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Andean Information Network

Bolivia's Land Reform Legislation

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In Bolivia, a country with one of the most unequal land distributions in South America, inequitable land tenure has been a persistent problem. Of the estimated 110 million hectares (1 hectare is 2.47 acres) of potentially productive land, the government estimates that 70% of this is in the hands of 400 individuals who claim over 100,000 hectares each, under various ownership guises. Another 25% of the productive land is in the hands of mid to large sized agricultural producers, while only 5% of agricultural lands are in the hands of poor and mostly indigenous rural inhabitants. To address these mounting problems, the Morales administration has enacted legislation that effectively implements the 1996 Agrarian Reform law, rather than launching a new initiative.

Prior to the election of Evo Morales, successive governments lacked the political will to implement agrarian reform, leading to frustration from unmet expectations and increasing land conflicts in rural Bolivia. During the past ten years, landless farmers and others moved into unoccupied lands in rural and outlying urban areas throughout the country. Amid controversy, the Bolivian congress recently passed a new agrarian reform law which defines how land will be redistributed. Although these measures may increase friction in the short term, they are necessary to end the corruption and favoritism that has pushed indigenous and low-income farming families off their properties and exacerbated poverty in the poorest nation on the continent.

New Land Reform Legislation

Although the U.S. mainstream press has characterized the new land reform law as "radical" and the Movement Toward Socialism (MAS) has made repeated statements attacking the landholding elite, the law passed last November simply modifies the 1996 law of the Gonzalo Sánchez de Lozada government, and does not represent a dramatic change in land policy. What concerns the political opposition and large-scale landowners, though, is that it appears that this government will actually implement the policy, which had been ineffectual and subject to corruption and favoritism. The initiative's success will depend on the Morales administration's capacity to transparently and objectively implement and interpret the law, and the ability of all parties to put aside their fondness for inflammatory rhetoric and polarized positions in favor of a just policy.

During his 2005 presidential campaign, Morales promised to redistribute land and to implement an agrarian reform law. He began this process in May 2006 by presenting land titles for 3 million hectares to 60 indigenous communities and groups and promising that Bolivia's 2.5 million rural poor would receive title to 20 million additional hectares over the next 5 years. This would constitute about 13% of Bolivia's land being given to about 28% of its people.

Morales' new legislation had been stalled in the Senate where MAS does not have a majority. After a week of heightened tensions and growing protests, including a long march from lowland areas to La Paz by campesino groups, MAS pushed the new legislation through. While most of the opposition was boycotting the Senate, three opposition senator alternates joined the MAS block and passed the Agrarian Reform Law late on November 29th. Although opposition party leaders accused MAS of bribing these three alternates to vote against their parties, the move demonstrates that these parties represent a conglomeration of traditional interests that lack a unified agenda.

The new law stipulates that land that is not currently serving an economic, social or ecological function may be allocated to indigenous or campesino communities with insufficient or no land. The legislation follows the basic land tenure principles specified in the existing Bolivian constitution, which does not legally recognize massive landholdings and grants the state the right to expropriate and redistribute land. The law provides economic compensation to landowners. Bolivian officials clarified that the initiative will primarily focus on properties larger than 120 acres and will not affect ecological reserves.

International technical and financial support for land reform efforts can help guarantee equitable and successful initiatives to improve the economic situation of many of Bolivia's poor and peacefully resolve longstanding historical conflicts.

Key Aspects of the New Legislation:

- Land without an economic, social or ecological function or identified as illegally obtained is subject to expropriation. Valid economic and social uses include areas left fallow for crop rotation, ecological reserves and areas and projected growth of agricultural enterprises.
- Small properties, *campesino* farms and indigenous communities are exempt from property taxes and expropriation.
- The newly formed national agrarian council will determine landholding and expropriation policy. The council includes indigenous federations, government agencies and ministries, and CONFEAGRO, the Santa Cruz agricultural organization representing large-scale landowners.
- Grants the government the ability to expropriate or revert land by eminent domain or for noncompliance with the required social economic function, and establishes a detailed administrative process to carry this out.
- Establishes an appeal process for expropriations and states that owners must be paid in full a monetary (or if the owner prefers, land) compensation calculated based on the market price and taking into account improvements and investments that the owner has made. Land cannot be expropriated before full payment.
- Allows the government to expropriate land without compensation when its use violates existing constitutional norms.
- Provides due process guarantees for affected landowners and the right for lending individuals or institutions to participate if the land is mortgaged.
- Prohibits land grants to government and agrarian reform officials, their families, and government contractors.
- The on site inspection process will take place every two years after the title has been granted. This gives large landowners time to create an economic or social function for their property. These inspections will focus on properties larger than 120 acres.

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