggests that deliberation was extensive, including actors not formally identified as members of the steering committee.<sup>23</sup>

That deliberation occurs in some HCPs is not surprising, given that

HCPs grow out of stalemates in the traditional form of environmental regulation, in which actors are unable to achieve their preferred outcomes. Developers, for example, prefer to build housing tracts, but doing so is illegal if it harms an endangered species, and they might be sued by environmental watchdogs for violating the Section 9 prohibition on take. This gives them an incentive to work with local governments to roll zoning plans into an HCP, so planned development is covered by an incidental take permit. Doing so requires deliberation among private and public actors, along with professional or academic ecologists, as to what percentage of the remaining habitat should be preserved, where it should be preserved, and how it should be managed.

Moreover, to avoid future lawsuits, applicants sometimes request public participation early in the planning process so completed HCPs will not be challenged during implementation. This choice is left to applicants, because the scope of deliberation is not driven directly by federal laws, rules, or guidelines. HCP guidelines instruct FWS staff to encourage participation, but applicants are not required to do so. Moreover, the FWS “regards HCPs as voluntary, applicant-driven processes where the applicants decide whether and how to involve outside stakeholders.”<sup>24</sup> Hence there is no guarantee that deliberation will occur among more than a single applicant and the FWS. Where deliberation among many actors occurs, it is driven by other factors, particularly by patterns of private land ownership and public jurisdiction. Where habitat is shared among multiple owners, agencies, and political jurisdictions, species conservation becomes a collective-action problem, in which actors come together to share information and develop solutions to their common problem.<sup>25</sup> Hence broad participation in HCPs is more likely in areas with complex ownership patterns.<sup>26</sup>

### **Action**

How effectively are decisions made during the planning process translated into action? There is little evidence upon which to answer this question because no one has systematically studied HCP implementation across multiple cases. For empirical evidence, we have to rely on the one known case study of HCP implementation, which focussed on the Coachella Valley HCP.<sup>27</sup>

Yet there are several economic and legal reasons to believe that HCPs are actually implemented. Applicants prepare HCPs because they want incidental take permits to use natural resources for economic

or public purposes. This permit removes them from the shadow of the ESA's regulatory hammer. The FWS can revoke a permit if the applicants do not implement an HCP because implementation is a condition of the permit. Environmental activists also sit in the wings prepared to sue under the ESA's strong provisions when they see violations. In addition to legal incentives for applicants to implement HCPs, the FWS also assesses whether an HCP is likely to be implemented before issuing a permit. The ESA and federal guidelines stipulate that HCPs must identify funding to implement specific provisions in the plan designed to mitigate the impacts of incidental take.<sup>28</sup> The FWS may also require an implementation agreement, in which participants specify who is responsible for implementing specific parts of an HCP. In sum, financial feasibility is a condition of the permit, implementation is a condition of retaining the permit, and the FWS can require a signed implementation agreement to establish accountability.

We should not assume, however, that any HCP is fully implemented. Multi-partner HCPs tend to be thick documents because they stipulate a diverse range of actions that are allowed or required across multiple ownerships and jurisdictions. These HCPs contain numerous provisions, any one of which might be overlooked or found infeasible during implementation. In the Coachella Valley, for example, participants made a good-faith effort to translate the plan into action, but thirteen years after the FWS issued the permit the original plan was still not completely implemented in some respects; however, in other respects, such as enforcement, those implementing the HCP significantly exceeded requirements in the plan.<sup>29</sup>

In sum, there are strong legal and economic incentives for permit holders to implement their HCPs. Unfortunately, there are too few empirical studies of HCP implementation to make broad claims about the extent to which HCPs have been translated into action.

### **Monitoring**

Monitoring is a crucial component of the empowered participatory governance model because it provides information about how well these experiments work. This information in turn indicates whether and how they should be revisited and redesigned in an ongoing deliberative process. In the environmental policy literature, this process of experimentation, monitoring, and redesign is called "adaptive management."<sup>30</sup> Without monitoring mechanisms in place, there is action without learning and accountability. Thus Fung and Wright ask in this volume: "To what extent are these deliberative groups capable of

monitoring the implementation of their decisions and holding responsible parties accountable?”<sup>31</sup> To this I would add a prior question: To what extent are these groups willing to monitor implementation? Deliberative groups may be technically, financially, and organizationally able to monitor implementation, but that does not mean that all participants necessarily want to monitor, learn from, and redesign their experiments. This is particularly the case with HCPs, because the very thought of redesigning HCPs creates regulatory uncertainty in the minds of applicants and permit holders, many of whom have significant financial investments at stake.

Indeed, monitoring has been a significant shortcoming for HCPs in terms of fitting the model. The best evidence for this comes from a team of scientists who evaluated the use of science in HCPs.<sup>32</sup> While twenty-two of forty-three HCPs in their sample contained “a clear description of a monitoring program,” only seven contained monitoring programs “sufficient for evaluating success.”<sup>33</sup> On a more positive note, they found monitoring to be closely correlated with adaptive management. “In particular, 88% of the plans with provisions for adaptive management had clear monitoring plans, whereas less than 30% of the remainder had clear monitoring plans.”<sup>34</sup>

Two implications can be drawn from these data. First, relatively few HCPs have been conceived in terms of adaptive management (i.e. experimentation, learning, and redesign). Hence they do not include sufficient monitoring programs to evaluate HCP effectiveness during implementation. Given that adaptive management necessarily entails monitoring, those HCPs conceived in terms of adaptive management typically have clear monitoring programs. Second, we do not know whether the monitoring programs found to be sufficient were actually implemented, or whether HCPs with insufficient monitoring programs were nevertheless implemented with modified programs sufficient for evaluating HCP effectiveness.

Moreover, regardless of whether sufficient monitoring programs exist in HCP implementation, it is crucial to know whether participants want to learn from new information and are willing to revisit the plans and deliberate anew. Some actors may be open to such reconsideration, but others are not. During implementation of the Coachella Valley HCP, monitoring by participants indicated that crucial habitat had been overlooked in the original preserve design.<sup>35</sup> This oversight was due primarily to limited information and estimated acquisition costs at the time the plan was completed, not to political intrigue. Nevertheless, many of the actors who developed or implemented the HCP preferred not to reopen and redesign the original HCP. Instead, they sought to

protect the “missing” habitat through other institutional processes, such as local zoning, acquisition by land conservancies, and a new HCP they were developing for multiple species.<sup>36</sup>

The Coachella Valley experience offers intriguing lessons about HCP implementation. Habitat conservation planning is challenging, expensive, and time-consuming, particularly when it involves deliberation among multiple actors. Hence there is great inertia against reopening an HCP after the FWS issues a permit, regardless of applicant sincerity about implementing the plan. In the Coachella Valley, participants made a good-faith effort to implement the plan, discovered the plan was inadequate, and sought to address its shortcomings through other means. All of which suggests that we should not expect to see an HCP revised voluntarily due to monitoring because participants perceive the planning process to be very cumbersome. Instead, the lingering threat that the FWS will pull an incidental take permit provides an incentive for permit holders to fix HCP weaknesses through other planning processes. While this is a motivating threat, the FWS has never actually carried it out, in part because HCP implementation is not systematically monitored, and in part because FWS officials prefer to work with permittees to bring them into compliance when problems are discovered.<sup>37</sup>

Similarly, we should not expect the FWS – the only consistent HCP participant – to monitor implementation because the agency’s Endangered Species Division is underfunded relative to its workload. Without additional funding, FWS staff are unable to monitor HCP implementation systematically. Given the agency’s backlog on more pressing tasks under the ESA (such as listing species, mapping critical habitat, developing recovery plans, and reviewing draft HCPs), there is little reason to expect FWS staff to monitor HCP implementation. Moreover, neither the FWS nor the Department of the Interior have developed a public HCP library, let alone a transparent monitoring program through which centralized actors and citizens can learn whether and to what degree HCPs are being implemented. Given the dearth of centralized HCP monitoring within the federal government, we might wonder whether high-level federal officials are interested in learning from these experiments.

On the positive side, the FWS issued new guidelines on adaptive management in 2000.<sup>38</sup> These guidelines state that “an adaptive management strategy is essential for HCPs that would otherwise pose a significant risk to the species at the time the permit is issued due to significant data or information gaps.”<sup>39</sup> Yet the guidelines also state that an adaptive management strategy is not needed for all HCPs. So it

remains unclear which HCPs should have them or what constitutes a “significant” information gap. The guidelines also specify four components that should be included in adaptive management strategies: (1) identification of uncertainty and questions that need to be addressed to resolve it, (2) alternative implementation strategies, (3) a monitoring program that can detect information necessary to evaluate these strategies, and (4) feedback loops that link implementation and monitoring to appropriate changes in management.<sup>40</sup> These new guidelines are compatible with the No Surprises Policy because HCPs containing an adaptive management strategy “should clearly state the range of possible operating conservation program adjustments due to significant new information, risk, or uncertainty.”<sup>41</sup> In other words, the adaptive management strategy would become part of the HCP and would be a condition of the permit; thus any adjustments within the stated range would not constitute a regulatory surprise. While these guidelines are not retroactive, they suggest that monitoring programs will likely become a more significant part of future HCPs.

Regardless of the extent to which monitoring programs are incorporated into HCPs as part of an adaptive management strategy, external monitoring is also necessary to ensure that participants are meeting their legal commitments and that HCPs are effective as designed. Thus far, systematic external monitoring has been virtually absent during HCP implementation. As already noted, the primary regulatory authority – the FWS – does not systematically monitor HCP implementation, and there is only one known case study of HCP implementation by academics. In sum, monitoring by participants will never be sufficient; HCPs must also be monitored by external evaluators, who are better situated to hold participants accountable for accomplishing the public regulatory goal of species protection.

### **Centralized Coordination and Power**

In the empowered participatory governance model, local units (such as HCP planning committees) do not act autonomously. Instead, they learn from and coordinate their actions with other local units and with state structures. The key question for this dimension is: “To what extent do these experiments incorporate recombinant measures that coordinate the actions of local units, diffuse information and innovations among them, and follow centralized mechanisms that ensure accountability and learning?”

To answer that question, we should recall that some HCPs are submitted by a single applicant (such as a landowner or private firm). In

such cases, applicants believe they own or manage enough habitat to determine their own destiny, and with it the destiny of relevant species. Because they do not perceive a collective-action problem, the only other actor with whom they coordinate is the FWS, which reviews their HCP. The term “habitat conservation plan” is a misnomer because HCPs need not cover a species’ entire habitat. Neither the ESA nor FWS regulations require coordinated action. Instead, the specific time and location of coordination is determined by the desire of applicants to pool land, water, information, money, and other resources as a collective means to remove themselves from the threat of legal challenges under the ESA.<sup>42</sup> Hence horizontal coordination varies with the extent to which habitat sprawls across ownerships and jurisdictions.

In the Coachella Valley, for example, many HCPs could have emerged, instead of one coordinated HCP. Yet, rather than develop separate HCPs, nine cities and one county, along with developers, state and federal agencies, and other participants, jointly designed an HCP for the fringe-toed lizard that created a main preserve, two smaller preserves, and a fee area. In the fee area, developers could transform habitat by paying a mitigation fee of US\$600 per acre to one of the ten local governments, which then forwarded the fees to a non-profit organization (The Nature Conservancy) that pooled the money to purchase the designated preserve lands. In this case, local governments and developers created a novel means for addressing the common problem they confronted on lands they individually owned, managed, or zoned.

But such coordination is certainly not ubiquitous. In Texas, for example, coordination proved difficult in the case of the golden-cheeked warbler. Rather than a single HCP for the warbler, there are roughly seventy HCPs – nearly one-fifth of all HCPs. Most of the warbler HCPs have a single applicant (typically a lot owner or developer), most are in Travis County (which includes Austin), and many cover fewer than five acres. The one exception is the Balcones Canyonlands HCP, which covers 633,000 acres and nine species, including the golden-cheeked warbler. Thus an important empirical question remains to be explained: Why were local governments and developers able to coordinate a single HCP in the Coachella Valley for the fringe-toed lizard but were unable to do so for the golden-cheeked warbler in Travis County? The precipitating factor was that Travis County voters failed to pass a US\$50 million bond referendum to pay for the HCP, which led some landowners and developers to develop their own HCPs, but there are likely deeper reasons as well.

One possible explanation is based on size and complexity: the completed Balcones Canyonlands HCP covers nine times as many acres and

species as the Coachella Valley HCP, thus suggesting a possible upper bound on the scale of coordinated outcomes. Indeed, participants in the Coachella Valley are now facing the more difficult task of developing a multi-species HCP to cover species and habitat not included in the original HCP for the fringe-toed lizard.

Another possible explanation is based on the slow diffusion of expertise. The Coachella Valley HCP was the second HCP and, like the first HCP on San Bruno Mountain, the innovations were locally developed, within California. One of the principal architects of the Coachella Valley HCP – Paul Selzer, an attorney initially hired by one of the developers – has since built a career by diffusing HCP innovations to neighboring areas, including the Clark County HCP for the desert tortoise near Las Vegas. Another architect of the early HCPs was FWS biologist Gail Kobetich, who worked for the agency's Pacific Region, which included California but not Texas. Because Kobetich, Selzer, and others were based in California, that is where the initial expertise (including deliberative skills) resided, which partially explains why twelve of the first fourteen HCPs emerged in that state.

HCPs did not diffuse widely until the FWS issued draft guidelines in 1990 that provided templates for those lacking expertise, and the Clinton administration provided additional incentives to garner further interest from potential applicants. Yet the role of central structures in the Clinton administration has largely been one of policy diffusion, not monitoring and accountability. HCP guidelines helped actors across the country learn about and copy experiments in California and other states, without having to hire or wait for experienced actors to appear on the scene. Interior Secretary Bruce Babbitt and his legal staff also roamed the country, spreading ideas and encouraging local actors to undertake HCPs through centrally administered incentives such as the No Surprises Policy.

### Schools of Democracy

Do HCPs increase the deliberative capacities and dispositions of participants, thereby functioning as schools of democracy? This is an intriguing question, which has not been studied systematically. The public participation study cited earlier provides indirect evidence,<sup>43</sup> but there is no direct evidence of whether HCPs enhance the deliberative skills of participants. Nevertheless, the participation study is telling because the data and case studies indicate that participation varies widely, and that some participants consider the planning process to promote strategic rather than deliberative bargaining. A quote from

one participant in the Balcones Canyonlands HCP illustrates this point:

The public participation process is really not designed to help people develop a new or redirected self-interest. It . . . allows people who already have pre-conceived positions to continue to state and argue for those . . . It's a process designed to allow people to express pre-conceived or pre-established positions, not to adjust their positions based on new information. I don't think it's a dynamic or real iterative process; it's a real static process.<sup>44</sup>

The Balcones Canyonlands HCP suffered from diminished trust because it did not incorporate public participation, particularly from landowners, early in the planning process.<sup>45</sup> This may also help to explain why so many landowners chose to prepare their own HCPs for the golden-cheeked warbler, rather than participate in a multi-species plan that included the warbler, and in which their participation was not included from the beginning.

As suggested in previous sections, the extent of deliberation is enhanced by inviting public participation early, before significant decisions are made. Relying on notice-and-comment periods merely allows a relatively narrow range of participants to promulgate their decisions to the larger public. Adaptive management (with monitoring) can also enhance HCPs as schools of democracy by extending deliberation beyond the planning phase into implementation. For HCPs, therefore, the key to enhancing this dimension is to focus attention on other dimensions of the empowered participatory governance model – specifically, deliberation and monitoring.

## Outcomes

Are HCP outcomes more desirable than those of prior institutional arrangements? This answer depends on who one asks and the criteria they believe most important. With regard to planning, scientists – particularly conservation biologists, who study the causal mechanisms of extinction – have not been entirely pleased. As a group, they have criticized the scientific standards and data underlying HCPs.<sup>46</sup> As individuals, they have also criticized the disjunction between scientific guidelines and planning details.

A prominent example of the latter occurred with Natural Communities Conservation Planning (NCCP), a multi-species program sponsored by the State of California for coastal sage scrub habitat in Southern California. As a program, NCCP is essentially an aggregation of HCPs. The FWS issues incidental take permits to subregional NCCP

plans within the six thousand square mile NCCP region. In 1993, the NCCP Scientific Review Panel disbanded over conflicts between scientific guidelines and planning details. As two conservation biologists who served on this panel later stated: "Local implementation of these guidelines and fulfillment of the research agenda have been troublesome, but nevertheless, they represent a rare conscious and formal attempt to integrate science into the decision-making process."<sup>47</sup> This statement should make us wonder whether and to what extent HCPs benefit targeted species, given that conservation biologists have much to say about the appropriate design of habitat preserve systems.<sup>48</sup> But it is likely that scientists will never be satisfied with the HCP planning process because it is inherently political, not scientific.

The political nature of HCPs similarly leads some environmental interest groups to criticize HCP outcomes. The National Wildlife Federation, for example, commissioned the previously cited public participation study due to concerns about limited participation.<sup>49</sup> Defenders of Wildlife also published a critical study of HCPs, giving similar attention to public participation, but also focussing on the absence of an explicit legal mandate for HCPs to promote the recovery of species.<sup>50</sup> The Nature Conservancy, on the other hand, regularly provides financial and technical support to HCPs around the country.

This variation among environmental groups can be explained in two ways. First, some groups have successfully pursued litigation under the ESA, and accordingly worry that HCPs compromise their comparative advantage in court. By contrast, The Nature Conservancy never litigates; instead, it conducts on-the-ground conservation activities through real-estate transactions and technical advice on preserve design. Thus an environmental organization's perception of HCP outcomes likely depends upon its propensity to litigate, because HCPs are an alternative to litigation and top-down regulatory bureaucracy. Second, locally based environmentalists often have a social and economic stake in the communities where HCPs are developed. For them, HCPs allow for environmental protection, socio-economic welfare, and local participation. Therefore local environmentalists appear to be more open to a wider range of outcomes and strategies than national groups, particularly those who have traditionally relied on litigation.

It should also be noted that outcomes under the traditional alternative to HCPs – strict prohibition of take – have not been positive. For evidence, one need only review the small number of fish and wildlife species that have been de-listed because their populations recovered. In the U.S., there are only six such species – compared with seven that have been de-listed because they are now believed extinct, and 387 still

on the endangered list as of July 2002.<sup>51</sup> Whether HCPs help species more than the strict prohibition on take, however, is unknown. Logically, one might presume that no take is better than some take; but strict prohibition on take does not prevent take, while HCPs proactively channel take in ways that (presumably) preserve habitat integrity. This remains largely a rhetorical debate, with thin evidence to sway neutral minds.

In sum, litigation is necessary to provide the fundamental incentive for applicants to develop HCPs, but that does not mean that litigation alone leads to socially preferred outcomes. Thus it is not clear whether HCPs improve upon traditional command-and-control implementation of the ESA in terms of species protection. HCPs provide a better opportunity for citizens to participate in a deliberative process, but there is great variation in the extent of deliberation and participation. Flexibility has also empowered some HCPs to be highly innovative. Hence every HCP has the potential to be a unique, innovative experiment in empowered participatory governance.

#### **IV Criticisms of the Empowered Participatory Governance Model, as Viewed from the HCP Experience**

This section evaluates HCPs by the six potential criticisms of empowered participatory governance, the first of which considers whether HCPs may evolve into fora for domination rather than deliberation.

##### **Deliberation into Domination**

One of the intriguing characteristics of HCPs is that the ESA can level the playing field by making actors relatively dependent upon one another, rather than independent and potentially dominating. The desire for certainty among permit applicants can be so strong that they actively seek to work with others to reduce uncertainty by warding off potential lawsuits over resource use. This mutual dependence increases their willingness to share information and resources, and decreases their potential dominance within deliberative arenas. One might argue that this moral character of HCPs is undermined by implicit or explicit threats to sue, but these threats constitute part of the background that brings actors to a common table.

In the Coachella Valley, for example, a few biologists brought developers to the table by threatening legal enforcement – even though they

possessed no obvious political, financial, or legal resources of their own to pressure the FWS to enforce the ESA or to mount a successful lawsuit.<sup>52</sup> The mere threat of enforcement, which could halt development in the valley, was sufficient to bring developers to the table. Thus the ESA leveled the playing field, on which developers, with millions of dollars in assets at stake, would seemingly have the upper hand.

Unfortunately, this dynamic only applies within the deliberative arena, which can be relatively small and elitist. For most HCPs, participants are not typically ordinary citizens. Many are highly educated and informed.<sup>53</sup> Few ordinary citizens understand how the ESA works, or have time to devote themselves to a lengthy planning and implementation process. Thus one might argue that this deliberative arena excludes important parts of society. This concern may be assuaged where representation is broad, but single-applicant HCPs should give us pause to reflect, particularly when there is no public participation before notice-and-comment periods under the ESA and NEPA. In these cases, HCPs may be strategic mechanisms for newly empowered applicants to pursue their preferences, rather than experiments in empowered participatory governance. HCPs indeed empower applicants, but it would be hard to claim that single applicants deliberate in a democratic way, if they deliberate with anyone at all. To the extent that their use of natural resources perpetuates negative externalities for society, then such HCPs should be considered a means for continued domination by the economically privileged. In this respect, reforms would be needed to require – not simply encourage – broader public participation.

### **Forum-Shopping and External Power**

Some HCP participants certainly forum-shop during the planning process. One might even argue that all permit applicants forum-shop: that they initiate and complete HCPs because they believe they can achieve better outcomes through this process than through the ESA's otherwise prohibitive regulatory framework. As a corollary, one might also hypothesize that those HCPs which collapse during the planning process fail because applicants pull out when the expected value of participating in some other forum exceeds that of participating in the HCP. This represents a strong view of self-interested behavior, but it likely applies to some applicants given their economic stake. If it did not apply, then we would not need legal assurances like the No Surprises Policy to keep permit applicants at the table.

Environmental groups similarly press their advantage outside the

deliberative process when dissatisfied with HCPs. This usually takes the form of filing a lawsuit or whipping up a public relations frenzy against an HCP. In Southern California, Dan Silver became notorious in this regard, particularly with NCCP participants. Silver directs the Endangered Habitats League, a small non-profit organization representing dues-paying environmental groups. His reputation for leading participants to believe he was part of the deliberative process, and then pressing his advantage outside the deliberative arena when dissatisfied with impending outcomes, extended beyond the NCCP-related HCPs in which he participated.<sup>54</sup>

In sum, HCPs emerge due to forum-shopping by applicants, while forum-shopping by environmental activists has the potential to undermine existing HCPs. This is probably a good thing. After all, forum-shopping by environmentalists – particularly those that litigate – provides a lingering threat that keeps applicants at the discussion table and prompts them to implement HCPs in a responsible manner. This lingering threat levels the table, limiting the ability of applicants to dominate the deliberative process. Because the threat of lawsuits gives applicants the basic incentive to develop HCPs, forum-shopping by environmental activists before, during, and after planning is always a possibility. In short, forum-shopping is an inherent part of the process.

### **Rent-Seeking versus Public Goods**

Unlike forum-shopping, it is difficult to put a positive spin on rent-seeking. If deliberative experiments fall prey to rent-seeking and capture by well-informed or interested parties, then empowerment becomes a means for self-aggrandizement. This is a common critique of HCPs, particularly single-applicant HCPs. According to this critique, the FWS allows applicants to pursue economic gain at the cost of species and habitat conservation, while requiring only minimal mitigation measures for species and habitat.<sup>55</sup>

We should certainly assume that HCP applicants attempt to better their position. After all, HCPs are voluntary. Applicants would not bother to prepare and implement an HCP unless they believed it to be in their advantage. The crucial question here is whether applicants – particularly single applicants – pursue or achieve outcomes that benefit primarily themselves, while providing few (if any) positive externalities for society. In deliberative HCPs with broad participation, participants typically design a preserve system with other social benefits in mind, such as where to zone open space and how to manage growth. In doing so, they also develop social capital, including skills for deliberative

practice. When HCPs are prepared by single applicants, however, consideration of such positive externalities falls by the wayside. They become incidental to the HCP, rather than an integral part of it.

This problem can be addressed by encouraging or requiring broad participation early in the planning process, with transparency and accountability. Broad participation leads to wider discussion of positive and negative externalities. Transparency allows observers to monitor planning and implementation, and thereby to hold applicants accountable for rent-seeking behavior. Unfortunately, broad participation is currently only encouraged, and not required, by federal HCP guidelines. The FWS and Interior Department have done little to make the process transparent to the public. Anyone who has searched for an HCP – whether in draft or final form – understands the transparency problem. One can purchase copies from the federal government, but this is an expensive and time-consuming proposition. A web-based library would be ideal; but simply creating an accessible library of HCPs, incidental take permits, and implementation agreements would be a big improvement for now. Given the current role of centralized institutions as empowering agents, participation and transparency are problematic, which means that rent-seeking is always a possibility.

### **Balkanization of Politics**

At first glance, one might presume that HCPs necessarily balkanize politics by focussing on a narrow issue (one or more endangered species) and a limited geographic space (some or all of the species' habitat). Indeed, more than a dozen of the golden-cheeked warbler HCPs in Texas cover less than two acres, which suggests extreme balkanization. Yet other HCPs cover tens of thousands of acres, with the Wisconsin HCP for the Karner blue butterfly topping out at seven million acres. Again, the key point to consider is variation. It is the large, multi-partner HCPs that best approximate empowered participatory governance.

One might still argue that HCPs balkanize politics by focussing only on endangered species. Superficially, this is correct. Yet the desire for an incidental take permit among applicants is so great that HCPs have become the focal document for general planning purposes, particularly in urban areas, where habitat is directly affected by numerous issues, including physical infrastructure, pollution, open space, development patterns, and transportation. This has certainly been the case with NCCP, which covers a planning area of six thousand square miles in Southern California and fifty-nine local jurisdictions. In the Pacific

Northwest, salmon listings will likely further the trend toward aggregation because salmon HCPs will have to incorporate the waterways through cities, as well as the land-based activities that affect salmon, such as urban runoff, agriculture, and logging. Thus the potential for issue aggregation is great.

Even with respect to endangered species per se, balkanization is a moot issue because HCPs have not fragmented and factionalized something that was previously unified. Prior to the 1982 amendments to the ESA, the closest thing to HCPs were – and still are – the recovery plans mandated under Section 4 of the ESA, which the FWS prepares for listed species. These plans are supposed to identify the management responsibilities of agencies and other actors with jurisdiction over listed species. Yet the mandate to prepare recovery plans is not absolute, and the FWS failed to prepare recovery plans for 45 percent of listed species through 1992.<sup>56</sup> Moreover, recovery plans are merely advisory documents, not binding agreements like HCPs. Thus there was nothing to balkanize through decentralized empowerment.

To the contrary, HCPs arguably aggregate conservation efforts in certain situations. As previously noted, species conservation is a collective-action problem wherever habitat is shared among multiple owners, agencies, and political jurisdictions. Rather than preparing individual HCPs, applicants can lower their transaction costs by sharing information, pooling resources, and developing integrated solutions to the common problem they face. Though federal regulations do not require applicants to plan for a species' entire habitat or to coordinate with others when preparing an HCP, the FWS nevertheless encourages them to do so. This occurred with NCCP in Southern California, where FWS staff made it known that anyone choosing to develop their own HCP outside the NCCP process would have to demonstrate that their plan was compatible with subregional NCCP plans.<sup>57</sup>

Nevertheless, it is true that many HCPs focus on a narrow issue (species conservation) and a narrow geographic area (some or all of a species' habitat). Positive externalities may result from HCPs, particularly multi-partner HCPs. Some HCPs cover large planning areas, but the planning process itself is relatively focussed, particularly when public participation is limited, as it tends to be for single-applicant HCPs. Thus balkanization is more likely to be a problem whenever there is only one applicant, regardless of the size of the planning area; but we will not know the magnitude of the problem until researchers specifically study this issue.

### **Apathy**

Citizen apathy is a serious problem for HCPs because planning and implementation occur over many years. For many potential participants, this is an unbearable commitment, unless it is part of their job description. Therefore most participants in large HCPs represent specific organizations, such as local planning agencies, state and federal agencies, environmental non-profits, and private firms. Ordinary citizens rarely participate for sustained periods. This is not a critique of public apathy per se, which is indeed a problem for the empowered participatory governance model. It is a realistic assessment of the extraordinary time demands required to produce an HCP – particularly a multi-partner HCP – regardless of whether the HCP is ever implemented, monitored, or redesigned. If the empowered participatory governance model requires participation by ordinary citizens, then HCPs will never become exemplars of the model without funding to support citizen participation. Such funding could come from the federal government, or it could be required of applicants as a condition of the incidental take permit. Both scenarios are unlikely, however, given that current FWS guidelines only encourage participation, but do not require it.

### **Stability and Sustainability**

Growth in the number and size of HCPs during the 1990s suggests they are stable and sustainable. We might have wondered about future trends in the 1980s, but the current trend clearly suggests continued proliferation of HCPs in both number and geographic extent. There is also a compelling logic behind this trend. The pool of potential applicants will remain large so long as the FWS continues to list species, which seems likely given that listing decisions must be based on biological rather than political criteria. Moreover, human use of natural resources will undoubtedly continue. In this context, HCPs will likely thrive as the preferred means for nonfederal resource users to comply with the ESA's prohibition on take, particularly if the federal government continues to provide applicants with legal assurances such as the No Surprises Policy.

The important question is whether HCPs will thrive as experiments in empowered participatory governance. HCPs vary widely in how well they fit the model's dimensions. Rent-seeking, for example, is primarily a problem for single-applicant HCPs, which notably lack public participation. For this reason, it is probably best to remove single-applicant HCPs from consideration because they do not approximate

the model in several dimensions. Instead, we should focus on multi-partner HCPs – particularly the institutional incentives that encourage applicants to submit them and to deliberate broadly during planning and implementation – so that they better approximate experiments in empowered participatory governance.

## V Suggested Reforms

Some reforms seem obvious, if not politically feasible. An accessible library of HCPs and related documentation, including findings from monitoring programs and implementation evaluations, would enhance transparency and accountability. A web-based library would be particularly helpful for expanding public participation. This is a relatively easy reform because it simply requires gathering existing documentation and loading it onto a website. The FWS has been moving in this direction with the Environmental Conservation Online System (ECOS), which contains summary data for species and HCPs.<sup>58</sup> Summary data is certainly helpful, but ECOS does not yet include the text (in readable or searchable formats) of draft HCPs, final HCPs, incidental take permits, or implementation agreements – let alone monitoring reports, implementation evaluations, or the minutes from group meetings. Making these documents readily available would enhance accountability, participation, and deliberation, thereby reducing opportunities for rent-seeking by permit applicants.

More ambitious reforms would include required publication of periodic self-monitoring reports; federal funding for public participation, implementation evaluations, and adaptive management; and terminating the No Surprises Policy. Required publication of periodic self-monitoring reports – perhaps on the web library suggested above – would enhance accountability during implementation and allow broader participation in adaptive management. Federal funding for public meetings and implementation evaluations would expand the scope of deliberation and monitoring during planning and implementation. Federal funding of adaptive management is needed to cover the expense of fixing faulty HCPs, particularly those covered by assurances under the No Surprises Policy. Alternatively, the federal government could terminate the No Surprises Policy, which would encourage adaptive management in HCPs that do not include an adaptive management strategy, and in HCPs that include an insufficient adaptive management strategy.

Many of these reforms would increase uncertainty for applicants,

which may reduce the number and size of HCPs in the future, but deliberation thrives on uncertainty. In a world of certainty, there is no reason to deliberate. The more certain people are about what they want and expect, the more likely they will conceal their preferences through strategic bargaining rather than allowing their preferences to change by revealing them through deliberation. The No Surprises Policy, for example, necessarily constricts the range of deliberation by creating legal certainty in an uncertain political and ecological environment. While the new guidelines on adaptive management expand the range of deliberation for HCPs covered by the No Surprises Policy, such regulatory assurances nevertheless restrict deliberation within a limited range.

Thus enhancing deliberation may be the most challenging problem for all HCPs. Even if federal guidelines, rules, or laws mandate increased public participation, we will not necessarily see more deliberation. Indeed, centralized directives cannot mandate deliberation *per se*, though they can readily change the incentives for deliberation by altering participant perceptions of uncertainty. This can be done, for example, by increasing the probability of enforcing the Section 9 prohibition on take (which would bring more applicants to the table) and by reducing regulatory assurances (which would keep them at the table during implementation).

Similarly, if participants view habitat as a zero-sum pie, then they will fight over the relative size of the pieces they want to preserve for species or consume in markets, which means the standard pluralist model of strategic bargaining with concealed preferences will likely prevail. From a scientific perspective, however, this is the wrong view. Information and knowledge about the relationship between species and habitats is constantly changing. Hence to view the habitat pie as fixed ignores the evolving nature of scientific knowledge and the accumulated information gleaned from monitoring programs and implementation evaluations. This is why adaptive management is crucial to environmental policy applications of the empowered participatory governance model. If HCPs are framed in terms of adaptive management, then monitoring, learning, and redesign can occur. Deliberation is feasible in this institutional framework because learning implies that individual preferences and strategies are not stable.

The fundamental weakness of the No Surprises Policy is that it constrains the range of adaptive management, thereby encouraging strategic bargaining in the short run, while constraining deliberative possibilities in the long run. In a world of limited regulatory surprises, the habitat pie is relatively constant and participants grind out rational-

comprehensive plans. Even a devoted pluralist like Charles Lindblom understood that rational-comprehensive plans are technically infeasible.<sup>59</sup> Yet, forty years later, such plans are still promoted under the “no surprises” banner. Admittedly, fewer actors will participate in HCPs without such regulatory assurances. Yet those who do participate will be much more likely to do so in a deliberative manner. Moreover, the federal government can assuage their uncertainty by creating a federal program to subsidize adaptive management. By subsidizing adaptive management, regulatory surprises will not be so painful, and the burden of species conservation will be more widely distributed.

## Notes

\* I would like to thank Archon Fung, Bradley Karkkainen, Dara O'Rourke, Andrew Szasz, and Erik Olin Wright for helpful comments on earlier drafts, and Jennifer Balkcom, Alice Napoleon, and Jessica Rajotte Wozniak for research assistance.

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1. Archon Fung and Erik Olin Wright, “Thinking about Empowered Participatory Governance,” this volume.

2. Current HCP data, along with federal policies and guidelines, can be found on the U.S. Fish and Wildlife Service website, at <http://endangered.fws.gov/hcpl/>.

3. See, for example, Craig W. Thomas, *Bureaucratic Landscapes: Interagency Cooperation and the Preservation of Biodiversity*, Cambridge, MA: MIT Press (2003); Steven L. Yaffee, *The Wisdom of the Spotted Owl: Policy Lessons for a New Century*, Washington, DC: Island Press (1994); Steven L. Yaffee, *Prohibitive Policy: Implementing the Federal Endangered Species Act*, Cambridge, MA: MIT Press (1982); and Timothy Beatley, *Habitat Conservation Planning: Endangered Species and Urban Growth*, Austin, TX: University of Texas Press (1994).

4. While both Section 7 and Section 9 address habitat modification, they do not provide the same incentives for actors to develop HCPs because Section 10 authorizes HCPs as a means for complying with the Section 9 prohibition on take, not the Section 7 jeopardy standard for federal agencies. Hence federal agencies do not have a strong legal incentive to participate in HCPs. The FWS is an exception because it reviews and approves HCPs, and must consult with itself under Section 7 when issuing HCP permits.

5. Sections 9(a)(1) and 3(18), Endangered Species Act of 1973, as amended. The Section 9 prohibition on take applies only to fish and wildlife species listed by the FWS as “endangered” (i.e. at imminent risk of extinction). It does not apply directly to plant species, or to species listed as “threatened” (i.e. likely to become endangered in the foreseeable future). Yet Section 9 does cover plant species indirectly because plants (such as old-growth forests) provide habitat for wildlife (such as spotted owls).

6. 50 CFR 17.3. This regulation was upheld by the Supreme Court in *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995).

7. Yaffee, *Prohibitive Policy*.

8. This occurred, and continues to occur, even though the ESA instructs the Secretary of the Interior to make listing decisions based “solely on the basis of the best scientific and commercial data available . . .” (Section 4(b)(1)(A)).

9. Beatley, *Habitat Conservation Planning*. For additional background on this first HCP, see Lindell L. Marsh and Robert D. Thornton, “San Bruno Mountain Habitat Conservation Plan,” in David J. Brower and Daniel S. Carol, eds., *Managing Land-Use Conflicts: Case Studies in Special Area Management*, Durham, NC: Duke University

Press (1987). On the role of consensual ecological knowledge in habitat planning and management, see Craig W. Thomas, "Public Management as Interagency Cooperation: Testing Epistemic Community Theory at the Domestic Level," *Journal of Public Administration Research and Theory*, no. 7 (1997), pp. 221–46; and Thomas, *Bureaucratic Landscapes*.

10. The National Marine Fisheries Service (NMFS) reviews and approves HCPs for marine species, including anadromous fish. NMFS is relegated to footnotes in this chapter because most HCPs are land-based.

11. Section 10(a)(1)(B), Endangered Species Act of 1973, as amended.

12. U.S. Fish and Wildlife Service and National Marine Fisheries Service, *Habitat Conservation Planning Handbook*, Washington, DC: U.S. Fish and Wildlife Service and National Marine Fisheries Service (1996), chapter 3, p. 10.

13. For current data on HCPs, see the Environmental Conservation Online System (ECOS), at <http://ecos.fws.gov/>.

14. The No Surprises Policy was introduced by the Clinton administration in 1994, and codified in 1998. During this interim period (1994–97), the policy was so popular that at least seventy-four HCPs were thought to contain assurances under the No Surprises Policy. See Steven L. Yaffee *et al.*, *Balancing Public Trust and Private Interest: Public Participation in Habitat Conservation Planning*, Ann Arbor: School of Natural Resources and Environment, University of Michigan (1998), chapter 2, p. 5. The No Surprises Policy was codified (50 CFR Parts 17 and 222) when the U.S. FWS and NMFS published the final "Habitat Conservation Plan Assurances ('No Surprises') Rules" *Federal Register*, vol. 63, no. 35 (1998), pp. 8, 859–73. All HCPs must now be consistent with this rule. More recently, the FWS has developed similar assurances through Safe Harbor and Candidate Conservation Agreements. See the final rule in U.S. Fish and Wildlife Service and National Marine Fisheries Service, "Safe Harbor Agreements and Candidate Conservation Agreements with Assurances," *Federal Register*, vol. 64, no. 116 (1999), pp. 32, 705–16.

15. Yaffee *et al.*, *Balancing Public Trust and Private Interest*, chapter 1, p. 1.

16. Kai N. Lee, *Compass and Gyroscope: Integrating Science and Politics for the Environment*, Washington, DC: Island Press (1993); C.S. Holling, *Adaptive Environmental Management and Assessment*, Chichester, NY: Wiley (1978).

17. Reed F. Noss, Michael A. O'Connell, and Dennis D. Murphy, *The Science of Conservation Planning: Habitat Conservation under the Endangered Species Act*, Washington, DC: Island Press (1997).

18. U.S. Fish and Wildlife Service and National Marine Fisheries Service, "Notice of Availability of a Final Addendum to the Handbook for Habitat Conservation Planning and Incidental Take Permitting Process," *Federal Register*, vol. 65, no. 106 (2000), pp. 35, 241–57.

19. Yaffee *et al.*, *Balancing Public Trust and Private Interest*.

20. *Ibid.*, p. xv.

21. *Ibid.*

22. For example, the new HCP guidelines state: "for large-scale, regional, or exceptionally complex HCPs, the Services are increasingly encouraging applicants to use informational meetings and/or advisory committees. In addition, the minimum comment period for these HCPs is now 90 days, unless significant public participation occurs during HCP development." U.S. Fish and Wildlife Service and National Marine Fisheries Service, "Notice of Availability," pp. 35, 256.

23. See, for example, Michael J. Bean, Sarah G. Fitzgerald, and Michael A. O'Connell, *Reconciling Conflicts under the Endangered Species Act: The Habitat Conservation Planning Experience*, Washington, DC: World Wildlife Fund (1991), pp. 66–79; Timothy Beatley, "Balancing Urban Development and Endangered Species: The Coachella Valley Habitat Conservation Plan," *Environmental Management*, no. 16 (1992), pp. 7–19; Dwight Holing, "Lizard and the Links," *Audubon*, no. 89 (1987), pp. 39–49; Robert Thompson, "Coachella Valley Habitat Conservation Plan," in Judith Innes, Judith Gruber, Michael Neuman, and Robert Thompson, eds., *Coordinating*

*Growth and Environmental Management through Consensus Building*, Berkeley, CA: California Policy Seminar, University of California (1994).

24. Yaffee *et al.*, *Balancing Public Trust and Private Interest*, p. vi.
25. Thomas, *Bureaucratic Landscapes*.
26. Yaffee *et al.*, *Balancing Public Trust and Private Interest*, chapter 4, p. 21.
27. Part of this case study is reported in Charles Schweik and Craig W. Thomas, "Using Remote Sensing to Evaluate Environmental Institutional Decline: A Habitat Conservation Planning Example," *Social Science Quarterly*, vol. 83, no. 1 (2002), pp. 244–62. For the full case study, see Craig W. Thomas and Charles Schweik, "Regulatory Compliance under the Endangered Species Act: a Time-Series Analysis of Habitat Conservation Planning Using Remote-Sensing Data," paper presented at the *Association for Public Policy Analysis and Management (APPAM) Annual Research Conference*, Washington, DC (1999). This conference paper has been extensively revised and is available on request from the authors.
28. Section 10(a)(2)(A)(ii), Endangered Species Act of 1973, as amended; U.S. Fish and Wildlife Service and National Marine Fisheries Service, *Habitat Conservation Planning Handbook*, III-10.
29. Thomas and Schweik, "Regulatory Compliance."
30. Lee, *Compass and Gyroscope*; Holling, *Adaptive Environmental Management and Assessment*.
31. Fung and Wright, Introduction to this volume, p. 31
32. Peter Kareiva *et al.*, *Using Science in Habitat Conservation Plans*, Washington, DC: American Institute of Biological Sciences (1999).
33. *Ibid.*, p. 40.
34. *Ibid.*, p. 41.
35. During implementation, some participants wondered whether the Coachella Valley HCP protected the most important sand sources for the dunes in the preserve system. The preserve manager accordingly commissioned geological field studies, which indicated that the primary sand sources were inadequately protected. See Cameron Barrows, "An Ecological Model for the Protection of a Dune System," *Conservation Biology*, no. 10 (1996), pp. 888–91. Our subsequent analysis of remote-sensing data from Landsat satellites confirmed this finding and pinpointed the areas requiring additional protection. See Schweik and Thomas, "Using Remote Sensing." We accordingly gave them the processed data to aid in adaptive management.
36. Thomas and Schweik, "Regulatory Compliance."
37. Marjorie Nelson, Division of Endangered Species, U.S. Fish and Wildlife Service, personal communication, October 1, 1999.
38. U.S. Fish and Wildlife Service and National Marine Fisheries Service, "Notice of Availability."
39. *Ibid.*, pp. 35, 252.
40. *Ibid.*
41. *Ibid.*, pp. 35, 253.
42. Thomas, *Bureaucratic Landscapes*.
43. Yaffee *et al.*, *Balancing Public Trust and Private Interest*.
44. *Ibid.*, chapter 3, p. 4.
45. *Ibid.*, appendix A.
46. Kareiva *et al.*, *Using Science in Habitat Conservation Plans*.
47. Noss and Murphy, *The Science of Conservation Planning*, p. 58.
48. Reed F. Noss and Allen Y. Cooperrider, *Saving Nature's Legacy: Protecting and Restoring Biodiversity*, Washington, DC: Island Press (1994).
49. Yaffee *et al.*, *Balancing Public Trust and Private Interest*.
50. Laura C. Hood, *Frayed Safety Nets: Conservation Planning under the Endangered Species Act*, Washington, DC: Defenders of Wildlife (1998).
51. As of July 2002, the FWS had de-listed twelve fish and wildlife species due to recovery, but the habitat of six of those species is in other countries (i.e. Australia and Palau), which makes them irrelevant to the HCP experience. Plant species are not

included in this count because they are not covered by the Section 9 prohibition on take. For current data, see <http://ecos.fws.gov/>.

52. Bean and O'Connell, *Reconciling Conflicts*; Beatley, "Balancing Urban Development and Endangered Species"; Holing, "Lizard and the Links"; Thompson, "Coachella Valley Habitat Conservation Plan."

53. For example, the primary environmental protagonist in the Coachella Valley HCP during the planning phase was Allan Muth, Ph.D., director of the University of California's Deep Canyon Desert Research Center. To the west, in San Diego and Orange Counties, one of the primary environmental protagonists in several HCPs was Dan Silver, a former medical doctor. Given their academic credentials, these individuals cannot be considered "ordinary citizens."

54. Silver focussed primarily on HCPs associated with Natural Communities Conservation Planning (NCCP), but his reputation extended further than his geographically isolated participation. In the Coachella Valley, a representative of the Building Industry Association (BIA) pointed to Silver as an example of destructive forum-shopping – even though Silver and NCCP operated an hour or more to the west (Ed Kibbey, Executive Director, Building Industry Association of Southern California, personal communication, June 8, 1999). Silver justified such forum-shopping by claiming that it provides clout within these planning processes (Yaffee *et al.*, *Balancing Public Trust and Private Interest*, p. xvi, note 16). Yet forum-shopping during the planning process pushes HCPs toward traditional power-based bargaining, and away from deliberation.

55. This critique has some empirical merit. Scientists evaluating the use of science in HCPs found that 85 percent of the species in their sample were protected by mitigation procedures that addressed the primary threat to the species' continued existence; but for only 57 percent of the species did they rate proposed mitigation procedures as sufficient or better, while 43 percent of the species were covered by proposed mitigation procedures that were "significantly lacking" (25 percent), "inadequate" (13 percent), or "extremely poor" (5 percent). See Kareiva *et al.*, *Using Science in Habitat Conservation Plans*, p. 39.

56. Andrew A. Smith, Margaret A. Moote, and Cecil R. Schwalbe, "The Endangered Species Act at Twenty: An Analytical Survey of Federal Endangered Species Protection," *Natural Resources Journal*, vol. 33 (1993), pp. 1,027–1,075, 1051.

57. Thomas, *Bureaucratic Landscapes*, Chapter 6.

58. ECOS is maintained on the FWS website, at <<http://ecos.fws.gov/>.

59. Charles E. Lindblom, "The Science of Muddling Through," *Public Administration Review*, no. 19 (1959), pp. 79–88.