



Bolivia's Recall Referendum Setting the Stage for Resumed Political Conflict

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On August 10, Bolivians will go to the polls in a referendum to decide whether the president, vice-president, and eight of the country's nine departmental prefects (governors) will remain in office.¹ Opponents of President Evo Morales and the *Movimiento al Socialismo* (MAS) coalition have sought to cancel the upcoming recall referendum by challenging its legality, but it is unlikely that they will succeed. The law authorizing the referendum was approved just months ago, in May, by the Bolivian Senate, where the opposition *Poder Democrático y Social* (PODEMOS) party enjoys a majority. To be sure, the referendum's passage chagrined sectors of the opposition at the departmental level, both because some prefects will be hard-pressed to garner enough votes to remain in office, and because the referendum is viewed as a distraction from the regional autonomy agenda that opposition prefects have been pursuing, especially in the “*media luna*” lowlands departments of Santa Cruz, Beni, Pando and Tarija.

History and provisions of the recall referendum

President Morales initially proposed the recall referendum in January 2007, and sent a revised version of the proposal to Congress in December 2007. The timing of the December 2007 version apparently reflected an effort to defuse the mounting tensions surrounding the constitutional reform process and the related conflict over demands that Sucre regain its historical status as the nation's capital city. In the subsequent months, the recall referendum bill was stalled and seemed all but forgotten in the Senate. But in May 2008, PODEMOS used its majority to approve the proposal, evidently as a tactic to postpone a national referendum on the new constitution. This goal was accomplished. Having proposed the recall referendum initially, Morales was not in position to veto the bill that was ultimately approved by the Congress. He quickly signed it into law, setting the recall process in motion and effectively postponing consideration of the draft constitution.

¹ There will be no recall referendum for the prefect in the Chuquisaca Department, where voters elected an opposition candidate in July 2008 to replace the MAS prefect who had resigned as a result of the violence surrounding demands to transfer the nation's capital from La Paz to Sucre, the Chuquisaca departmental capital.

The law itself stipulates that the officials subject to the referendum will lose their seat if the vote to recall (a NO vote) is greater than the percentage of the vote with which they were elected in 2005. If President Morales and Vice President Alvaro García Linera lose, they will be required under the law to call new national elections between 90 and 180 days. If departmental prefects are not confirmed, they are to leave office immediately. The president, according to the current Bolivian constitution, has the right to name an interim replacement until the election of a new prefect, although the law does not specify a timeline or guidelines for such elections. Should any of the prefects be voted out of office on August 10, which appears likely, the rules regarding new elections can be expected to become a point of contention.

Since the officials now subject to the recall referendum won office by different margins in the 2005 elections, some face higher hurdles than others to remain in office. President Morales and Vice President García Linera garnered 53.740% of the vote in 2005, so for them to be turned out of office would require a NO vote higher than that percentage and in excess of 1,544,374 votes. None of the sitting departmental prefects elected in 2005 won an absolute majority of the vote, with their pluralities ranging from a high of 48.032% (in Pando) to a low of 37.988% (in La Paz). The La Paz prefect, José Luis Paredes, would therefore be unseated if 38% or more of the departmental vote goes against him. The corresponding thresholds for each of the offices subject to the referendum appear below; if the NO vote exceeds the listed percentage, that official must step down. (An Organization of American States' election observation mission has been in Bolivia since mid-July.)

Office	Percentage of 2005 Vote
President and Vice President	53.740%
Prefects:	
Pando	48.032%
Santa Cruz	47.877%
Cochabamba	47.641%
Tarija	45.646%
Beni	44.637%
Oruro	40.954%
Potosí	40.690%
La Paz	37.988%

Dueling referenda: constitutional reform, autonomy, and recall referenda

The recall referendum has the potential to either quell or heighten the tension between the opposition and the Morales government over departmental autonomy with respect to the national government. Departmental-level autonomy votes went forward in May and June 2008 as regional elites argued that the national constitutional draft – nominally approved in December 2007, primarily by MAS delegates – was illegal and invalid. On the other side, the Morales administration claims that the votes on autonomy statutes were illegal because the new constitution already includes a process for departmental, regional, municipal and indigenous governments to obtain autonomy.

In March 2008, the National Electoral Court (*Corte Nacional Electoral*, CNE) had ruled that no legal mandate yet existed for any of the dueling referenda then being proposed. (Legally, departments that voted for autonomy in 2006 must wait for the approval of the new constitution to set guidelines before approving statutes.¹) The Morales administration dropped its proposal to push ahead with a national referendum on the reformed constitution, but four opposition departmental governments moved ahead with their plans for referenda on autonomy. All parties to the conflict feel strongly that their opponents are acting illegally and illegitimately, and few will acknowledge that everyone has cut procedural corners to force through their own initiatives. The MAS approval of the provisional constitution in December occurred amid controversy. Meanwhile, the autonomy statutes have no clear legal foundation and were not drafted by elected representatives.

The autonomy referenda themselves came about after opposition delegates impeded progress in forging agreement on autonomy within the Constitutional Assembly. Furthermore, the indigenous and rural low-income majority of the four lowland departments stand to lose ground if urban elites declare autonomy. If the autonomy statutes are successfully put in place, they could effectively neutralize the possibility of indigenous autonomies proposed in the new provisional constitution. Furthermore, many indigenous peoples and some rural residents in lowland department oppose the form of departmental autonomy approved in the referenda.²

The affirmative votes for autonomy in the departments of Santa Cruz, Pando, Beni and Tarija have provoked fears both inside and outside of Bolivia of the possibility of secession. But such a scenario is highly unlikely. Lowland departments remain dependent on the rest of Bolivia for markets and other services. For example, autonomy complicates matters for lowland regions rich in natural gas reserves that would still have to export gas primarily through Bolivian territory. Other governments would be loathe to recognize an independent “*media luna*,” and regional political opposition would no longer have leverage to meet one of its underlying goals, the resignation of President Morales.

Further complications

Even after following through with their own illegal referenda, lowland departments are disputing the legality of the recall vote. Although the departmental electoral courts are legally bound to obey the rulings of the CNE, the lowland branches (Santa Cruz, Beni, Pando and Tarija) have expressed opposition to the recall referendum and their rejection of the CNE’s decision that the recall referendum should proceed. The Santa Cruz Departmental Electoral Court’s representatives refused to attend a meeting called by the CNE to discuss the referendum, and filed an appeal to the Constitutional Tribunal challenging the legality of the referendum. This initiative would be similar to a recent petition by opposition party *Unidad Nacional* (UN) congressman Arturo Murillo, which argued that legal precedents call for postponement of the recall referendum until the Constitutional Tribunal rules on the constitutionality of the questions posed by the referendum. (However, for reasons related to the country’s broader political stalemate, the Constitutional Tribunal has been without the required quorum to issue binding rulings for nine months.)

It is worth noting that lowland department opposition sectors did not feel impeded by this argument when they pushed ahead earlier this year on the autonomy referenda, which they carried out without the approval of the CNE or the ratification of the Constitutional Tribunal. A recent statement by Santa Cruz Prefect Rúben Costas highlights the political expediency at play: “We have said it and will confirm it: [the recall law] is a biased law; we are prepared to fight it. In any case, the departmental government will support the decision of the Santa Cruz departmental court.”³

Minister of the Presidency Juan Ramón Quintana countered that, “It would be incredibly absurd for the regional courts to decide to obstruct the recall referendum.”⁴ On July 31, the CNE president proposed modifying a clause in the regulations that would help level the field for the recall vote, by making the threshold for defeat in excess of 50% for all prefects.⁵ But opposition forces rejected this proposal and heightened their protests.

As is frequently the case in Bolivia, diverse social movements are taking advantage of the electoral moment and its building tensions to spotlight their own causes. Many groups – ranging from miners unions to handicapped rights groups to autonomy supporters – have formed road blocks, staged protests, and declared hunger strikes. On August 5, two miners died from bullet wounds in the Oruro Department during violent confrontations with the Bolivian police. While there are accusations from MAS that many of these groups are being manipulated by the opposition, most groups are instead ratcheting up the pressure because they believe the government is more willing to listen to them now, with the vote looming. The protests do not necessarily signal that Morales is at greater risk of losing the referendum.

Scenarios

If President Morales did not have good reason to believe he would survive the recall referendum, he would have been unlikely to propose the initiative in the first place. Indeed, most observers consider it likely that he will garner more than enough votes to remain in office, especially given the rules of the referendum. But it is less clear to what degree the president will be able to point to the vote’s outcome as a strong renewal of the mandate he won with his landslide election in 2005. It is possible that Morales may easily avoid being recalled, yet at the same time not significantly enhance his political position vis a vis the opposition, as the contending sides prepare for renewed confrontation over constitutional reform and autonomy issues when the dust settles after August 10. On the other hand, the referendum may indeed provide the president with the votes to convincingly claim a renewed mandate and new momentum as the political confrontation is rejoined. Opinion surveys suggest that the prefects of Cochabamba and La Paz are especially vulnerable to being unseated, while those of Santa Cruz and Beni appear likely to be reinforced by the voting results. Should these patterns hold, the recall referendum will have served to ratify the legitimacy of the president, but also of his principal rivals within the regional opposition, setting the stage for a new round of debate and brinksmanship.

Beyond August 10

The referendum was initially proposed to distract all parties involved from the friction and procedural corner-cutting that occurred around the approval of the constitutional draft. The

lowland prefects could stand to gain from this vote, but it also pushes their autonomy agenda back, and none of them have supported the initiative, although ultimately they will participate in it. It is unlikely that Morales will lose the referendum, although some individual prefects might. The vote's outcome could portend increased regional division as MAS reasserts its power in the highland departments and loses approval in the lowlands, but it could also give the opposition a way to show their disapproval of the Morales administration in a legal vote, thus lessening their need to push through controversial implementations of autonomy rule.

In any case, the spectre of absolute turmoil or spiralling violence is highly unlikely. As Bolivian historian Waskar Ari, commented, "I don't think we'll see a civil war. Bolivians usually find alternative routes of negotiation, of mutual accommodation, instead of turning to violence. I hope that's what will happen this time."⁶

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NOTES

¹ The law states: "Within the framework of national unity, are you in favor of giving the Constitutional Assembly the legally-binding mandate to establish departmental autonomy regulations to be applied immediately after the ratification of the new constitution in the departments where this referendum is approved by a majority, in a way that its authorities will be directly elected by citizens and would receive from the national government executive capacities, legal and administrative powers, and economic resources stipulated by the constitution and laws?" LEY DE CONVOCATORIA A REFERÉNDUM NACIONAL VINCULANTE A LA ASAMBLEA CONSTITUYENE PARA LAS AUTONOMIASDEPARTAMENTALES. Ley 3365. El Honorable Congreso de Nacional de Bolivia. March 6, 2006.

² Unitel News Channel, April 9, 2008.

³ *Los Tiempos*, "CDE cruceña va contra la consulta y Evo pide 'no respetar' las leyes," July 30, 2008.

⁴ *La Prensa*, "La CDE cruceña recurrirá al Tribunal para frenar consulta," July 30, 2008.

⁵ *La Prensa*, "La Corte cambia las reglas del plebiscito y salta el Congreso," August 1, 2008.

⁶ *The Los Angeles Times*, "Recall vote set in divided Bolivia," May 12, 2008.