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Bolivia's Constitutional Assembly: Conflict and Compromise

By Kathryn Ledebur and Emily Becker

On August 6, 2006, Bolivia's Constitutional Assembly began to write a new constitution to restructure the government, reform education, and decide on controversial themes such as coca policy, regional autonomy, and natural resources. At the conclusion of its one-year mandate, the Assembly has generated over 700 proposed articles, but has not yet begun to ratify them. Opposition parties' and some U.S. officials' accusations that the MAS ruling party would impose its political agenda in the assembly have not come to fruition. Although recurring conflicts continue to jeopardize the process, the majority of Bolivians continue to support the assembly. Although sometimes chaotic, rigorous national debate continues on all the above issues – demonstrating that Bolivian participatory democracy is alive and well.

Congressional Compromise Extends Assembly's Mandate

While varied and sometimes contradictory protests, both within the Assembly and nationwide, have slowed the process, both the majority MAS and opposition parties momentarily put aside their differences and found some middle ground. After a heated debate and with just three days before the assembly's mandate was due to expire, the Bolivian congress approved an amendment extending the constitutional assembly through December 14, 2007 with an additional nine months to carry out referendums. To reach a compromise in the congress, MAS ceded to the Podemos (leading opposition party) demand to hold two popular referendums, one to approve articles the assembly fails to ratify by a 2/3 vote and another to approve the resulting complete text of the constitution. The new legislation also stipulates that the assembly must respect the results of the 2006 referendum and grant departmental autonomy to Santa Cruz, Beni, Pando and Tarija. Some analysts question whether Congress has the authority to legislate the continuing operations of the assembly.

Though they have not ratified any articles, twenty-one commissions set up to review and condense the over 7,000 proposals have reached consensus on 250 articles. The commissions have submitted 517 more in two forms, a majority and minority proposal. These articles deal with the more contentious issues such as land tenure, autonomy, and the role of the armed forces and police. Many of these controversies stem from long unaddressed issues that provoke recurring conflicts.

The next task for the Assembly is to cull out repetitive proposals and try to come to an agreement on the divisive issues. The Assembly now has until September 9, 2008 to carry out the popular referendums and present a constitution approved by the Bolivian public, concluding a process more than ten years in the making.

Longstanding Demand for a New Constitution

Beginning in 1990, unpopular political decisions and the emergence of well-organized social movements challenged a political establishment unresponsive to the needs of the average Bolivian. As a result, demand for constitutional change to include all Bolivians in the political and cultural life of the country took root. In an effort to address the mounting popular support for a Constitutional Assembly, the three previous administrations incorporated the demand into their agendas and two congresses passed legislation to enact it. The constitutional assembly was a central part of Evo Morales's electoral platform and on December 18, 2005 the nation elected him to the presidency with over 53% of the vote.

On July 2, 2006, Bolivian voters elected 255 Assembly representatives and voted on regional autonomy. In order to create a truly representative body, the law convoking the Assembly guaranteed assembly seats for minority parties and made it physically impossible for any political party to gain a 2/3 majority in the Assembly to approve the constitution without consensus. By law, in order to ratify the new constitution, 51% of Bolivian voters must approve of the document in a national referendum. While MAS has majority support, many issues have become highly politicized with the central government, opposition parties, social movements, and others joining in the very public debate.

Regional and Indigenous Autonomy

One of the most contentious themes in the Assembly is how to define and implement autonomy. Four lowland departments, the opposition strongholds, passed the 2006 regional autonomy referendum. The legally binding vote limits the Bolivian executive's power by granting greater authority to departmental governments through decentralization measures, including direct elections for departmental governments. The vague wording of the initiative left the structure and details of this decentralization process to be defined in the Assembly. The MAS proposal includes four levels (departmental, regional, municipal, and indigenous) with equal status and subject to national laws. Podemos rejects the idea of parallel autonomies, and advocates only departmental autonomy.

Other Contentious Issues

- The location of the nation's capital has generated a fervent, if inane, regional debate. The small colonial city of Sucre, the judicial and historic capital of Bolivia, with the backing of eastern elites wants the capital to move from La Paz, the political capital. The conflict highlights that regionalism affects all departments, not just those in the eastern lowlands. Tensions remain high, and some sectors demand the transfer of the Assembly to another city, or its dissolution.
- Friction continues between the Bolivian **armed forces**, who want to broaden their constitutional mandate to include internal security (a traditional police mission) and guarantee the continuation of the military tribunal system, and the **police**, who protested a proposal to limit their duties and income.
- The **National Vision Commission** has not been able to decide on the new overall model of the state, nor a new economic model.
- The structure of the **legislature**, including choosing a unicameral or bicameral system, defining the number of representatives, and how they will be elected is still yet to be defined.

Conclusion

The creation of a truly flexible and enduring democratic constitution, representing and protecting the rights of all citizens, will depend on the ability of these elected representatives to creatively reach consensus and productive compromise that supersede political affiliations. Continued heated debate in the assembly refutes one U.S. official's admonition that the Morales government "demonstrated inclinations to consolidate executive power and promote potentially anti-democratic reforms through the Constituent Assembly and other means."¹

Although the process appears disorganized, antagonistic, and slow, it reflects Bolivians' willingness to work democratically to reform their political system. In spite of recurring friction, a recent United Nation's study found that 74% of the public will approve the constitution if the government, civic groups, prefects, and social movement leaders cooperate.² In spite of its many flaws, the Bolivian constitutional assembly continues to be one of the most viable scenarios for Bolivians to address longstanding fundamental conflicts.

Kathryn Ledebur is the Director of the Andean Information Network (AIN) based in Cochabamba, Bolivia. Emily Becker is an AIN Researcher. Contact: kledebur@ain-bolivia.org or 591 (4) 448-6137

¹ "Democracy in Latin America: Successes, Challenges and the Future." Testimony of Adolfo A. Franco, Assistant Administrator of the Bureau for Latin America and the Caribbean for the United States Agency for International Development, before the Committee on International Relations of the U.S. House of Representatives, 21 June 2006.

² Los Tiempos. "Encuesta: bolivianos optimistas con la Asamblea piden consenso." July 29, 2007.