CSIS | CENTER FOR STRATEGIC & INTERNATIONAL STUDIES | Americas Program

HEMISPHERE FOCUS

Volume XVII, Issue 1 January 22, 2009

Bolivia's Constitutional Vote: Implications for the Future

By Peter DeShazo

On January 25, Bolivians will vote in a national referendum to approve or reject the text of a new constitution. Since assuming power in January 2006, President Evo Morales has persistently followed the course of action he promised in his presidential campaign: replacing the constitution of 1967 with a new charter that would enlarge the political role of Bolivia's indigenous majority and allow for his continuation in office; broadening state presence in the economy, including complete national control over the strategic hydrocarbons sector; expanding coca production; and pursuing policies to make him—in his own words—a "nightmare" for the United States.

Should Bolivians approve the new constitution—and by all indications they will—Morales would be eligible for at least one more consecutive five-year term in office, an option denied him under the current system. Elections for president and for a national legislature under the terms of the new constitution would then take place in December 2009.

These changes create the potential for Evo Morales to remain as president until at least 2015. In the run-up to the December elections, he will attempt to further consolidate his power by freeing his government from the limitations that have until now been placed on it by the opposition's control of the Senate (by three votes) and will push back against the opposition's regional stronghold in Bolivia's eastern departments—most importantly Santa Cruz and Tarija. The opposition to Morales has suffered from factionalism and lack of a national leader but continues to wage a determined rear guard action.

With falling global prices for primary products and a deteriorating natural gas sector, Bolivia's economy is in for tougher times in 2009—a factor that could increasingly influence political outcomes.

The Long Road to a New Constitution

As opposed to the Venezuelan constitution of 1999 and Ecuador's in 2008, both of which were negotiated, drafted, and approved in less than a year's time, Bolivia's new constitution has been long in the making. The arduous tug-of-war between Morales's Movimiento al Socialismo (MAS) party and the opposition (a coalition of the Poder Democratico y Social [PODEMOS], Movimiento Nacionalista Revolucionario [MNR], and Unidad Nacional [UN] parties) played out during the course of the constitutional process and continues still.

Morales took office intent on following the example of his mentor, Venezuelan president Hugo Chávez, in scrapping the old political order by means of a new constitution. Congress passed legislation calling for the election of delegates to a Constitutional Assembly, which convened in August 2006. The assembly, with a strong pro-government majority but short of the two-thirds representation needed for final approval of text, was charged with producing a new constitution for submission for ratification by referendum within a year. When the assembly proved unable to reach agreement on any key parts of the new constitution by the August 2007 deadline, Congress extended the life of the assembly until December 14. Unable to muster the two-thirds majority to approve a text and with the new deadline approaching, Morales convened a rump session of the Constitutional Assembly on November 23, 2007, at a military school outside of Sucre with only the 145 pro-government delegates present. Labor and *campesino* activists sympathetic to the government, along with military and police units, cordoned off the site, while inside Morales's supporters quickly approved the complete text of a new constitution drafted earlier by the MAS. This text was reconfirmed on December 9, 2007, in Oruro under similar circumstances. Decrying the new draft as illegal and unrepresentative, the opposition, by means of its majority in the Senate, refused to pass legislation setting a date for its ratification.

During the course of 2008, political attention in Bolivia shifted away from Congress to the growing confrontation between the Morales government and opposition groups centered in the lowland departments of eastern Bolivia—particularly in the department of Santa Cruz. Civic authorities

there, in defiance of the national government in La Paz, held a referendum to approve "autonomy statutes," and political tensions rose to the near boiling point. Crisis was avoided when Congress approved a law calling for a national recall referendum vote on the tenure of President Morales and the department governors *(prefectos*), which was held on August 10. Morales won a resounding victory, with slightly more than two-thirds of the votes cast, prompting him to turn up the pressure on Congress to set a date to approve the new constitution. With thousands of pro-government demonstrators pouring into La Paz to demand that the Senate take action, a group of opposition figures in Congress broke ranks and huddled with the MAS for 12 days over the text of the constitution, finally arriving at a compromise text that was approved with the vote of seven opposition senators. Congress then passed legislation setting the January 25, 2009, date for the constitutional referendum.

More than 100 of the original 411 articles in the constitution drafted in 2007 by the MAS were changed as a result of the negotiations in Congress. The government agreed to set a two-thirds majority rather than a simple majority in the legislature as the minimum required to approve future amendments to the constitution and made changes on issues such as social security, the role of the state in the economy, central authority, regional autonomy, and the administration of justice to make the text more palatable to the opposition. The especially provocative requirement that all public servants in Bolivia, including members of the electoral and constitutional tribunals, speak at least one indigenous language—in effect barring all nonindigenous persons from office—was removed. The constitution provides that the president can be reelected for one consecutive term, although reportedly an informal agreement was made between the two sides that Morales would not seek to succeed himself should he be elected in December 2009. A compromise was reached on the issue of land tenure. The original MAS draft called for an end to large estates (*latifundio*), with a referendum to decide if the maximum extension of an agriculture property would be 5,000 or 10,000 hectares. The new draft confirms the referendum (the issue will be on the ballot on January 25) but excluded from limitation all properties acquired before the approval of the new constitution.

By all estimates, the "yes" position appears likely to prevail. All that is required is a simple majority of votes cast. The new constitution is a long and complex document that few citizens will have read before voting. In essence, the January 25 vote becomes another referendum on Evo Morales. The Morales government has campaigned vigorously in favor of the "yes" vote while the opposition is divided, with PODEMOS split between a majority faction supporting the "no" and a rump group composed of congressmen from the western departments favoring approval. Proponents of a "no" vote have criticized the constitution as product of a flawed and nontransparent process, discriminatory in favoring the indigenous "nations," impractical, and aimed at promoting atomization of Bolivian society. The goal of the opposition is to hold Morales's margin of victory in the referendum to a minimum.

Power Politics

The drawn-out struggle over the new constitution is taking place in an environment in which the rules of the game favor raw political power. Bolivia's Constitutional Tribunal has not met for several years for lack of a quorum, leaving the country without an entity capable of providing constitutional review to legislation or political action at a time when it is particularly needed. It is estimated that more than 100 new enabling laws will be required to put the new constitution into effect, refocusing attention on the lame-duck Congress. In a revealing sequence of events two weeks before the referendum, President Morales warned that if Congress did not move swiftly to pass the enabling laws, he would approve them by executive decree, while his minister of defense stated bluntly that Congress has no role in putting the new constitution into effect. Two days later, a group of MAS and PODEMOS senators announced a new joint electoral front that would attempt to take the presidency of the Senate away from the opposition. On January 17, however, Oscar Ortiz of PODEMOS was reelected president of the Senate for 2009, a move that took public opinion by surprise—especially because two MAS senators broke ranks to vote for him.

A new constitution would assist Morales in carrying forward his agenda. Whatever steps he takes will be aimed at ensuring not only his reelection in December but also control of the new legislature to be elected simultaneously. Other key goals will be to maximize pro-government representation in the new Supreme Court, Constitutional Tribunal, and Electoral Tribunal, all of which are to be set up under the terms of the new constitution. Under these circumstances, Morales could begin a second term with considerably more political power at his disposal than when he took office in 2006. But the opposition's ability to keep control over the Senate—and of the Senate to exercise its role in 2009—remains a key factor in thwarting that ambition.

The Economy

Morales has been the beneficiary of the very positive climate for primary product exports that prevailed during most of his tenure. High prices for exported soy and soy products, oil, natural gas, and minerals fueled strong growth in GDP in past years, allowing Morales to carry out popular cash transfer programs such as the *Bono Dignidad*, while at the same time growing reserves to the current level of about $7 billion. The Bolivian economy, however, has become increasingly dependent on hydrocarbons and mineral exports, which accounted for some 74 percent of the value of total exports

during the first 10 months of 2008, with natural gas amounting to about 44 percent of total export value.

Falling world prices for natural gas, oil, zinc, tin, silver, and lead will cut deeply into Bolivia's earnings in 2009. In the case of natural gas, stagnating production since 2005 has kept Bolivia from meeting its contract obligations for exports to Brazil and Argentina and called into question the country's ability to supply gas to the El Mutún project with the Indian firm Jindal Steel. A severe drop in foreign investment in the natural gas sector in past years, driven by political uncertainty and a highly restrictive hydrocarbons regime in place since 2005 and further tightened by Morales, has been the key factor. According to an industry expert, only five gas wells were drilled in 2007 and the same number in 2008. Morales's squeeze on the foreign producers has resulted in a short-term spurt in government revenue from higher taxation on gas sold at higher prices, but the long-term effect has already been felt on the production side. More significantly, Bolivia has squandered the opportunity to become a major energy player in South America, with the potential to supply the Brazilian and Argentine markets on an ever-larger scale, ramp up domestic natural gas use, export liquified natural gas to more distant markets (including North America), and even to supply a potentially lucrative market in northern Chile.

Relations with the United States

Bilateral relations between Bolivia and the United States deteriorated steadily during Morales's first two years in office and plummeted in 2008 when he expelled the U.S. ambassador and ordered the U.S. Agency for International Development (USAID) and the U.S. Drug Enforcement Administration (DEA) out of the Chapare coca-growing region in the department of Cochabamba. For its part, the United States suspended Bolivia from participation in the Andean Trade Promotion and Drug Eradication Act (ATPDEA) program of trade preferences and determined that Bolivia has failed to adhere to its international commitments against narcotics.

Looking ahead into the Obama administration, the potential for repairing the relationship is at best very modest. Morales' anti-U.S. outlook appears to be an amalgam of political convenience, a reflection of the influence of his mentor, Hugo Chávez, and personal mistrust and dislike of the United States. The degree to which Morales is willing to translate his anti-U.S. views into action—especially regarding Bolivia's international affairs—will be central to the bilateral relationship. While Bolivia will hardly be a front-burner foreign policy issue, the United States should continue to seek engagement with the government and the people of Bolivia and steer clear (as it has done quite astutely in the past) of engaging in a war of words with Morales. It should maintain its USAID programs, continuing to focus on projects that benefit Bolivia's poorest citizens. On the narcotics side, the United States should remind Morales of his domestic and international obligations while encouraging Brazil and Argentina, the destination of the bulk of Bolivian cocaine, to take a stronger role in discouraging the expansion of coca production in Bolivia.

Conclusion: Confrontation or Consensus?

Bolivia will continue to be a country in flux for years to come. The contours of the political system that will emerge from the current constitutional process are yet to be determined. Traditional representative democracy, with independent institutions providing checks and balances on executive authority, has always been an elusive goal in Bolivia, and there has been scant attempt at institution building under Morales. The politics of confrontation that brought Morales to power continue to be a key weapon in his arsenal—one that the opposition can also use—to the detriment of order and stability. Political consensus is in short supply at a time when it is most needed.

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