

**Civil Society Follow-Up Strategy to the Implementation
of the Quebec Plan of Action**

REPORT NORTH AMERICA
(Canada, United States and Mexico)



CITIZEN PARTICIPATION IN THE SUMMIT OF THE AMERICAS

Civil Society Follow-Up Strategy to the Implementation of the Quebec Plan of Action REPORT NORTH AMERICA

Coordinating Agency



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Project Citizen Participation in the Summit of the Americas

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I. INTRODUCTION

The present report is in line with the Project Citizen Participation in the Summit of the Americas. In its coordination efforts, PARTICIPA Corporation works in alliance with the Canadian Foundation for the Americas (FOCAL), the Regional Coordinator for Economic and Social Research for Central America and the Caribbean (CRIES), Universidad de Los Andes from Colombia, the Latin American Faculty of Social Sciences (FLACSO) of Chile and the Inter-American Democracy Network (IADN). This project started seven years ago and, at present, involves Civil Society Organizations (CSOs) from 21 countries of the Americas.

The Project seeks to educate citizens and CSOs on the Summits of the Americas processes, on the commitments undertaken by the Governments during the Summits meetings, and on how these processes are linked to the development of the countries and to the life of its citizens. It also aims at supporting efforts to influence governments in the fulfillment of the commitments they undertake.

During this six working years, two Summits of the Americas have taken place. For the Second Summit of the Americas held in Santiago, Chile (1996) the project organized two Hemispheric-wide meetings with the participation of representatives of the government, Civil Society Organizations and multilateral agencies from 34 countries. They contributed noteworthy proposals on the thematic areas of Education, Strengthening of Civil Society, the Role of Women in Eliminating Poverty and Discrimination and the Fight against Corruption. Several proposals presented by CSOs were incorporated to the Plan of Action of Santiago. For the Third Summit of the Americas, held in Quebec (2001), PARTICIPA (Chile), FOCAL (Canada) and the Esquel Foundation (USA) carried out a consultation process involving 900 Civil Society Organizations from 17 countries and formulated 243 proposals to the Summit of Quebec. More than half of these proposals were incorporated into the Final Plan of Action.

Between July 2002 and March 2005, the "Civil Society Follow-up Strategy to the Implementation of the Quebec Plan of Action" is being carried out to provide follow-up and promote the fulfillment of the Quebec Plan of Action in the thematic area of strengthening democracy. This will be undertaken through the enhancement and broadening of citizen participation with a network of CSOs designing and applying outreach and advocacy mechanisms at the Hemispheric, regional and national levels.

The selected topics to provide follow-up and support the implementation of the Plan of Action are:

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

For this follow-up process a methodology was devised which permitted the use of quantitative and qualitative sources of information. A set of indicators for each of these topics was defined and on their bases questionnaires were designed for gathering information on the level of fulfillment of the Quebec mandates in each of the countries. For the topics of access to information, freedom of expression, access to justice and the autonomy of the Judiciary, questionnaires that had been applied to a group of experts, were used. For local governments and decentralization, the questionnaires were addressed to Municipal authorities as well as representatives of CSOs working for the Municipalities. Lastly, in the case of civil society participation, the questionnaires were applied to representatives of Civil

Society Organizations trying to include a wide diversity of organizations. To this end, the main topics of their agendas, their size and their coverage was examined¹.

From the results achieved, recommendations and suggestions were prepared to support the implementation of the mandates in these topics.

The results of these initiatives will be widely disseminated, as well as being used to actively support efforts to incorporate the recommendations into the final document of the Special Summit of Mexico to be held in January 2004 and in the Summit of the Americas in Buenos Aires in the year 2005.

Following we present the main results achieved in the Norteamerica region, formed by Canada, United States and Mexico, for each one of the following topics:

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

The presentation of these results is divided into legal subjects and into practical issues².

¹ For additional information on sources of information used in each of the countries, please refer to the national reports in www.sociedadcivil.org

² For more information on the results by country, please consult the national reports, by country, at www.sociedadcivil.org

II. RESULTS

1.1. Quebec Plan of Action Commitments

The Plan of Action³ establishes that the countries *"will work together to facilitate cooperation among the national institutions responsible for guaranteeing (...) free access to information, with the aim of establishing best practices to improve the administration of information held by governments about individuals, facilitating citizens' access to this information"*.

1.2 Results

1. Legal aspects on access to information

In North America access to information is included in the legal framework of the three countries, although in Canada and the United States it is not established in the Constitution. This fact does not imply that the protection of this right is not guaranteed, for example in Canada the Law on Access to Information can revoke stipulations contained in other federal laws.

It is important to point out that in the region the debate on legislation on access to information is radically different in Canada or in the United States on one hand, and Mexico on the other. In the first two countries laws on freedom of information date back to 1982 and 1966, respectively, while in Mexico and as part of the reform of the State, progress has been made with the enactment in 2002 of the Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental (Federal Law on Transparency and Access to Public Information held by the Government).

Therefore, in Canada and the United States the main concerns for access to information can be classified in two areas. On one hand, there exists a need to bring up to date and reinforce the legal framework and to dismantle bureaucratic apathy and other obstacles which, in practice, hinder the implementation of laws on access to information; and, on the other, the need to guarantee that the measures taken to combat terrorism do not act in detriment of the access to information, acting as a limiting factor for the accountability process. While in Mexico, the main concerns revolve around the implementation of the recently enacted law and the need to change the political approach in respect of the dissemination of information by public servants.

Table No. 1: Existence of constitutional articles referring to access to information, by country

		COUNTRIES		
		Canada	United States	Mexico
Existence of constitutional articles	Free access to information	x	x	✓
	Petition of Habeas Data	x	x*	x

* Nevertheless, and based on the decision of the Courts, it can be concluded that the right to privacy constitutes a basic human right and therefore is included in the Ninth Constitutional Amendment of the United States.

³ The Quebec Plan of Action can be accessed at www.oas.org

Table No. 2: Legislative initiatives and drawbacks shown on material relating to freedom of information, by country (1998-2003)

Country	Main legislative initiatives on freedom of information	Recent drawbacks on material relating to freedom of information
Canada	Access to Information Law (1982); Law on Privacy (1982)	Amendments to Access to Information Law based on the Antiterrorism Law (2001) Protection of Information Law (2001)
United States	Freedom of Information Law (1966); Law on Privacy (1974)	Memorandum from the Attorney General of the United States (2001) encouraging federal agencies to consider implications on security issues before disseminating information Intelligence Authorization Law (2003) restricting the access to information on intelligence to foreign bodies Memorandum of the White House (2003) to all federal agencies reemphasizing the importance of proceeding with the utmost caution when disseminating information on weapons of mass destruction.
Mexico	Ley Federal de Transparencia y Acceso a la Informacion Publica Gubernamental (LFTAIPG) (2002) (Federal Law on Transparency and Access to Public Information held by the Government) (2002)	Initiative of Federal Law on National Security which, among other things, extends to 30 years the period to keep information undisclosed. Bill for Custody of Confidential Information of the Mexican Navy Initiatives to amend the LFTAIPG and the Constitutional Reform Initiative to LFTAIPG *

- The two last Initiatives refer to readdressing the rule on transparency and access to public information in Mexico.

Some of the main **positive aspects** contained both in the Constitution and in the laws regulating access to information and privacy in these countries are:

- Transparency and publicity are established as principles and liaison units are set up in the different governmental departments and organisms for requesting information.
- The information under exceptions are markedly specified in the legal framework.
- Information can be requested by any person.
- The motive for which the information is solicited must not be stated.
- The right to request information includes the right to duplicate the requested information.
- When the information has been unjustifiably denied, or the periods established for responses from offices where information has been requested are too long, persons can resort to the legal system.

Some of the **negative aspects** contained both in the Constitution as in other laws guaranteeing this right are:

- The institutions in charge of supervising the compliance of these laws lack the authority to order the release of the information, as well as to sanction governmental departments or agencies for withholding the data and/or they require a higher level of autonomy.
- The interference of the Executive in the designation of the Commissioners in Mexico.
- Although information can be requested by any person, in the three countries the identity of the applicant is required.
- Since 2001, in Canada and the United States, there is a tendency to place more information under existing exceptions or to use measures like the executive orders, quoting national security.
- These laws must be supplemented with others to guarantee the preparation, organization and maintenance of public information files. In the United States there are laws on electronic files.

Table No. 3: Characteristics of the laws that regulate Access to Information, by country

The legal norms that govern access to information establish that:	Canadá	United Estatic	México
1. Information held by the State can be requested by any person	✓	✓	✓
2. Information requests must not necessarily state the motive for which the information is solicited	✓	✓	✓
3. The government is obligated to provide all the requested information that it holds, with exceptions that are specifically specified	✓	✓	✓
4. The cases in which the State is not allowed to provide information (e.g., protection of privacy or national	✓	✓	✓
5. Exceptions to the principle of public access to information have been reduced to the bare minimum security) are stated in a clear and explicit manner	✗*	✓	✓
6. The legal system has the authority to exercise oversight in all cases of exception to the principle of public access to information	✓	✓	✓
7. When a document contains a combination of both permitted and restricted information, the permitted information must be provided upon request	✓	✓	✓
8. The principle of public access to information held by the government serves as a guide to interpret the law when specific cases come up	✓	✓	✓
9. Short time periods have been established for responses from offices where information has been requested	✓	✓	✓
10. When information has been unjustifiably denied, the legal system can be used as a means of recourse As a last instance it can be settled in Court	✓	✓	✓
11. Persons requesting information can resort to the legal system in order to receive an explanation from the State regarding unnecessary delays	✓	✓	✗
12. Clear responsibilities are established for officials providing information as well as clear sanctions for those that withhold information without sufficient	✗	✗	✓
13. The right to request information includes the right to duplicate the requested information	✓	✓	✓
14. The costs established by the State for the search and duplication of the information must not	✓	✓	✓

exceed a "reasonable" amount, which in the last instance will be determined by the legal system			
15. Laws which do not comply with the principle of maximum access to information have been modified or eliminated	x	x	x

* Although the number of exceptions is high in comparative terms, we are speaking of more precise exceptions, therefore it should not be read as a limiting factor of the right of freedom of information.

Besides what is stipulated in the law, other problems associated with the implementation of the laws on access to information were identified in the countries of the region. Among them, mention was made of the exercise of a discretionary power on the part of the governments' organizations for the dissemination of public information. Problems were also detected in relation to the time period established by law to respond to requests for information. Some of the variables affecting negatively the expeditiousness with which responses are given by the governmental departments and agencies are:

- Lack of training of the officials responsible for the task.
- Lack of sufficient resources to process the volume and attend to the complexity of the requests

2. Access to information in practice

This section has two aspects: one refers to the specific information requested from public offices, while the second alludes to the information made public by these offices through the written press and websites. For the first aspect, it can be said that in Canada and the United States the responses provided by public entities and departments to requests for information depend on the complexity of the petition, the number of requests received and the subject they touch upon. Even though in Mexico the law has been in force for only one year, progress has been made in the number of responses provided by government institutions. Nevertheless, apathy is still deeply rooted in the officials in charge of providing the data.

Although the systematization of the process for soliciting information may be beneficial in the setting up of performance and transparency standards for the public service, it can also cause problems. In Canada and the United States, these centralized systems to request information have been used as an instrument to identify and, at times, delay the responses. In the case of Mexico, the problems arising from the use of this system relate to the lack of trained personnel to orient the persons seeking information.

Touching on the second aspect, the three countries of the region disseminate information through the written press and on websites. In the latter, information can be found on: salaries of public servants in the federal state/provincial and municipal governments, budgets allocated and their execution, results of State activities, support to vulnerable groups, and on financing, accounting and auditing of private companies providing public services. Nevertheless, this information is not compiled at one place, so it is necessary to carry out several and, at times complex, investigations to obtain the information solicited. In the case of Mexico, the use of websites is widespread in federal organizations and entities, but not at the state or municipal level.

Table No. 4: Real access to information (the replies of this section are of a subjective nature and should be considered as such)

Real access to information	Countries		
	Canada	United States	Mexico

Public Finance			
1. Government spending	✓	✓	✓
2. Public contracts with private sectors (bids)	✓	✓	✓
3. Economic resources (e.g., privatizations and international agreements)	✓	✓	✓
Activities by public and other senior officials			
4. Public servants' income	✓	✓	✓
5. Public servants' assets	x	✓	✓
6. Voting in Parliament	✓	✓	✓
Results of Governments' activities			
7. Levels of poverty and inequality	✓	✓	✓
8. Students' achievements and other educational indicators	✓	✓	✓
9. Health care and other health indicators	✓	✓	✓
10. Accusations of police abuse and use of excessive force	✓	✓	✓
11. Accusations of human rights violations	✓	✓	✓
Support for vulnerable groups			
12. Sources of support for victims of domestic violence and sexual abuse	✓	✓	✓
Accounting, audits and finances of private firms providing public services			
13. Performance indicators of public and private firms that provide public services	✓	✓	x
14. Price and quality of consumer products	✓	✓	✓

II. FREEDOM OF EXPRESSION

2.1 Plan of Action Commitments

The Plan of Action⁴ declared that governments will *"ensure that national legislation on freedom of expression is applied in an equal manner to all, respecting this liberty and access to information for all citizens, and for States to ensure that journalists and opinion leaders are free to investigate and publish without fear of reprisals, harassment or vindictive actions, including the misuse of anti-defamation laws"*.

2.2 Results

1. Legal aspects

The right of freedom of expression is guaranteed by the Constitution of the three countries of the region. These nations are also signatories to several treaties and international conventions guaranteeing the respect of human rights (e.g., the Universal Declaration on Human Rights (1948)). The combination of local legislation and international treaties offers individuals several opportunities to defend their right of freedom of expression. It is worth noting that each of the countries of the region has signed and ratified different international instruments, thereby confirming the recognition by that country of the jurisprudence or common law of the regional and/or multilateral organizations assigned with the task of implementing the treaties.

⁴ The Quebec Plan of Action can be accessed at www.oas.org

Table No. 5: Existence of constitutional references to freedom of expression, norms regarding contempt of court (desacato) and court decisions restricting this freedom, by country

Country	Constitutional references on freedom of expression	Norms regarding contempt of court (desacato)	Court decisions restricting freedom of expression
Canada	Yes	No	Confiscation of material and notes from a journalist who had published a news item based on a classified document (2004).
United States	Yes	No	Journalist taken to prison for 168 days for refusing to reveal her sources (2001)
Mexico	Yes	No	Six journalists were murdered (2000-2003)

Although this right is guaranteed by the Constitution of the countries, it is accepted that the right to freedom of expression has certain restrictions based on the need to maintain public order, national security and protection granted to vulnerable groups. The definition of these areas and, therefore, of the restrictions to exercise this right are under negotiation between the State and civil society in the three countries, in an effort to adapt the laws and their interpretation to the new realities. In this respect, the work done by the Courts in Canada and the United States has been of fundamental importance.

The case of Mexico illustrates the fact that even though a right is included in the Constitution, this does not guarantee that it will be honoured. To achieve this, it is necessary to have laws and regulations which substantiate the rights and obligations of the interested parties. In that country, the amendments to the laws and norms regulating the exercise of the right of freedom of expression are still pending (press, radio and television) legal provisions which are obsolete.

Other relevant aspects that merit close scrutiny are:

2. Freedom of expression in practice

2.1. Characteristics of the media

Despite the anti-monopoly regulations which exist in the legislation of the three countries, in North America there is a high concentration of ownership in the sector, as it is considered that this consolidation is essential to reduce operational costs and to achieve greater competitiveness. Mostly, the owners of the communications media are part of important economic groups. In Canada and Mexico, public participation can also be seen in this sector, although to a lesser degree. Even though in the three countries local communities, ethnic groups and minorities may have access to the media, these opportunities are insufficient, and for the most part these groups cannot afford the high cost it entails. In the case of Mexico, apart from the problems mentioned, there is no legal framework recognizing or regulating the figure of communal radiostations.

Table No. 6: Level of concentration of ownership of the media

COUNTRIES			
	Canada	United States	Mexico

Concentration of ownership	Concentrated	Concentrated	Concentrated
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The combination of these two factors negatively affects the ideological diversity of the information presented by the media and also limits the pluralistic role which, in theory, the media should play. At the same time, this fact is reflected in the level of trust shown by the people regarding the media. In general, radio broadcasting enjoys a high degree of trust in Canada and Mexico. Nevertheless, for television broadcasting, Canada and the United States show an average level, while Mexico rates it as high. For the written press, the level of trust is average for Canada and the United States and low for Mexico.

2.2. Freedom of expression of journalists

In general terms, it can be ascertained that Canada and the United States have a long tradition of respect for journalists. For the most part, the pressures exerted on these professionals come more from the communications media, from other groups involved or from sponsors than from the government. Nevertheless, since 2001 in Canada and, especially, in the United States stronger pressures are being exerted on the content of the news items relating to information on national security and terrorism. In the first country, these restrictions are based on the antiterrorist laws penalizing the improper use and dissemination of classified information, while in the second, it has to do with the way the news on the war against terrorism and the actions in Afghanistan and Irak are presented.

In Mexico, although to a lesser extent under the current government of Vicente Fox (2000-2006), restrictions, pressures and physical attacks or assaults to journalists can still be found. In the majority of cases, they are perpetrated by public authorities and, recently, by groups linked to drug trafficking.

2.3. Support to artistic manifestations

The three countries offer public support to artistic manifestations in the form of scholarships for artists, funds for the publication of books, opening of libraries and for the promotion of a diversity of artistic activities. Nevertheless, this support is limited to the availability of funding, which is suffering from severe budgetary cuts. An important matter of concern for the artistic community of Canada and the United States are the growing restrictions imposed by the laws on child pornography which affect artistic manifestations.

2.4. Public demonstrations

The right to demonstrate publicly exists in the countries and, in general, it is honoured. Nevertheless, the three countries have experienced cases where police have used excessive force during meetings of Heads of State. These events have led to the study of the need to better regulate public demonstrations and of giving the police a better training on non-violent strategies to control demonstrators and to guarantee the respect of the existing laws. In general terms, it is imperative that a better balance is achieved between the need to protect public order and the right of people to demonstrate and question their representatives. In the case of Mexico, public demonstrations are still a frequent mechanism used by the various groups of civil society and political parties to voice their demands.

Table No. 7: Existence of cases that restrict freedom of expression

Existence in the period 2001 – 2002 of:	Countries
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	Canada	United States	Mexico
Legal procedures against journalists based on limiting freedom of expression	x	✓	✓
Assassination of journalists due to their work	x	x	✓
Exile or displacement of journalists because of their work	x	x	x
Obstruction in the dissemination of information (there is concern over the antiterrorist laws limiting freedom of expression) (there is concern over the antiterrorist laws limiting freedom of expression)	x	x	✓
Confiscation of material (efforts have been made to achieve greater transparency in the process of selecting material) Journal Proceso and Newspaper La Jornada	✓	x	✓
Threats against journalists (not on the part of the government)	✓	x	✓
Pressures on the media because of the content of their programs	x	x	✓
Censorship of media	x	x	✓

3. LOCAL GOVERNAMENTAL AND DECENTRALIZATION

3.1. Plan of Action Commitments

The Plan of Action⁵ establishes that *"recognizing that the citizen participation and the suitable political representation are the bases of the democracy and that the local governments are those who have greater presence in the daily life of the citizenship" the governments:*

"They will promote mechanisms to facilitate the citizen participation in the political life, specially in the local or municipal governments".

"They will impel the development, the autonomy and institutional fortification of the local governments, in order to promote favorable conditions for sustainable the economic and social development of its communities".

3.2 Results

Much attention has put on the impacts of the decentralization and the participation of the civil society in the scope of the local governments. The interest of this study is double. By a side one looks for to determine which are the faculties that have been granted to him to the local governments in North America as much in the designation of the areas that are under their jurisdiction, as well as in its capacities to obtain own fiscal resources. And by the other one looks for to determine the nature of the relations between the local government and the civil society.

Before beginning to make the comparison between Canada, the United States and Mexico are possible to make the following annotations. The three countries of the region are federations in where an asymmetric division of powers between three levels of government exists: the federal, state (the United States and Mexico) and provincial and the territorial one (Canada)⁶, and the policeman and/or local government. Beyond this division, the definition of the local government becomes more complex. The determination of the composition, structures, autonomy, the operation and the faculties of the local governments are determined by the constitutions and laws of the state governments, as well as by the own

⁵ The Plan of Action of Québec can be obtained in www.oas.org

⁶ In order to make the prosa of this text more fluid, from now on we will use the term of state government for the three countries, although in the case of Canada this category corresponds to the governments provincial and territorial.

laws of the local governments. In the case of Mexico, the municipal governments do not emit laws but regulations and decrees. It can Even take to the existence of diverse forms of local government between the states and, like in the United States⁷, to the existence of several forms of local government to the interior of a same State of the Union.

Table No 8: Functions of the Local Governments by country

Country	Funciones
Canada	The functions of the local governments can vary enormously depending on the type of local government whom it is, as well as on the province in which it is. Between the areas under their jurisdiction are generally the state schools, services of police and firemen, the water and the drainage, recreational activities, paving of streets and sidewalks, public illumination and local transport.
United Estates	The functions of the local governments can vary enormously depending on the type of local government whom it is, as well as on the state in which it is. Between the areas under their jurisdiction are generally the determination of the ground use, and the provision of services such as the water, recreational activities, services of police and firemen; in some cases also it has jurisdiction on state schools.
Mexico	<p>According to fraction II of Article 115, the municipalities count on own legal personality and are "independent" in the handling of their patrimony, whenever this one is applied according to the law. The city councils have faculties to approve, in agreement with the laws in municipal matter that will have to send the legislatures of the States: a) the sides of police and government, b) the regulations, circular and administrative dispositions of general observance within its respective jurisdictions for the organization of the municipal public administration, c) as well as for the regulation of the matters, procedures, functions and services public of its competition</p> <p>The services public in charge of the municipalities, are the following ones:</p> <ul style="list-style-type: none"> • Potable water, drainage, sewage system, treatment and disposition of its residual waters; • Public lighting system • Clean, harvesting, transfer, treatment and final disposition of remainders; • Markets and power stations of supply • Pantheons. • Sign. • Streets, parks and gardens and their equipment; • Public security, in the terms of article 21 of this Constitution, municipal preventive police and transit.

Also it is important to stress that in the last years the flows of people of rural spaces to urban have been increased, and that the increasing concentration of the population in the cities makes the necessity imperative to conceive to the cities of different way. The processes of amalgamiento of municipalities or conurbanas zones with the governments of the great large cities, as well as the initiatives to obtain greater political influence undertaken by groups of mayors are sample of it. Independently of the result of this debate the necessity is evident to separate clearly the challenges that face the rural local governments of the urban local governments. There have been initiatives as the New Pact with the Cities in Canada and the Project of Municipalities in Transition of the organization National League of Cities in the United States that they look for to approach some of the challenges that face the cities caused by the globalización.

Finally, the federal experiences of these three countries are extremely different. Whereas in Canada and the United States some local governments with enough autonomy exist to handle their subjects and to even establish relations with other local governments of other countries, in Mexico the decentralization process not yet are finished and exist the necessity

⁷ In Canada and the United States different types from local governments exist. For greater details véanse the national reports.

to delimit with greater clarity the faculties of the local governments, to lay the the foundations so that these have a more independent fiscal base, and to promote the consolidation of a civil service of race. He is to say is needed to advance actually towards the fortification of the local governments. For it the government sent the Program for an Authentic Federalismo (2002-2006). In spite of the initiatives contained in this program, their reaches have been limited mainly by the difficulty to obtain consensuses between the main involved political actors.

1. Legal modifications destined to support the decentralization process.

The recognition of the local governments, its operation and its faculties are established within the laws of the state governments in the three countries.

In spite of the differences that we have made notice it can say the following thing:

- Generally the local governments are elect governments of direct way per periods that go of 2 to 6 years. In the case of Mexico the re-election of the municipal presidents for the immediate period is not allowed.
- The local governments normally have jurisdiction on the definition of residential and commercial areas, and the provision of services in the local level (residual water police, sewage system, processing and remainders, parks and spaces of recreation, programs of popular houses and supports to local businesses; in some cases they have certain responsibility of health matter and social attendance). Subjects like the one of the education exist, that although is determining in the promotion of the cities, still is under state jurisdiction.
- The resources with which the local governments count to work come from several sources: collection of rights by use of ground and taxes to the property, by the emission of permissions, licenses, fines, and fiscal transferences of the state governments and, to a lesser extent, of the federal government. In some cases the transferences fiscal of the governments state and federal can go focused to the implementation of specific programs. In the case of Canada and the United States most of the resources which they have the local governments is own, whereas in Mexico these governments still depend on the fiscal transferences of the federation.

Table No 9: Existence of system of redistribution of income, by country

Country	Funtions
Canada	In Canada, as much in federal government as the provincial governments they transfer bottoms to the local governments is for supporting them with income or the execution of certain programs in individual
United Estates	In the United States as much the federal government as the state governments transfers bottoms to the local governments, is for projects with income or the execution of certain projects in individual.
Mexico	In Mexico, the municipalities receive fiscal participation and transferences on the part of the federation and in much smaller measurement, of the state governments

- The processes of hiring of personnel in this level of government in Canada and the United States are regulated by the state and federal laws and are carried out by means of competitive processes. In the case of high civil employees in Canada it has been gotten to go to hiring agencies. In the case of Mexico the necessity was emphasized to continue the efforts to consolidate a civil service of race. In the three countries one looks for to promote the efficiency and transparency of acting of the servants public by means of incentives such as the qualification and supports for the superior education of civil employees of the government, monetary incentives based on yields, and prizes by good performance.

- Associations of local governments in the three countries exist in order to make their functions more efficient, to interchange experiences and to in front of represent the interests of these governments the state governments and the federal government. Some local governments comprise of international and regional associations of municipal governments.

2. Citizen participation in local governments

In Canada and in the United States, there is a long tradition of civil society participation in the design, formulation and implementation of plans and programs at the local level, while in Mexico, this process is gaining importance. Nonetheless, it is necessary to report that the influence of Civil Society Organizations on these issues will depend to a large extent on the available spaces for interaction, on the subject dealt with, as well as at what stage they join the decision-making process at the local government level. To appraise the level of participation the following variables were used:

- **Access to information:** the local governments of the three countries disseminate information using several mechanisms: websites, bulletins, advertisement newspapers, billboards and public hearings. In the case of Mexico, it was informed that the most frequently used mechanisms (public hearings and billboards) have a very limited scope.
- **Institutionalized opportunities for citizen participation:** in Canada and in the United States it is customary to include civil society organizations in the design and development of local plans and programs. Whether or not there are laws specifying that the participation of civil society in local government's programs and in decisions taken on the use of the budget is compulsory, in most cases governments have consultations with civil society organizations. Even though in Mexico positive experiences can be found of citizen participation at the local level, it is necessary to make progress towards the creation of more stable and institutionalized mechanisms of association and to open real spaces for participation, for example, in decisions taken on the use of municipal resources.

In Canada and in the United States besides the spaces offered by the governments for consultation, there are mechanisms like plebiscites and referendums to include society in decision making processes. These mechanisms may or may not be of a binding nature.

Although several civil society organizations reacted against the limitations existing in practice for these institutions to have a greater impact on the design of plans and programs at the local government level, it was also highlighted that there are instances when CSOs underutilize the spaces offered to them, and that there also is the need to improve the technical capacity of civil society organizations regarding the presentation of their proposals.

Table No. 10: Opportunities for citizen participation, by country

Countries	Instances of participation by country
Canada	Yes, spaces for consultation on the activities of the governments and local committees. There are also direct consultation mechanisms as, for example, referendums.

United States	Yes, spaces for consultation on the activities of the governments and local committees. There are also mechanisms for consultation as, for example, polls, workshops, public hearings, plebiscites and referendums.
Mexico	Yes, but they are still centered on the consultative and/or informative level.

Table No. 11: Local Governments' websites available for participation, by country

Country	Existence of Local Governments' websites available for participation
Canada	Existence of Local Governments' websites available for participation
United States	Yes, most local governments have websites available for citizen participation and for the dissemination of information.
Mexico	Yes, most local governments have websites available for citizen participation and for the dissemination of information.

4. FORTIFICATION OF THE CIVIL SOCIETY.

4.1 Commitments of the Plan of Action

The Plan of Action⁸ establishes that the governments "*Recognizing the important paper of the participation of the civil society in the consolidation of the democracy and that this participation constitutes one of the vital elements for the success of the development policies*", they will look for to contribute to the fortification of the participation of the civil society in the hemisféricos and national processes through:

"the establishment of instruments of public and deprived financing destined to fortify the capacity of the organizations of the civil society to make more visible the work and the contribution of the same ones and to promote the social responsibility".

"the elaboration of strategies - at national level, through the multilateral O.A.S., other organizations and multilateral development banks with the purpose of increasing the capacity of the civil society to increase its participation in the inter-American system and the political, economic and social development of its communities and countries, being fomented the representativeness and facilitating the participation of all the sectors of the society; and to increase the institutional capacity of the governments to receive, to integrate and to incorporate the contributions and the causes of the civil society, specially through the use of technologies of information and communication ".

Table No. 12: Civil Society influence on Local Governments' decisions, by country

Influence of Civil Society on:	Countries		
	Canadá	United States	Mexico
Budgetary decisions	Average	Average	Low
Consultations with local governments	High	Average / High	Low, but

⁸ The Plan of Action of Québec can be obtained in www.oas.org

			improving
Discussion on issues that directly affect the population	Average / High	Average/High	Low
Committee work	High	High	Low, but improving

It is necessary to mention that civil society organizations, far from being a homogenous group, represent a diversity of interests impossible to group under one umbrella. This is one of the factors obstructing the foundation of a better relationship with the government and the establishment of a legal framework giving greater transparency to the access to public resources, as well as the possibility of participating in public and in citizen decision-making activities without losing their status of charity organizations or, as in the case of Mexico, of institutions of Private Assistance and the tax benefits enjoyed with this status.

1. Laws aimed at strengthening civil society

The right of association is guaranteed by the Constitution of the three countries of the region. Having said that, it is the laws regulating the formation of civil associations the ones that stipulate the rights and duties of these organizations. According to these laws, CSOs can be non-profit or charity organizations. Depending on their status, these institutions can provide tax-deductible receipts, can obtain funds and public/or private contributions and can perform several tasks. Nevertheless in the three countries and, to a varying degree, restrictions are imposed on direct participation of these organizations in political activities, being the United States the country offering greater flexibility on this issue, and Mexico the country showing the greatest number of restrictions.

This is why in Mexico, some CSOs centered their efforts around the proposal for a Bill of Law which would acknowledge the role played by Civil Society Organizations in the development of the country. The Ley Federal de Fomento a las actividades realizadas por Organizaciones de la Sociedad Civil (Federal Law on the promotion of the activities undertaken by Civil Society Organizations) was approved by Congress in December 2003 and published in the Official Gazette on February 19, 2004. Nevertheless, the recently approved law is still awaiting its enactment and application, as well as the revision of both its fiscal and its legal framework at the State level.

Some positive aspects of these laws in the three countries are:

- The possibility of tax deduction and of receiving contributions.
- To be allocated public funds (although there are some restrictions depending on the type of organization involved and on the activities they carry out).

Some of the negative aspects of these laws in the three countries are:

- Restrictions for CSOs participation in political activities and in spaces to discuss topics of interest for their communities. In the case of Mexico, the role played by civil society organizations is restricted when carrying out propaganda in favour of political parties or candidates.

- Lack of clarity on the tax systems applied to these organizations.
- It is important to promote further the incorporation of minority groups in Civil Society Organizations.

Unresolved agenda in Mexico:

- Institutionalize the dialogue and interaction channels between the government and Civil Society Organizations.

Table No. 13: Existence of a legal framework that regulates the formation of CSOs, by country

Country	Legal framework that regulates the formation of CSOs
Canadá	The right of free association is included in the Charter of Freedom and Rights, nevertheless the activities of CSOs are regulated by the fiscal laws of Canada.
United States	Right of association is guaranteed by the Constitution of the United States. Civil Society Organizations are come under the fiscal laws of the United States and must register with the state governments.
Mexico	In Mexico, the formation of CSOs is ruled by the Civil Code as well as by fiscal laws. In 2002 the Ley Federal de Fomento a las Actividades Realizadas por las Organizaciones de Sociedades Civiles (Federal Law on the Activities Undertaken by Civil Society Organizations) was enacted.

2. The relationship between Government and Civil Society Organizations

In Canada, as well as in the United States, the governments have provided opportunities for ongoing interaction between the government and Civil Society Organizations. The United States is the country showing the greatest experience in terms of collaboration of CSOs in drafting of public policies. In Canada, there is also a long-standing tradition to involve CSOs in the elaboration and implementation of programs of public interest. Nevertheless, and in an effort to redefine the concept of relationship State-Civil Society Organizations, a group of CSOs proposed the government to carry out negotiations which resulted in the agreement to implement in 2001 **the Initiative for the Voluntary Sector**,⁹ with the aim of strengthening

this sector as well as recognizing the role they play in the drafting of public policies and in the provision of services. Mexico shows negative experiences on this issue, nonetheless recognition is being given to these organizations, but the opportunities for dialogue and interaction between the Government and CSOs depend on the political will of the officials, and are of more an informal than of an institutionalized nature.

Table 14: Existence of public and private financial mechanisms aimed at strengthening CSOs, by country

Countries	Public and private financial mechanisms aimed at strengthening CSOs
Canada	In Canada there is a long-standing tradition of cooperation between the Government (both at the local, provincial and federal level) and the CSOs for the design of public programs and for their implementation. This cooperation is assured through granting of

⁹ The Voluntary Sector is made up of the communitarian organizations with non lucrative aims.

	scholarships, transfer of public funds, contracts, etc. In 2001, the Round Table of the Voluntary Sector and the Canadian Government announced the Initiative for the Voluntary Sector, an initiative for dialogue between both parties aiming at the strengthening the capabilities of the voluntary sector. CSOs may also have access to private financing in accordance with their status (charity or non-profit organization).
Unites States	There are several mechanisms to support financially CSOs (e.g., granting of scholarships, contracts allocated via tenders) both at the federal and the state level. CSOs can also have access to private funds through sponsorships, donations and funding for training programs.
Mexico	The recently approved Ley de Fomento a las Actividades de las Organizaciones Civiles contains instruments for CSOs to access to public financing. This Law is still not in force. It is important to mention, that since some time several departments or government secretariats are offering specific programs to allocate resources to some of the civil organizations, through Joint Investment programs. Mechanisms are being sought whereby CSOs will be allocated sufficient resources for carrying out their work, without losing their independence (i.e., a system is being studied to set a balance between public and private financing).

The ongoing interaction between government and Civil Society Organizations, i.e., the participation of these organizations in the process of developing public policies in the region, is better institutionalized at the federal than at the state level, in Canada at the provincial and municipal spheres. Nevertheless, this fact does not imply that positive experiences are not found at the local government level. In some cases, like in Canada, a considerable number of CSOs carry out their work basically at the local level.

Although the impact shown by the work performed by CSOs, depends on the available channels for dialogue, on the response given by the government to these invitations for dialogue and on the initiatives under discussion, there is still the feeling among Civil Society Organizations that their participation is concentrated mainly in consultation and follow-up processes and that additional spaces are needed to achieve a greater and better level of incorporation in the system for developing public policies.

Lastly, it should be noted that the interpretation given by the laws on CSOs is of a very limited nature, therefore, thought must be given to ways how to integrate these groups and organization networks that do not fit into the definition of charity or non-profit organizations and whose main purpose is to defend and pursue certain political agendas. This is a particularly relevant issue for opening up spaces for the network of civil organizations.

5. REFORMATION TO THE JUDICIAL POWER AND ACCESS TO JUSTICE.

5.1 Commitments of the Plan of Action

The Plan of Action¹⁰ establishes that *"the equitable access to an independent, impartial justice and opportune it constitutes a fundamental base for the democracy, the economic and social development". In this respect, the governments were committed, among other things, a:*

"They will support initiatives and programs deprived public and for the education of the people on its rights of access to justice, and will impel the measures that assure the opportune access, equitable and universal to justice".

"They will foment measures to fortify the independence of the judicial power by means of initiatives that include the transparency in the selection of judicial authorities, security of permanence in the position, appropriate norms of conduct and systems of responsibility before the society".

5.2 Results

The comparison in the matter of access to the justice and independence of the Judicial Power between the countries of North America is a task difficult of making not only because different judicial systems in the region exist, but also because in the case of Mexico a reform process is being carried out. In spite of this reality it is possible to be said that some challenges common in the task exist of fortifying to the Judicial Power to guarantee the equitable access and is transparent to the justice of the different groups that comprise of the society in the countries of the region

1. Access to justice

The Constitution of the three countries guarantee the right to an impartial, fair and immediate trial. Nevertheless, the institutionalized recognition of the right of access to justice is not sufficient to ensure that the administration of justice be impartial or that the system be transparent. The experiences of the three countries are different, especially in the case of Mexico, where cases have been reported of people taking justice in their hands, a situation closely linked to the lack of legitimacy and the impunity enjoyed by the system. In this country, the reform process of the Judiciary started in the 1990s and it is still an important theme in the agenda for State reform. In spite of the progress made in the selection of judges, particularly in the local spheres, a more in-depth reform is required to help strengthen the Judiciary and also to build the confidence of the people in the legal system.

Touching on access to justice, the conclusions drawn from the studies carried out in the three countries are the following:

- a) **Awareness people have about rights:** the awareness people have on human rights is relatively good in Canada, moderate in the United States and low in Mexico. In the latter country, the responsibility of disseminating information is concentrated mainly on the Commissions on Human Rights and civil society organizations. The three countries need to extend and increase these services to vulnerable groups like women, indigenous peoples, ethnic minorities, youth, marginal groups, handicapped people, refugees and immigrants.
- b) **Public defense and other services provided to vulnerable groups:** the three countries provide free legal service to the population that cannot afford legal counsel to defend themselves. Nevertheless, it was reported that **the**

¹⁰ The Plan of Action of Québec can be obtained in www.oas.org

quality of these services has declined because of the increasing demand, the lack of sufficient trained personnel and the cuts in the budget which have taken place during the last years. In relation to services provided for vulnerable groups, the three countries have started programs to address the specific demands of several of these groups. Additional efforts are necessary to provide these people with access to justice. One of the priority areas in the three countries is the need of improving the services of translators for ethnic groups, immigrants and refugees.

- c) **Behaviour and proper training of the police force and personnel responsible for administering justice:** the actions of the police force in the three countries are perceived differently. In Canada, the attitude of the police is considered relatively good and the problems relating to abuse of power and corruption are few in number and not of a structural nature. In the United States and Mexico, there is more concern about the conduct of the police and the need has been stressed of improving the training of the police force to eradicate abuses, discriminatory practices, and in the case of Mexico, the use of torture and corruption. A fair administration of justice is tantamount to judges, ministers and magistrates well trained to exercise their duties in an impartial and transparent manner.
- d) **Prison system:** when analysing the population of the imprisonment facilities, it was noted that in the three countries ethnic and racial minorities, as well as marginal groups, are overrepresented, giving evidence of some of the shortcomings experienced by the legal system to guarantee equitable access to justice. Likewise, there is growing concern over the respect of human rights of the penal population, as well as over the growing presence of illnesses like HIV/AIDS and hepatitis C. In the United States, there is also concern for the rights of persons detained on charges of terrorism and for the lack of clarity of their legal status, as well as on the existence of the death penalty.
- e) **Ombudsman:** in Canada and Mexico, Commissions on Human Rights are present at the federal and state levels. Although the work carried out by these decentralized organizations is of the utmost importance, there is the need to strengthen them in order that their recommendations are read as binding decisions to be implemented.
- f) **Alternative systems for the administration of justice:** Canada and the United States have recognized some of the mechanisms to administer justice used by the indigenous peoples, where the participation of members of the community in deciding the punishment to be meted out and the reincorporation of the offender into the community is included. In the United States, these mechanisms are applied solely within the indigenous communities and only when both parties (victim and offender) are indigenous. In Canada, these systems are being applied in cases where the persons involved are not indigenous. Nevertheless, they still depend on the approval of the judicial authorities and cannot be used for cases of violent offenses. The Mexican government does not recognize any of these mechanisms.

Table No. 15: Existence of policies of State oriented to educate to the citizenship in its rights of access to justice by country

Country	Policies of State oriented to educate to the citizenship in its rights of access justice
Canada	Some of the programs public oriented to this aim are: <ul style="list-style-type: none"> • Public Program of Education and Legal Information • Network of Access to Justice • The Department of Justice, the Supreme Court of Justice, among others has Web sites with useful and accessible information related to an ample number of justice subjects
United States	The Office of Judicial Programs of the Department of Justice, as well as the National Service of References of Criminal Justice has implemented education programs on legal rights and the channels that exist in the judicial system to canalize demands for OCSs and agencies of the local governments. And they are these governments who have more specific programs for the citizenship.
Mexico	Who spread information of more systematic way are the civil Commissions of Human rights and organizations, despite normally these data more in statistical questions than in information are centered on the operation of the justice system. Greater attention to this point is required.

2. Independence of the Judicial Power

The levels of independence of the Judicial Power in Canada and the United States with relation to the Executive authority are high. The processes of selection and nomination of magistrates for the Supreme Court of Justice in these countries, although include the Executive authority, are relatively opened processes where it is included actually, although of unofficial way, the participation of Barras de Abogados and other sectors of the civil society. In Mexico, although the reforms conducted in the decade of 1990 promoted that the magistrates and judges of first instance were designated by a competitive process directed by the Councils of the Judicatura, the selection of the ministers and magistrates of the highest courts continue to a great extent being influenced by the Executive authority, which restricts the manoeuvre margin of the judges at the time of making its decisions and it lends itself for irregularities as the influence peddling and corruption.

Table No. 16: Transparency in the selection of judicial authorities

Country	Transparencia en la selección de autoridades judiciales
Canada	Discharge. The selection of judges is to expensive of the executive, nevertheless from the decade of 1970 this decision is taken taking into account the opinion from a special Committee made up of Barras de Abogados, members of the Judicial Power and by recognized people who are not lawyers. In August a new procedure for the selection of Magistrates for the Supreme Court of Justice was begun, by means of which the Minister of Justice must attend a hearing televised with a Legislative Committee ad hoc to answer questions around the name ones to fungir like Magistrates of the Supreme Court of Justice. This Committee must express its opinion and to send it to it to Prime minister, nevertheless is he who has the faculty to decide independently in the appointment of the magistrates of the resolution of the Legislative Committee.
United States	Discharge. Name by the President with approval of the Senate. There is participation of unofficial form of civil groups in the nomination and approval of the judges.
Mexico	Low. Although the Constitution establishes that the Executive authority must propose a short list of candidates and is the Senate that the Minister chooses of that short list, still great influence of the executive in the designation of judges exists.

In the three countries codes of conduct for the members of the judicial system exist but in the case of Mexico it is necessary to create the conditions so that the judges act under those norms and that they are more independent of the Executive authority.

At the moment a debate around the composition of the Supreme Court of Justice in the countries of the region exists in order to guarantee not only greater transparency, but also to reflect the existing diversity in these societies. This is determining to guarantee that the points of view of the minorities are taken into account and to take care of the preoccupations of a changing society. Although the incorporation of women or the necessity to avoid partisan preferences has been subjects that have been coming discussing for a long time, the discussions at the moment turn around the necessity to incorporate ethnic groups, diverse political-philosophical positions, sexual preferences, as well as to the necessity to open plus the processes of selection to the civil society.

Table Nº 17: Number of women who integrate the Supreme Court of Justice by country

CONTRIES			
	Canada	United States	Mexico
Number of women who integrate the Supreme Court of Justice	4/9	2/9	1/11

III. CONCLUSIONS

The aim of the follow-up process to the mandates of the implemented Quebec Plan of Action was to identify on two levels the progress made and the pending issues. On one hand, the current legal framework of each of the countries was analysed and, on the other, the practices carried out were assessed. This analysis covered the five themes of the follow-up exercise:

1. Access to Information
2. Freedom of Expression
3. Local government and decentralization
4. Strengthening of civil society
5. Access to justice and independence of the Judiciary

It is important to point out that in the North American region there are important differences between the experiences of Canada and the United States, countries with a long democratic tradition, and Mexico where the five themes under study are included in the reform process of the State which will take some time before it becomes operative. This in no way implies that significant progress has not been made in Mexico; on the contrary, important steps have been taken to strengthen democracy. At the same time and as was shown in the national reports of these two countries, the democratic practices of both Canada and the United States can be improved. To this end, several proposals have been put forward. In summary, even though there are great differences between the situations in these three countries, it can be concluded that the governments have made progress in strengthening democracy according to the five themes of the follow-up exercise; some with a relative degree of success, while others need more time to be developed or have been affected by the national and international circumstances facing the countries, especially on issues concerning security.

Since the Summit of Quebec in 2001, important progress has been made in Mexico to establish a legal framework on the themes analysed in the follow-up exercise, particularly in what refers to access to information, the legal recognition of civil society organizations and their participation in the design of policies of public interest. But, it is also important to note that much of this progress, especially in Canada and in the United States, has been achieved in practice. The analysis shows that the practices carried out regarding the strengthening of democracy are not the best, therefore citizens are not necessarily assured that they will be able to exercise their rights guaranteed by the Constitution and by the different rules and regulations. An example of this situation is what happens with the rights of access to information and freedom of expression where, even though there is a legal framework guaranteeing these rights, the antiterrorist laws recently enacted in Canada and in the United States, as well as the bylaws in Mexico, constitute important challenges, in the absence of an appropriate balance, to the exercise of these rights.

Touching on the possibilities citizens or CSOs have to participate in the design, execution and assessment of programs on political, economic and social development within their communities or countries, there are no legal framework in Canada or in the United States guaranteeing this participation. Nonetheless, in practice, there are spaces of dialogue between Civil Society Organizations and government departments at the different State levels. Mexico enacted the Ley Federal de Fomento a las actividades realizadas por Organizaciones de la Sociedad Civil, but both the bylaws and the laws at the state level need to be published before their provisions can make a difference in the activities of the CSOs. Even though channels for dialogue between CSOs and the government have been opened, they tend to be informal, not properly institutionalized and, in the majority of cases, refer to informative or consultative processes.

From the information gathered and from the study of each of the themes followed-up in the countries, it is possible to establish that in the North American region there are different levels of fulfillment of the mandates emanating from the Plan of Action.

ACCESS TO INFORMATION

The Quebec Plan of Action establishes that in respect of access to information, the governments will work with the aim of instituting best practices to facilitate access of citizens to information. This presupposes the existence of a legal framework guaranteeing this right and that citizens have real access to the data. What emerges from the experience of the countries of the North American region is that the fact that this right is included in the Constitution does not guarantee that it is honoured, nonetheless, it is of the utmost importance to have a clear legal framework. Likewise, it is crucial to attain great clarity in the guidelines, so that government officials in charge of processing information requests do so in an impartial manner.

The comparison of the current legal framework on access to information shows that in Canada there is a higher number of exceptions than in the United States or Mexico. Nevertheless, this fact should not be read as if Canada placed greater obstacles to access to information but as an indication of a higher level of specificity of cases where access can be denied. In the context of North America what was made evident was the need to establish clear criteria to decide the information pertaining to the category of exceptions.

The enactment of the Ley Federal de Transparencia y Acceso a la Información Pública in Mexico is a great achievement of this right and an important step towards the fulfillment of the commitments undertaken at the Summit of Quebec. Nevertheless, the bylaws that restrict access to information for the sake of guaranteeing national security in that country present a serious challenge and could mean a drawback regarding the dissemination of information. Similar concerns can be found in Canada and in the United States, where the antiterrorist laws could turn into important restrictions to the publication of information.

Even though it can be ascertained that the level of implementation of the mandates on access to information is lower in Mexico than in Canada and in the United States, it is important to stress the progress made by this country on this subject and point out that legislative amendments are of a more recent nature in Mexico, therefore full compliance with this right will take some time. In Canada and in the United States, at the domestic level, there is concern of the priority given to the subject of security over the need to inform citizens, a vital feature for the accountability process of governments.

FREEDOM OF EXPRESSION

The Quebec Plan of Action states that the governments will ensure that national legislations on freedom of expression are applied in an equal manner to all, and that journalists and opinion leaders are free to investigate and publish without fear of reprisals.

All the countries of North America include in their Constitution references guaranteeing freedom of expression and, none of them, have legal impediments as the "desacato" laws.

Table No. 18: Comparability of legal aspects on freedom of expression, by country

Country	Constitutional references to freedom of expression	"Desacato" Laws
Canada	Yes	No
Unites States	Yes	No
Mexico	Yes	No

Concerning the exercise of the right of freedom of expression, it is outlined that in practice all the countries face a negative situation, as in all of them the media is concentrated in large corporate groups. The incorporation of minorities in the communications media is still an important challenge for the region.

Table No. 19: Concentration of ownership of the media, by country

Concentration of ownership	Countries		
	Canada	United States	Mexico
	Concentrated	Concentrated	Concentrated

The country showing the greatest number of cases restricting freedom of expression is Mexico (e.g., censorship of material, threats to journalists, etc.). In Canada and in the United States, the right to freedom of expression of artists and journalists has a long-standing tradition. Nevertheless, there is concern that the antiterrorist laws (and in Canada those enacted to fight child pornography) may restrict the right of freedom of expression.

LOCAL GOVERNMENTS AND DECENTRALIZATION

On the subject of Local Governments, the Plan of Action states that the governments will create mechanisms to facilitate citizen participation and will promote the development, autonomy and institutional strengthening of local governments, to help enhance favourable conditions for the sustainable economic and social development of their communities.

The independence of local governments is one of the themes showing greater progress in the countries of the region through initiatives aiming at strengthening local governments both at the economic and social levels. Even though Mexico is the only country where local governments are recognized by the Constitution as a third level of government, it is here where the need exists to demarcate with greater clarity the authority of local governments, to set the basis for the achievement of greater fiscal autonomy and to consolidate the pursuance of a career as a civil servant.

Even though the local governments in Canada and in the United States offer a limited career for civil servants and have their own resources, it is necessary to provide them with a fiscal basis which will give them greater autonomy from state and federal transfer of funds.

Touching upon opportunities for dialogue between local governments and CSOs, Mexico needs to further institutionalize these channels. In Canada and in the United States, although there is an unwritten law favouring the joint work with CSOs in committees, public consultation and even mechanisms of direct exercise of democracy like referendums and plebiscites, it was pointed out that the impact of CSOs in public policies greatly depends on the subject being discussed, and some of these organizations consider that these processes are concentrated on the consultative phase. Nonetheless, it was also pointed out that in many instances the existing channels for dialogue are underutilized by Civil Society Organizations.

STRENGTHENING OF CIVIL SOCIETY

For strengthening of civil society, the Plan of Action establishes that the governments will create public and private financing mechanisms and will increase the participation of CSOs in the inter-American system, as well as in the political, economic and social development of their communities and countries.

Relating to legal issues, all the countries have a legal framework to regulate the formation of Civil Society Organizations. Nevertheless, in the three countries restrictions can be found for the participation of these organizations in partisan activities and/or to get directly involved in discussions of topics that have an impact on the development of their communities. The United States is the country showing the least number of restrictions for CSOs participation in political activities. In Mexico these limitations refer to the involvement of Civil Society Organizations in partisan activities. The three countries have mechanisms to provide financing to CSOs.

Table No. 20: Legal framework that regulates the formation of CSOs and public and private financial mechanisms aimed at strengthening Civil Society Organizations

Existence of a legal framework that regulates the formation of CSOs and public and private mechanisms aimed at strengthening CSOs	COUNTRIES		
	Canadá	United States	Mexico
Legal framework	√	√	√
Financial mechanisms	√	√	√

ACCESS TO JUSTICE AND INDEPENDENCE OF THE JUDICIARY

The Plan of Action establishes that in respect of justice, the governments will support initiatives and programs to educate people about their right of access to justice and will promote measures to strengthen the independence of the Judiciary through initiatives related to the transparency in the selection of judicial officials.

The three countries of the North American region have implemented programs to educate people about their right of access to justice. Nevertheless, in the case of Mexico this task is concentrated mainly in the Commissions on Human Rights who mostly focus on providing statistic information. Canada and the United States offer a wide variety of governmental initiatives and programs to inform people about their rights, but there is always room to improve these services and make them available to a greater number of citizens, especially to vulnerable groups like the indigenous peoples, ethnic minorities, immigrants and others.

Table No. 21: Existence of Government policies aimed at educating citizens about their right of access to justice, by country

Existence of Government policies aimed at educating citizens about their right of access to justice	COUNTRIES		
	Canada	United States	Mexico
	Yes	Yes	Yes, but it is insufficient

In Canada and in the United States the level of independence of the Judiciary is high and, in practice, the process for selecting Magistrates to the Supreme Court includes the participation, although in an unofficial capacity, of Bars of Attorneys and members of the Judiciary. Furthermore, in Canada during the year 2004 measures have been take to give greater transparency to the process for selecting Magistrates to the Supreme Court. Nonetheless, the need will arise to advance further on this issue. In Mexico, the reform of the Judiciary is still in process and the level of influence of the Executive in the selection of judges and magistrates to the Supreme Court of Justice is high, in detriment to the independence of the Judiciary.

Table No. 22: Transparency in the selection of judicial officials

	COUNTRIES		
	Canadá	United States	México
Transparency in the selection of judicial officials	High	High	Low

Taking into account the educational programs available to inform citizens of their right of access to justice and the transparency in the selection of officials, Canada and the United States are the countries showing the highest level of implementation of the mandates, while Mexico presents the lowest. Nevertheless, and in relation with this theme, the three countries have many pending issues, especially on access to justice for ethnic minorities and other vulnerable groups which are part of these societies. It is not possible to ascertain that in the countries of the region all citizens have access to justice.