

In the weeks leading up to the December 18, 2005 presidential elections in Bolivia, most observers in the United States viewed Evo Morales with dread.

Constitutional Reform in Bolivia

The 2005 Presidential Election

BY DAVID KING

IN THE WEEKS LEADING UP TO THE DECEMBER 18, 2005 PRESIDENTIAL elections in Bolivia, most observers in the United States viewed Evo Morales with dread. An Aymara labor leader with coca field roots, Morales's campaign had accepted money from Venezuelan President Hugo Chávez. This may have emboldened Morales' supporters, but it hurt his image in Washington DC. Worse, the would-be president spoke openly about nationalizing oil and natural gas fields, raising the specter of socialist policies in the Andes.

As of November 2005, Evo Morales ran even in public opinion polls with former President Jorge Quiroga, while Samuel Doria Medina followed close behind. I visited La Paz, my birthplace, during those heady days, and I listened carefully to whispers among my "elite" friends who quietly hoped for a Morales victory. Back in Washington DC, the picture remained bleak. A Morales triumph would be a staggering loss for U.S. anti-drug and pro-trade policies.

Evo Morales's victory, 53.7 percent of the vote to Quiroga's 28.6 percent amid Bolivia's highest-ever turnout and cleanest-ever elections, may indeed set back coca eradication programs and free-trade

agreements. The victory is, however, a democratic revolution and the fulfillment of unmet promises from Bolivia's illusory revolution of 1952. In Evo Morales, South America has the first-ever popularly-elected indigenous leader, and Bolivia has a brief window of opportunity to repair a fundamentally undemocratic political system.

For much of Bolivia's 180-year history, the indigenous population, though outnumbering elites of Spanish descent by a two to one margin, remained fractured by culture (Aymara and Quechua in the highlands) and geography (Guarani and Arawak in the lowlands). Economic and political power remained concentrated among non-indigenous elites with geographic and economic ties to the mining industries.

Bolivian history is short on justice and fairness. Since breaking off from Spain in 1825, Bolivians have wearily witnessed nearly 200 coups and counter-coups. The revolution of 1952 gave indigenous people the right to vote, guaranteed a collective society, and strengthened the state. But the promises of that revolution were

Lowlands and highlands: one country or two?



not visited on most citizens. The revolution of 1952 succeeded in some important areas, such as land reform, but it was an incomplete revolution won by the elites. Even after civilian democracy was finally established in 1982, Bolivia nearly exhausted itself with the kinds of public confrontations more reminiscent of a dictatorship than of a democracy.

When I left Bolivia as a child in 1968, the Soviet Union was America's greatest enemy. Today Russia's democracy is healthier than what we find in Bolivia. Indeed, a stunning study of public opinion about democracy, published in August 2005 by the Corte Nacional Electoral, shed light on what Bolivians thought were the objectives of having a democratic system. Possible choices ranged from participation (11.5 percent selected this response) to liberty (6.3 percent) to equality (6.0 percent) to the ability to vote (4.9 percent). Yet the most common answer, by far, was *no sabe* (don't know) (32.1 percent).

In 1968, Indonesia was ruled by General Suharto, a dictator who murdered nearly a million of his own people. Today Indonesia's multiparty democracy is vibrant and growing. Both Russia and Indonesia have language barriers and geographical challenges that make those in Bolivia seem relatively insignificant. There are twelve major languages spoken in Russia, in a country spanning 17 million square kilometers. There are eight major languages spoken in Indonesia, a country knitting together 17,508 islands. While Bolivians

Yet the process for developing the new constitution may be most important of all, because this time – for the first time – indigenous people will have a voice.

often point to geography and language as barriers to establishing a democracy, Bolivia's democratic failures have very little to do with geography and language.

A new economic elite has sprung up in the lowlands, largely near Santa Cruz, owing to recent discoveries of large oil and natural gas reserves. As the economic and political power of Santa Cruz grew since the early 1990s, economic elites began dividing along regional lines, east and west. On the eve of the December 2005 elections, political leaders in Santa Cruz and Puerto Aguirre talked openly of dividing the country in half: lowland and highland. Meanwhile indigenous leaders were growing in confidence and competence, primarily as an after-effect of an experiment in democratic governance, begun in 1994, which allowed local governments to elect their own popular assemblies. The "EVolution" of democracy in Bolivia would have been more difficult, and bloodier, without a decade of experimentation under the Law of Popular Participation.

What now? President Morales has announced a process to develop a new constitution. The current one was ratified in 1967 and substantially revised in 1994, so constitutional change is a common theme. Yet the process for developing the new constitution may be most important of all, because this time – for the first time – indigenous people will have a voice.

Does Bolivia need a new Constitution? Several countries, notably Britain, do not even have one. Other countries, such as Norway, Belgium, and the United States, have constitutions that stood the

tests of centuries: Norway since 1814, Belgium since 1831, and the United States since 1789. Of course each of these constitutions has been amended on occasion, but the fundamental values underlying the relationships between citizens and the state have remained largely the same.

The central question in constitutions is whether the people of a country believe that the institutions of government are legitimate. Without legitimacy, a nation's citizens no longer feel like citizens, and no longer willingly comply with the sacrifices needed to form a social compact. Of course a government does not need to be a democracy in order for citizens to think it legitimate. However, as political scientist Hans Dieter Klingemann notes, government regimes need at least two of three things: public support for the political community, public support for the regime's principles (in a democracy these are democratic principles), and approval of a regime's performance. In Bolivia today, the overwhelming majority of citizens does not support the national political community, does not approve of the national regime's performance, and is only just now learning – because of the popular participation laws that transformed municipal government – how to function in a democracy. A successful constituent assembly – closely watched and publicized – should engender support for the national political community, and bolster confidence in the system as a whole.

I do not know what kind of a constitution will emerge from such a constituent assembly, but I am heartened to see that the process itself is being directed by non-ideological students of political systems. Chief among them is Professor Andrés Torrez of the Catholic University in Bolivia. In 2005 Torrez oversaw a "simulated" constituent assembly, drawing on indigenous and economic leaders from around the country. The current Bolivian system, based on Spanish law and the Napoleonic Code, is ripe for corruption and promotes confrontation over compromise.

The prospects for a constituent assembly to re-write the Bolivian Constitution got a boost on March 6, 2006, when Morales's December opponent, Jorge Quiroga, joined former President Carlos Mesa in calling for an assembly to begin by the end of 2006. Naturally, some Bolivians fear a power grab either for Morales's party or for the La Paz region, but I hope that the 2006 assembly will be a milestone in South American history. The authors of a new constitution should hold close to several features of successful constitutions.

First, equality of opportunity – not equality of outcomes – is the basis of every democratic constitution written anywhere in the world over the past twenty-five years. The United States suffered greatly, and for more than nearly two centuries, when hollow words promising equality were not fulfilled in practice. We in the United States did not have an indigenous people's problem for long, because our weapons were strong, their resistance to diseases weak, and we herded natives like cattle to reservations in the western United States. Yet for a hundred and fifty years before our Constitution, slavery was commonplace. Even after our revolution, it took a civil war – fought by whites against whites – to free African-Americans. These slaves were freed, on paper, by 1863, though the laws that gave them freedom were not fully realized. By 1905, African-

Americans were hanged by angry white mobs on a weekly basis. Thousands were killed. Millions were discriminated against. And it was not until early in 1952, just as Bolivia was extending the right to vote to the Quechua and Aymara that African-Americans began their own journey to freedom.

For most of my life, Bolivia has been the “South Africa” of South America. The good news, of course, is that even South Africa ceased being the “South Africa” of South Africa with the emergence of Nelson Mandela and the subsequent 1996 constitutional reforms. That constitution held fast to the primary rule: constitutions should

The men and women who write Bolivia’s next constitution may well discover that they are, indeed, a common people who share core values.

protect equality of opportunities.

Second, successful constitutions are based on shared values in a society, and they are written by a group that represents the country both geographically and ethnically. What are the shared values in Bolivia? This may be the most difficult question of all, because Bolivians often define themselves by what they do not share than what they have in common. Indeed, when I ask Bolivians, “What does it mean to be Bolivian?” most are stymied by the question. The national dialogue that surrounds Bolivia’s eventual constituent assembly absolutely must revolve around what core values Bolivians share. If Bolivians, east and west, do not view each other as brothers and sisters in a common cause, the foundations of the constitution will be too weak to last even one generation. Yet, if the experiences of Torrez’s simulation are a guide, the men and women who write Bolivia’s next constitution may well discover that they are, indeed, a common people who share core values.

Third, successful constitutions avoid concentrating power in a single branch or a single city. Given their calls for secession, it is no surprise that politicians in Santa Cruz are rallying for local control of government if the secession movement fails. Their instincts are probably sound, because democracy is best learned at the local level, in municipalities, schools, and local unions. Recall the riots in France last fall, with a strong centralized government under attack. Why did these occur? Because new immigrants have no opportunities to become democratically engaged in local municipalities. Riots break out in Paris with regularity, every generation. The French Constitution dates from only 1958. Ten years later there were massive riots and student protests. Riots have followed every eight to 12 years ever since, including large-scale destruction in October 2005.

Large national governments are good for raising armies and for setting broad regulatory policies and for distributing resources from the rich to the poor and from the young to the old, and only national governments should negotiate trade agreements. But the single most important lesson of political history over the last 25 years is that centralized governments are not good at delivering goods and services to citizens in their homes. National politicians and bureaucrats in a central government are notoriously not responsive or accountable to citizens.

Finally, one rule of successful constitutions should be tattooed

on the hands of every politician in Bolivia: never, under any circumstances, should public policies be written into constitutions. Every successful constitution in the world contains three elements: (1) a statement of shared values or fundamental rights, (2) a description of the responsibilities of governmental institutions, and (3) a way to change the constitution by a vote of the entire population. In every case that I can think of, when public policies have been written into constitutions – such as a specific minimum wage, or specific tariff numbers, or policies on land reform or the sharing of natural resources – in every single instance this has proved to be a mistake.

Constitutions are about shared public values supporting a political process.

President Morales may be tempted to use the constituent assembly process to write long-promised public policies into law. That would be a mistake.

Bolivia faces a choice between two kinds of constitutions. One that would try, in a single step, to fix many of the social problems that have existed there, including land reform, mineral rights, hydrocarbons, and education. A constitutional assembly that re-writes laws is appealing, both to parties of the left and to parties of the right. But this approach would be a grave mistake.

Constitutions are about rights and democratic processes, not about public policies. Does anyone, for example, think that Venezuela’s 1999 Constitution will last even four years after President Chávez eventually leaves office? Of course not. I would hope that President Morales aspires to building a more lasting and nobler legacy, framed around equality and fairness, but leaving the details of policymaking up to deliberative legislatures year-in and year-out. Policymakers in Washington D.C. have looked on Evo Morales and constitution-writing with trepidation, but there are reasons for hope. Democracy is not an economic policy. Democracy is a participatory experiment in self-governing. It is a cauldron in which bad policies mix with good, and long-suffering citizens can find their voice.

When the U.S. Constitution was written, all decisions were made by super-majorities through a deliberative process. The subsequent public debates about whether or not to ratify the Constitution were seminal – and many of our core public values remain shaped by those open debates. The U.S. founding fathers are lionized and are on the minds of school children across the country.

Bolivia’s founding fathers and mothers may well be gathering in their own Independence Hall later this year. What emerges will need to be more than a blueprint on public administration. Good constitutions are more like prayers that touch on basic human values. Bolivia’s new constitution – if it is to be successful – will need to be a prayer that speaks to the hearts of us all.

David C. King is Associate Director of Harvard University’s Institute of Politics and a Lecturer in Public Policy at the John F. Kennedy School of Government, where he teaches about the U.S. Congress and oversees Harvard’s Program for Newly Elected Members of the U.S. Congress. He has run similar programs for the Russian Duma and has consulted on constitutional design issues in South Korea and Nicaragua.