

A DEMOCRACY CENTER BRIEFING PAPER

RE-FOUNDING BOLIVIA

**A NATION'S STRUGGLE OVER
CONSTITUTIONAL REFORM**



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I. INTRODUCTION

There are moments in the lives of nations when the course of political change is so profound that it really constitutes a debate over national identity. Issues that have been repressed beneath the surface finally explode to the top and the course of change takes on a life of its own. We can think of race and civil rights in the 1960s United States; the fall of Communist states in Eastern Europe in the 1980s; the end of South African apartheid in the early 1990s; or the ethnic dissolution of Yugoslavia in that same decade.

Underlying times like these is the question – will the process of change find a peaceful course or will it blow a nation apart? South Africa offers an example of the first, Yugoslavia a violent rendition of the latter.

Bolivia, in the first decade of the 21st century, is living out such a historic moment. A nation founded on Spanish conquest of its indigenous peoples, and centuries of economic and political arrangements that have kept its indigenous majority marginalized, is being challenged at its basic roots. It is a challenge with many faces. It includes the modern rise of indigenous identity and organizing; the reversal of decades of economic privatization experiments; and the election of its first indigenous President on a platform of deep political change.

Today in Bolivia, the central debate over political change is the move to re-write its most fundamental set of national rules, the Bolivian Constitution. Bolivia's Constitution was originally drafted in 1825, in an era driven by the mentality of foreign colonization and in which the indigenous population was robbed of land, rights and citizenship. For decades, the re-writing of that Constitution, and in effect the re-establishment of the Bolivian state, has been both a dream and a demand of many of its indigenous peoples.

That vision was not to tinker with the existing Constitution but to rip it out by its roots and start over, through a Constituent Assembly that would be the highest authority in the nation's politics. Delegates to that Assembly would be elected, not through the political parties that had come to be so mistrusted, but through indigenous communities themselves, and labor unions, and women's organizations, and other instruments of social organization. In essence, the dream of the Assembly was to create, on a national level, the kind of community-based political decision making that many of the nation's indigenous used in their own villages and towns.

In 2005, Movement Toward Socialism (MAS) Presidential candidate, Evo Morales, made the convening of a Constituent Assembly to re-write the nation's constitution a central part of his campaign platform, alongside 'nationalization' of the country's oil and gas. Following his landslide election and arrival in office, the Bolivian Congress debated and enacted a law to convene the Constituent Assembly. Elections for delegates to it were held in July 2006 and the Assembly was convened in the country's judicial capital, Sucre, on August 6th, the anniversary of Bolivia's independence.

The road since, toward a new national constitution, has been a rocky one at best. Debates over voting procedures and other issues have paralyzed the work of the

Assembly for months at a time. Consensus between rival factions has appeared virtually impossible to attain. At times the disputes involved have spilled violently into the streets. Many observers have asked whether Bolivia's path toward establishing a new national identity would end up looking more like South Africa or Yugoslavia.

To help our readers more fully understand what the Constituent Assembly and the process of constitutional reform means for Bolivia, The Democracy Center assigned a special team to assemble the story. Two researchers from Bolivia and one from the U.S. reviewed the history of the demand for constitutional reform, traveled to Sucre to watch the process in action, and interviewed some of those involved.

To be certain one could write an entire book on the process of constitutional reform in Bolivia, and still not cover all the relevant issues and details. This paper is offered as an overview of the issues involved and the key political steps involved. The Assembly process is also still volatile, with new developments daily. Readers who want to keep up to date can find new developments covered and analyzed on The Democracy Center's Web site (www.democracyctr.org).

In Part One the paper looks at the mechanism of a Constituent Assembly and its recent history in Latin America in general and Bolivia in particular. In Part Two the paper looks at the major issues before the Bolivian Assembly, from indigenous rights to government structure, to land reform. Part Three then tells the narrative of a difficult process in action, including the various conflicts that have threatened to sideline the Assembly and still do. This paper was a group effort by all members of the Democracy Center, developed and written by Leny Olivera, Aldo Orellana, and Lily Whitesell with editing assistance from Melissa Draper, Jim Shultz, and Elliot Williams.

Underway in Sucre is an important debate that is relevant not only for Bolivia, but for other countries who must represent a variety of cultural identities within a single nation. That debate delves not only into the mechanics of democracy, but into the very definition of democracy and whether a nation made up of many nations can find the political glue to stay together.

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PART ONE: BOLIVIA'S LONG ROAD TO A CONSTITUENT ASSEMBLY

In a democracy, the instruments of government have authority only if that authority is given to them by the people. Generally, it is through constitutions--the highest order of law-- that the people spell out the power they have granted to government and the rules by which their government must operate.

Traditionally, these 'magna cartas' mark the birth of a nation, as a Constitutional Assembly elected by the people drafts a document, and then returns it to the people for approval by ballot or other means. This is how the United States developed its Constitution in 1787 and how many other nations have done so. Less frequent have been the use of such Assemblies to rewrite a nation's constitution at a later point -- though several countries have done so in Latin America.

What is important to note about these 'Constituent Assemblies' is that they represent, directly, the power of the people. These assemblies stand above the legal authority of the executive, legislative and judicial branches, because of their power to create a new constitution.

The people of a country can choose to modify their constitution. Often the rules for how it can be modified are set in the existing constitution. If they wish to rewrite the entire document, however, a Constituent Assembly is a peaceful and democratic means by which to do so, and is used to define the basis of law for the country.

Constituent Assemblies in Latin America

The first Constituent Assemblies in Latin America took place in the first half of the nineteenth century. After declaring independence from Spain, the Assemblies were used to found the countries that make up the region today.

Several countries in Latin America have also re-founded their constitutions through Constituent Assemblies in recent years. These include Colombia (1991), Ecuador (1997-98), and Venezuela (1999-2000). In all three cases, major crises in their political institutions precipitated the call for profound constitutional change. Each, however, faced serious challenges in meeting the original expectations for change.

In Colombia, the Constituent Assembly was established in response to the violent guerrilla conflict tearing the country apart. The Assembly's goals were to restore peace to the country, legitimizing the national government, and achieving greater involvement and participation of the people in national decision-making. Its greatest advocates were civil society groups. The Constituent Assembly was composed of 74 members and it lasted for five months.

In Ecuador, the Constituent Assembly was given the mission of creating a Constitution that was more inclusive of Ecuador's indigenous population. As a result, the Assembly was called for mainly by the Confederation of Indigenous Nations of Ecuador and by

Ecuadorian urban social movements. The Ecuadorian Assembly included 70 representatives and lasted four months.

Ecuadorians saw in the Constituent Assembly a democratic and peaceful mechanism by which they could resolve the structural problems and exclusion of indigenous people that existed in their country. One of the proposals to overcome those problems was to call for Ecuador to be a 'plurinational' country, that is, to recognize in the Constitution that Ecuador is made up of not just one nation, but instead, of various nations, including indigenous communities. The proposal failed, but would have important echoes in Bolivia a decade later.

The Venezuelan Constituent Assembly of 1999 was the product of an economic and social crisis. In the 1980s, Venezuela's petroleum exports suffered under a weak government, and vast socioeconomic inequalities generated widespread discontent. Ultimately, in 1999, that discontent led to the election of President Hugo Chavez and the convocation of a Constitutional Assembly that same year to dramatically rewrite the Constitution. Backers of the plan lauded it for bringing greater equality. Critics charged that it consolidated too much power in the hands of the President. The Assembly had 131 delegates and lasted almost 6 months.

These three Constituent Assemblies had several things in common. First, in all three cases it was necessary for the National Congress to pass a constitutional reform allowing for a Constituent Assembly. Second, each was marked by a lack of inclusion of traditionally vulnerable sectors of the population. Last, in most every case, the results did not meet the expectations of those who originally proposed the process.

Constitutional Creation and Reform in Bolivia

The process of Bolivia's Constituent Assembly goes back to the Constituent Assembly of 1825, which founded the Republic of Bolivia after the country declared its independence from Spain. In 1826, subsequent constitutional reform established the executive, legislative, and judicial powers, the institutions that comprised the basic legal foundation for the new country. Challenges to this original document would ultimately produce twenty different reforms of the nation's constitution through today.

In 1938, major constitutional reforms resulted from demands made by a new force emerging in Bolivian politics – workers' organizations which would go on to found the Central Workers of Bolivia. The 1938 changes gave people the right to form unions, collective contracts, and the right to strike. In 1967 the next important wave of Constitutional reform took place. Those modifications altered Congress members' term lengths, the way elections were decided, and established rules surrounding political parties. This Constitution has, in essence, governed Bolivia for the last four decades.

Importantly, none of these prior constitutional reforms included explicit participation by indigenous groups. Indigenous peoples have been systematically excluded in spite of making up a majority of the population and having been important actors in the fight for independence. Until 1952, Bolivia's indigenous majority did not have the legal right to

vote and had little legal backing for land rights. In the years since, these Bolivians have remained largely marginalized and excluded from making key political decisions.

The original Bolivian Constitution, like those throughout the Americas, was based on European constitutional models, despite obvious differences between Latin American and Europe. The idea of a country as a single nation-state, for example, with a single language and a single religion was not appropriate for Bolivia, a country with such diversity among its 36 different indigenous groups. For decades, the nation in the heart of South America was put into a mold far different from its reality.

Because of that, today's Constituent Assembly takes on new importance. After having been not only excluded from political processes, but also deprived of fundamental human rights and their lands, many indigenous groups consider the current process a re-founding of the country.

Constituent Assembly 2006: From Demand to Reality

For much of Bolivia's history, indigenous resistance took place not within the political arena, but at a cultural level. In indigenous communities across Bolivia the Quechua, Aymara and other peoples maintained lives that preserved their language and traditions. However, starting in the 1960s, the nature of indigenous resistance began to find an explicitly political voice. Led by the *Katarista* movement and the growing presence of *campesino* unions, Bolivia's indigenous peoples started demanding their right to "autodetermination" – self-governance and the recognition of their right to live according to their own norms, customs, and beliefs.

Pro-indigenous movements, taking up the banner of "autodetermination," gained strength among Aymara and Quechua highland peoples and through the 34 indigenous groups of the lowlands. The growing consciousness among indigenous peoples led to the formation of groups like the Farmers' and Agricultural Workers' Union (CSUTCB) and CONAMAQ (one of the largest highland indigenous organizations) based in the Andean highlands and foothills, and the Confederation of Indigenous Peoples of Bolivia (CIDOB) organized in Bolivia's lowland tropical regions. Through these newly established structures, the call for autodetermination and justice began to transform into concrete political demands. It was through these same indigenous structures that people would begin to call for a Constituent Assembly.

At first, the groups' demands were given very little attention. Victor Cortes of CONAMAQ explains, "No one gave us much importance. Many called us crazy. We were oppressed, we were ostracized." Yet the diverse groups across Bolivia found ways to capture national attention. In 1990, indigenous groups from the Amazonian lowlands organized the first March for Territory and Dignity. Hundreds of people marched from the tropical department of Beni to La Paz, generating a new awareness and recognition of lowland cultures' existence, struggles, and demands. New alliances were built and strengthened.

A turning point in the movement for indigenous rights occurred two years later in 1992. Indigenous groups from Bolivia and all over Latin America joined together for a huge celebration marking the vibrancy of their cultures and resistance to 500 years of rule by

Spanish colonizers and their descendents. The atmosphere had begun to shift. That year, Bolivia's first indigenous Vice-President, Hugo Cardenas, was elected. In 1994, the opening words of Bolivia's Constitution were changed to describe the country as "multiethnic and pluricultural." Although this was an important step, words alone were not enough.

In 2000 the balance of Bolivian politics and indigenous power began to change. In the Cochabamba Water Revolt, popular protest led by indigenous farmers overcame government repression to take back the city's privatized water system. As a result of that victory, the possibilities of deeper political change seemed much more real. That new sense of possibility spread to many issues – a revolt against IMF economic policy, protests against cheap foreign export of the nation's gas and oil, and the demand for a Constituent Assembly to rewrite the Constitution.

In 2003 Bolivia boiled into full political turmoil, over the gas issue and a plan by then-President Gonzalo Sanchez de Lozada's to export gas at bargain prices through Chile to the United States and Mexico. In the midst of protests across the country, mainly concentrated in La Paz and El Alto, the call for a Constituent Assembly soon became a twin rallying cry along with the demand for nationalization of the country's gas and oil. In response to the demands of these massive protests, a technical change was made in the Constitution in 2004 that allowed for the convocation of a Constituent Assembly and for the writing of a new Constitution that would be approved through a national referendum.

During the 2005 presidential campaign, the Constituent Assembly took center stage as one of the main pillars of the campaign platform put forth by Evo Morales and his party, Movement Towards Socialism (MAS). After celebrating their victory, the new Congress and President set to work drafting the rules that would guide the process for rewriting the Constitution.

Convening Bolivia's Constituent Assembly

While MAS controlled a slim majority in the new Congress, they did not possess a sufficient majority to pass the needed legislation to convene the Assembly, without first achieving consent and support from the chief opposition party, PODEMOS. The result was a set of political compromises that took the Assembly a long distance from the vision promoted by its original and indigenous backers.

In its original conception, the Assembly was to be fully inclusive. Delegates would be elected as representatives of their communities and would not need to declare their affiliation to any political party, however political parties could participate. In the deal crafted by MAS and PODEMOS, the bill convening the Assembly made it virtually impossible for candidates not affiliated with a political party to run.

Importantly, the original proposal for a Constituent Assembly also called for delegates to be chosen directly by indigenous groups through their own methods, ensuring the integrity of their representation and presence. In the end, however, this became one

among many proposals set aside by the political deal struck among the nation's political parties.

The move to make political parties dominant in the Assembly was not a surprise. It presented significant political benefit to both MAS and PODEMOS, despite the two parties' intense mistrust for one another. For MAS, it meant that it would not have to fend off competition from challengers in the country's social movements. For PODEMOS, it assured them the opportunity to be the leading opposition voice in the Assembly. In the end, every one of the 255 delegates would come with some party affiliation or another, with MAS and PODEMOS dominant. None of the delegates were elected as direct representatives of indigenous communities.

The law that created the Constituent Assembly was also a recipe for deadlock. First, it required a two-thirds vote by the Assembly as a whole to approve the new Constitution, to ensure that no single political party could push it through alone. Second, the law included strict rules to ensure that no political party would be able to win two-thirds of the seats in the Assembly. Each district (there are 70 districts total in Bolivia) was given three representatives, from which no more than two could be from one political party. On top of that, each of Bolivia's nine departments had five at-large representatives, to add up to a total of 255 members. What was designed as a recipe for negotiation ended up as a recipe for deadlock.

The sum of these rules meant that the Assembly would be a process dominated by political parties and difficult negotiations between the government and the opposition. For opponents of MAS, this gave them a powerful tool to block the political change promised by MAS. For the original backers of the Assembly idea, it meant the transformation of their dream into something that looked more and more like the kind of political system that they had hoped the Assembly would bring to an end.

National elections for delegates to the Assembly were held in July 2006. MAS won a 53% majority, followed in a distant second by PODEMOS with 23.5%. The remainder of seats scattered among minor parties, none of which garnered more than 5%. Even before the Constituent Assembly was convened in Sucre on August 6, 2006, it was already divided along the well-defined political fault lines of the country. The Assembly representatives did not know, however, the extent to which it would become a battleground for each side to test their political will.

PART TWO: MAJOR ISSUES OF THE CONSTITUENT ASSEMBLY

In most political systems, the constitution establishes the structure of the government and the basic rules of the political game. Typically, constitutions, and the Constituent Assemblies that write them establish a broad framework but leave the details to be decided later through the legislative, executive, and judicial branches.

Bolivia's Constituent Assembly departed from this tradition by setting out to address nearly all of the most important issues facing the country today, going well beyond matters of government structure. Of the 21 commissions formed to carry out the

Assembly's work, some tackled issues that all Constituent Assemblies must address –the various branches of government, the division of power between the federal and local governments, and citizens' rights and responsibilities. However, others took on issues outside of a typical constitution's reach – the control and use of Bolivia's natural resources, land and territory rights, education and social development, international relations, and national defense.

Why were so many issues brought into the Constituent Assembly? In Bolivia, there are sectors of the population that have been effectively excluded from government for decades – social movements, union-based organizations, and indigenous groups. In their view, a wealthy elite has managed to maintain its control of the nation's politics and its future through an unfair hold on the instruments of authority. Within these sectors and movements, the election of Morales was seen as a mandate to re-write the rules from square one, and the wide variety of issues they have placed before the Assembly reflects that view. Leaders of the traditional elite, and of the main opposition parties, see the Morales mandate as something far more limited.

Five main issues generated the most conflict: indigenous rights; regional and other autonomies; natural resources, land and territory; and changes to the structure of government.

The "Plurinational State" and New Indigenous Rights

Because the original demand for the Constituent Assembly grew from the widely held belief among the nation's indigenous majority that the political system has been rigged to benefit the wealthy and the powerful, many of the new proposals aim to make a constitution that is more fair and inclusive of indigenous communities.

Indigenous leaders speak of establishing Bolivia as a "plurinational state". Their goal is to recognize the distinct identities of millions of people linked by common cultures and languages, peoples whose identities existed long before Bolivia's national boundaries were ever drawn. However, their vision of a "plurinational state" goes beyond just recognizing these indigenous national identities. Indigenous groups in Bolivia also use those words to indicate respect for traditional systems of justice, representation, and decision-making.

Proposals from indigenous groups don't aim to impose their methods on the country as a whole, but to allow for parallel systems that can coexist and complement one another. Judicial Pluralism, for example, is a way of creating space for both indigenous and more 'western' systems to exist together within Bolivia's justice system. They would have the new Constitution legally recognize the community-based justice that is already practiced throughout the country.

The Bolivian courts and justice system is inaccessible to a large number of Bolivians. It has a reputation for being slow and oftentimes corrupt, particularly in rural areas. Costs associated with the legal process, especially lawyers, are prohibitive for many. Community-based justice, common among traditional rural communities, can offer a means of negotiation and reconciliation that benefits the people and communities

involved. For example, punishment for petty theft could involve the thief returning the stolen items and making enough mud bricks to build a new school for the community. It is based on the idea that social control is one of the best forms of preventing future crimes. The new proposals allow for judicial pluralism, which would support the application of community justice alongside the existing court system.

Direct representation is another proposal backed by a variety of indigenous and *campesino* groups. They say that political party structures and election systems are foreign to their own culture. Direct representation would mean that each indigenous group would have a representative in Bolivia's legislative system, selected through their own traditional norms and procedures, which vary from one community to another – not through political parties or written-ballot elections.

The proposal that would allow for traditional decision-making of indigenous communities is tied to a larger national issue: autonomy.

Autonomies

The word "autonomy" has become a rallying cry in Bolivia for many things – from allowing indigenous communities to exercise their agency to regions demanding that the strong national government be decentralized. It is also representative of larger issues.

Departmental autonomy has been the chief demand of the political parties opposing the Morales government, and particularly among the four regions of the nation's lowland east. In hopes of maximizing their share of the profits, regional authorities in those departments have called for greater departmental control of local resources. With the election of President Morales, the call for autonomy also meant something else, a desire to opt out of the "Evo revolution" based in the more indigenous and politically radical highlands. In a nationwide referendum in July 2006, four of Bolivia's nine departments voted for greater autonomy. The four, Pando, Beni, Santa Cruz, and Tarija line the eastern side of the country in an arc, giving coinage to the term "*media luna*" (half-moon).

Autonomy is these departments' top issue in the Constituent Assembly, where the issue based working group, or commission, on autonomy was stacked with the strongest representatives from each side. The president of the commission noted that nine political party leaders were in his commission. MAS and its backers view regional autonomy as an effort to undermine their larger efforts on natural resources, land reform, and other conflictive issues.

The majority proposal that the commission finally issued was to allow for four different levels of autonomy, which include both departmental and indigenous autonomy demands. There would be autonomous indigenous municipalities, autonomous 'intercultural' municipalities, autonomous indigenous regions, and autonomous departments.

Municipalities with an indigenous majority would be able to declare themselves an indigenous autonomy. Several indigenous municipalities could join together and form an

autonomous region, which would act like a department in its responsibilities, structure, and rights, but would still coordinate with departmental authorities. In the parallel system, the departments that voted for autonomy would be granted given greater rights to choose their own leaders and administer their department. Non-indigenous municipalities could also declare themselves as autonomous 'intercultural' municipalities.

Each autonomous department, region, or municipality would then be allowed to elect their own leaders and administer their jurisdiction according to their own laws, norms, or procedures. In addition to greater freedoms, the autonomous regions, departments, and municipalities would also have greater involvement in running the everyday business of their jurisdiction, responsibilities that they would also be legally required to fulfill. This could encompass providing roads, education, health services, water and electricity, as well as promote environmental conservation, economic development, and tourism.

The indigenous and union-based coalition, the Unity Pact, criticized the proposal for giving the departments too much power over natural resources and land within indigenous autonomies. On the other side, in the commission's minority proposal, PODEMOS advocates against indigenous autonomies and in favor of granting greater powers to the departments – particularly, a larger role in the administration of the ongoing agrarian reform (see below for a discussion of the importance of land reform).

Natural Resources

How Bolivia's natural resources - gas and oil, water, valuable minerals - will be used and sold has been one of the biggest sources of conflict of the last ten years in Bolivia, and, one could argue, of its entire history. It is a country that was once vastly rich in silver, tin, rubber, guano, lumber, and is now rich in gas and oil. However, Bolivia also has a long history of its natural resources being exploited and exported with little benefit for the majority of the population.

It comes as no surprise then that 7 of the 21 commissions are dedicated in some way to the use and development of Bolivia's natural resources – from gas and oil to water to the land itself.

The various commissions have proposed that local municipalities, departments, and indigenous autonomies maintain control over the use of renewable resources like water and land. However, non-renewable resources like oil, gas, and minerals, the Assembly representatives declared, are the property of the Bolivian people as a whole and should therefore fall under the control of the national government.

The extent of autonomy, however, remains undefined. What happens, for example, if natural gas is discovered on land that belongs to an indigenous autonomy? The question still remains as to what rights these communities would have in the development of those natural resources, especially with regards to the environmental impact on their lands. On one side, natural resources represent much-needed development opportunities. But on the other, indigenous representatives have seen development as environmental destruction of the land their families and communities

have lived on for generations. The details of this controversial issue are still being debate.

Land and Territory

Another fierce debate in the Assembly has centered on land and territory rights. Indigenous peoples in Bolivia have experienced the appropriation of their lands for centuries. Five hundred years ago, Spanish colonizers first took control of communities' lands and implemented the hacienda system. That practice continued under Bolivia's democratically elected governments and dictatorships through political favors and concessions to cattle, lumber, and gas and oil companies.

The Agrarian Reform of 1952 was intended to remedy the situation by redistributing land from hacienda owners to those that worked the land. However, the reform was mostly implemented in the highlands and valleys of the Andes, leaving the Amazon tropics mostly untouched. A 1996 law was passed to extend the reform to the lowlands and recognize indigenous territories, but was not widely implemented. Since Morales was elected president, greater enforcement and implementation of existing reforms, in conjunction with a new law passed in late 2006, has pushed forward redistribution of eastern lands. Under the combined regulations, lands that are not in use, that were acquired as political favors or in a corrupt manner, and that exceed 50,000 hectares are subject to redistribution.

Among those that own large expanses of land in the eastern part of the country, the new enforcement has been received with fear and alarm. In an effort to halt the Agrarian Reform in the eastern departments, the political parties in opposition to the Morales government proposed in the Constituent Assembly that the new autonomous departments should control the administration of the reform.

For indigenous groups and poor landless farmers, the land redistribution is part of a historic fight to gain (or regain) land rights. They propose to enshrine those new land titles by establishing indigenous autonomies through the Constituent Assembly, and guaranteeing the sovereignty of those communities to determine how their land and natural resources will be used.

The Four Branches of Government

The proposals that have been debated in the Assembly include making two major changes with regard to the structure of the national government. One would pare the legislative branch down to one house, and the other would establish a fourth branch of government aimed at a broad goal with the name of "social control."

Bolivia traditionally has a bicameral legislature, including a House of Delegates (elected from districts based on population) and a Senate (in which all departments, large and small, have an equal number of representatives). The effect in Bolivia is a Senate traditionally more conservative than its counterpart. MAS Assembly delegates have declared these two houses to be redundant and back a proposal for a single National Assembly with 157 representatives. Of those, 130 would be elected through local

districts, as in the current House of Delegates. The remaining 27 would be elected as departmental representatives – three per department, as in the current Senate.

The second major change proposed by the commissions was the addition of a fourth branch of government – 'Social Control.' In Bolivia, the notion of social control holds deep historic weight in local indigenous societies, particularly based on three rules handed down through the generations from Incan law: don't lie, don't steal, and don't be lazy. At a community level this translates into holding leaders to account and encouraging responsible behavior among neighbors.

At the national and departmental level, this has translated into social movements exerting social control over elected politicians, demanding accountability through massive street protests and blockades.

Devising a way that social control could play a role in Bolivia's national government represented a creative effort of the Assembly representatives. One model they used is the already established national position of "Defensor del Pueblo", essentially an ombudsman. That office has a free hand to investigate government wrongdoing and to speak out on behalf of marginalized groups. The proposals under debate in the Assembly would create several new similar agencies equipped to better scrutinize government hiring and finances. These new agencies' mission would be aimed at controlling corruption, a problem that exists at all levels of Bolivian society. The institutions would be independent of the federal government, though several members noted the difficulty of maintaining their impartiality if the Congress controls their budget from year to year.

PART THREE: THE ASSEMBLY PROCESS – A MIX OF PROGRESS AND CONFLICT

The path of the Constituent Assembly has been one full of conflicts, and detours that have threatened to end it altogether. In effect, the Assembly process has had four main phases: a debate over rules; a period of progress in the Assembly Commissions; a stalling out over an unexpected issue; and an effort by the government to negotiate a compromise.

The Debate over 'Two-thirds'

In the law that set up the Constituent Assembly, the National Congress established that the Assembly would be free to draft a constitution without limitation, but that it would have to be approved by a vote of two-thirds (2/3) of the Assembly's delegates. That guaranteed that MAS, even with its majority in the Assembly, would be required to secure the agreement of at least some of the other parties in order to put a new Constitution in effect. There was never any debate among any of the parties that the final draft would require a 2/3 vote for approval.

However, not long after the Assembly began on August 6, 2006, a heated debate broke out over the procedures that would govern its work. The opposition, headed by

conservative political parties like PODEMOS and civic and business groups of the eastern departments, argued that not only was a 2/3 vote required for approval of the final document, but also for each article separately and for all key procedural decisions. The effect would be to give the minority, as angry MAS delegates pointed out, an effective veto over every matter and the ability to bring the entire process to a halt. The opposition declared that MAS was trying to consolidate their power and create a new constitution without taking into account other opinions.

A member of the technical staff of one of the most important commissions affirmed that it was more a political debate than a technical one. He said, "They were debating if the majority elected to the Constituent Assembly was going to have the right to define a new constitution or if a small group could interfere with 2/3 to impede and block every moment of development of the Constituent Assembly."

The debate over 2/3 spilled out far beyond the halls of the Assembly and into the streets in five departments. Protests in favor of a 2/3 vote on everything drew more than 100,000 people in Santa Cruz alone. A similar call and rally organized by Cochabamba Governor Manfred Reyes Villa, a longtime political opponent of Morales, ultimately led to violent confrontations in January 2007. This added fuel to the fire for some since Reyes Villa had also pledged to use his authority to force a revote on the autonomy issue six months after its lopsided defeat in Cochabamba

In reality, the great 2/3 debate, which stalled the Assembly's work for more than seven months, was not about a matter of process but about the fears stirred by the process of political change. A portion of Bolivia's middle class (not to mention its smaller elite) was responding to fears that MAS and Morales were bent on acquiring too much power and were not attentive to their own hopes and dreams. MAS backers saw the 2/3 debate as an attempt by the opposition to block a mandate for change that they had won at the polls less than a year before.

Finally, after more than six months of debate and protests, MAS, in order to move the work of the Constituent Assembly forward, agreed to the opposition's demand. A two-thirds vote would be necessary to approve every one of the articles of the new Constitution of the country. However, a number of MAS leaders proposed a public vote for all articles passed by a majority but short of 2/3.

The Work of the Commissions

The second stage of the Assembly saw its commissions settle in and begin debate on the nation's most important issues. The Assembly created 21 separate commissions. According to a member of the technical staff of the Assembly, that agreement was a carefully calculated attempt to break down the potential conflicts into manageable parts. The most important commissions were Autonomy; the National Vision; the New Structure of the State; and Natural Resources, Land, and Territory.

To begin the work, each political party distributed their members among the 21 commissions. The largest of the commissions fluctuated between 15 and 33 assembly

members, and the smallest had only six delegates. From there, each commission elected its own leadership.

In March 2007 the members of the various commissions began touring the country, spending a few days in each of the nine departments to gather proposals from the population in public audiences and forums. The opposition considered the tour insipid, arguing that the lost time was invaluable, with only five months left to approve all of the articles of the new Constitution. MAS and other social organizations declared that opening the discussion to society at large was fundamental to understand what the people wanted.

In the end, the tour was fruitful. It garnered hundreds of proposals from social movement organizations and civil society in general, with the most influential commissions receiving as many as 500 proposals apiece. Starting from these proposals each commission systematized all the information and began work on debating the articles they would propose to the full Assembly.

Not surprisingly, MAS and its opposition, and in particular PODEMOS, fought heatedly over a whole host of issues. From natural resource development to land reform, battle lines were drawn between constituencies intent on making sweeping change versus others determined to protect political and economic interests decades in the making.

In the end, each commission approved some articles by consensus where compromise was possible, but in many cases reported separate majority and minority recommendations. Following that, the 21 commissions had to iron out the differences and redundancies between their approved proposals. This work was carried out by way of joint or 'mixed' commissions.

At this point, however, the year set aside for the Assembly's work was already coming to an end, in large part due to the long delay caused by the 2/3 debate. Despite harsh criticism from all sides that the Assembly was not completing its mission, the National Congress extended the mandatory ending date for the Assembly by four months, until December 14, 2007.

By the one-year mark, the Assembly accomplished a draft of 717 Articles. The Assembly looked like it was headed to the final stage in the process, a series of plenary votes in which delegates would go on record with their votes on the specific elements of the new Constitution. But then the whole process was sidetracked once again, this time by an issue few expected to explode as it did.

The Assembly Suspended: Conflict and *Capitalia*

Sucre was Bolivia's capital from the country's founding until 1898, when an armed conflict between rival political factions resulted in the executive and legislative capital being moved to La Paz. Although Sucre remains the judicial capital, there have been recurring cries for all three branches to return to Sucre. These demands became amplified during the Constituent Assembly, supported not only by groups in Sucre but also the opposition who wanted to see less power concentrated in La Paz.

Proposals to move Bolivia's capital from La Paz to Sucre were introduced in several commissions starting in July 2007. By the beginning of August, there were already marches in Sucre supporting it, as well as far larger counter-marches in La Paz. Calling the proposal unnecessarily divisive and inconsequential, the Constituent Assembly leadership introduced a resolution to take the *Capitalia* issue out of debate on the Assembly floor. The resolution was approved by a majority vote on August 15.

Rather than end the debate, the MAS-led move only unleashed even larger *Capatalia* demonstrations in Sucre, as well as hunger strikes, and protests that turned violent. In Sucre, where the Assembly was still meeting, this anger turned against MAS delegates, manifested in their eviction from apartments or homes as well as physical threats and actual violence. In early September, the Assembly voted to shut its work down for a month, with the majority declaring that it was no longer safe for them to meet there.

The protests were originally organized and led by Sucre's Inter-Institutional Committee, which includes the office of the mayor, a member of PODEMOS; the rector, staff and students of the local university; and the business-oriented civic committee. Their leaders have been the official spokespeople of the demand to move the Capital. In the weeks following the violence, rural farmers' organizations, women's groups, and local neighborhood groups, who represent a large part of the Sucre population, organized counter-protests supporting the process of the Constituent Assembly.

Nevertheless, opposition parties found in the *Capitalia* issue a 'rabbit in a hat' that managed to stop the work of the Assembly just at the moment when it looked like that work might be nearing completion.

In September, the MAS government, seeking to get the Assembly process moving again, convened a summit of political leaders from all of the major parties, mediated by Vice President Alvaro Garcia Linera. Some of these negotiation sessions often lasted late into the night, and the Political Council reached a consensus to continue the Constituent Assembly.

The Council's meetings have been tense and often slow, some agreement on a handful of the Assembly's most explosive issues. While PODEMOS representatives left the Council a number of times, MAS secured a 2/3 majority on key issues through negotiation with the other fourteen political parties. Those agreements include general language about the plurinational vision for the country, the economic model of the country, and the form that departmental autonomy will take. The details of these and other issues still remain in open question. The Political Council has proposed to put the issues that have not been resolved before a national referendum. These include the issues surrounding land reform and the use of natural resources.

The issue which continues to threaten the Constituent Assembly process is the demand by Sucre to move the national capital. MAS has made a series of offers to Sucre, including a proposal to move some major government functions to its historic capital. MAS leadership also offered to provide funds for two mega-projects for the region, a new international airport and new highways that would connect it to the rest of the

country. Sucre leaders rejected the offer, and have begun planning more demonstrations timed with the opening of the Constituent Assembly's plenary sessions.

At this writing it remains unclear what the future path of the Constituent Assembly will be. Each article must be approved by a 2/3 majority in the full Assembly, according to the general regulations under which the Constituent Assembly operates. The delegates have only until December 14 to approve all the articles, but Political Council members have expressed confidence that with the new agreements they have reached, that goal is still possible. More protests are already being planned in Sucre and threaten that possibility. Assembly leaders say, however, they are ready to respond by moving the plenary sessions to the city of Oruro.

Even if all articles are approved according to those plans, the new Constitution would still be subject to two referendums. The first would put the most divisive unresolved issues to a national popular vote. The second would put a completed Constitution before Bolivia's electorate for its final approval.

CONCLUSION

As we noted at the start of this report, Bolivia's Constituent Assembly is about something much more than the structure of government. It is about something more profound than what will be decided about some of its most difficult issues – such as how to use the nation's natural resources or what kind of autonomy will be given to its diverse regions and peoples.

The debate over a new constitution is really a debate between two very different visions of what Bolivia is as a nation and of how much of a mandate the current government has to make deep changes.

For the indigenous communities that gave birth to the dream of the Constituent Assembly, and for the thousands of others who have engaged in the struggle for political change, this historic moment and this historic process is about a reformulation of Bolivia at its roots. They have declared the Assembly "originario", meaning that it is now the nation's most sovereign authority and expression of the people's will. They expect it to make dramatic changes aimed at reversing what they see as 500 years of conquest and exploitation.

On the other side of that debate lie political parties that represent the nation's traditional elites, from wealthy landowners to those who have benefited most from foreign privatization. They see the Assembly not as an opportunity for change, but as a threat to their interests. More often than not, their strategies have been aimed not to shape the new constitution but to block the process of writing one.

In the middle, interestingly, lie two groups. One is the Bolivian middle class. Many among them voted Morales and MAS into power in December 2005 – saying they were fed up with the corruption of the traditional parties and were willing to give those so

long left out a chance at governing. Now they watch the process of Constitutional reform cautiously, with fears that it will drive the country to polarization and violence, yet with hopes that it might bring new stability and a nation of greater equality.

The other group in the middle is MAS itself. While much of the party's constituency comes from the same indigenous communities that dreamed of an Assembly with great power and a historic vision, MAS finds itself in the difficult position of balancing its constituency's expectations with the reality of politics and compromise.

As the Constituent Assembly approaches its endgame, it is a process that now bears little resemblance to what was once hoped for by indigenous communities. A process that was supposed to be free of party politics is now driven by it. With private negotiations by a handful of party leaders now leading the process, even the elected delegates are becoming marginal actors.

Some in Bolivia call this transformation of the process as a betrayal of a dream. Others see it as an inevitable pragmatic twist necessary to reach compromise in a nation where compromise is something very hard to come by.

Bolivia remains at a moment in its political history that is powerful, dangerous, and inspiring all at the same time. Will its struggles over redefining itself go the way of South Africa or of Yugoslavia, or somewhere in between? Ultimately that depends on how much Bolivians are willing to reconcile their very distinct identities, across cultures, with their vision as members of one country, united.