

Revisiting Bolivia's Constituent Assembly: Lessons on the Quality of Democracy

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ABSTRACT

In Latin America, a region where constitutions are rewritten with unhealthy regularity, the Bolivian 2006-2008 Constituent Assembly should have been just another case with limited impact. The Bolivian experience, however, became an extraordinary example of democracy at work in a heterogeneous nation that still struggles to embrace its indigenous roots. The process itself, problematic and even violent at times, showed how pragmatic considerations and short-term political objectives were favoured over painstaking institution-building efforts grounded on democratic values. Moreover, Bolivia's Constituent Assembly became an institutional arena where liberal notions of democracy contrasted with radical ones. In the end, Bolivians received a highly progressive new Constitution, despite the many shortcomings related to this process. Using a democratic theory framework, this article revisits this historical process and concludes that its effects on the quality of democracy in this country were mixed. While there was a degree of responsiveness from the Bolivian state to a pending social demand and meaningful social participation, there was little accountability on the part of the institutions entrusted with this task; hence, the sovereignty of this transient body was compromised from the onset.

Key Words: Bolivia, Latin America, Constituent Assembly, institution-building, quality of democracy, ethnic politics, radical democracy, Evo Morales

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I want to say, brothers and sisters, that we must maintain our unity; this is the end of the difference in colours. The people have delegated to the assembly members the task of creating a Constitution for the people, and there is no more discrimination or marginalization here.

Silvia Lazarte, President of Bolivia's Constituent Assembly,
6 August 2006 (La Razón 2006d)

The most anticipated discourse at the inauguration of Bolivia's *Asamblea Constituyente* (Constituent Assembly, AC) was that of its President Silvia Lazarte, a quechua woman, former *cocalero* (coca grower) leader and a close ally of Bolivia's President Evo Morales. In a society that historically marginalized and denied basic civic, social and political rights to most of its indigenous population, and one that still discriminates against women, the presence of Ms. Lazarte was a powerful message of positive change. But more importantly, it gave the illusion that democracy was finally taking stronger roots in this country.

After a year and a half of work, the Assembly accomplished its primary objective: a viable draft for a new constitution. However, the way in which this process was carried out demonstrated not only a chronic institutional weakness but also how longstanding political vices prevailed over democratic ideals. The Bolivian constitutional process, therefore, teaches a great deal on the difficulties of enhancing the quality of democracy in places with weak institutional settings and on the limits of using democracy as a conciliatory tool. But before this case is explored at large, a succinct description of the debate on the quality of democracy is in order.

DEMOCRACY AND ITS QUALITY

Sparked by Robert Dahl's iconic work on democratic theory in the early 1970s (see Dahl 1971), the past decades have seen a rich and fruitful debate on democracy's fundamental principles. As a result, our understanding of many key dimensions has broadened substantially, including work focused in Latin America. Testimonies of these efforts are the ample works on notions of democratic evolution from transition to consolidation (Linz and Stepan 1996); populism (Conniff 1999), corporatism (Schmitter 1989) and other democratic variants such as O'Donnell's (1994) concept of "delegative democracy". Despite the progress made, however, there is still much to learn about other democratic dimensions, such as its quality. This does not mean that there is not substantial work already done on this front,¹ but instead that the complexity

of the democratic process in Latin America makes difficult to understand under what circumstances democracy operates more efficiently. After all, democracy is just a means to better governance and not an objective in itself. Moreover, our modern understanding of democracy revolves around some of its many variants such as liberal, participative and radical; with the understanding that there are other variants and categories in-between.² An important democratic variant, therefore, is liberal democracy (closely related to political liberalism), which emphasizes individual rights, the separation of powers and political freedoms; and it is prone to favour representative democratic practices. An influential modern theoretical source for this variant is Dahl's (1971) notion of *polyarchy* (from Greek rule of the many). In simplistic terms Dahl argues that 'true' democracy is unattainable as it represents an idealized philosophical construction. Therefore, what modern societies use in practice are *polyarchies* with their required procedural elements such as the use of free and frequent elections and political competition and contestation among others.

A second important variant is direct democracy, which places higher weight on participation at the grassroots and implies higher citizen involvement in public affairs (Pateman 1970; Barber 1984), thus enabling majoritarian rule. A good example of this type of democracy is referendums. An expansion of the participatory stream is what modern scholars describe as deliberative democracy.³ As Pateman (2012) argues, different than the traditional notion of participatory democracy, the deliberative variant puts higher emphasis on contained spaces of deliberation, discussion and debate; some examples include citizen's juries or assemblies. As this particular case will show, Bolivia's democracy has increased the political space for direct democracy practices.

Another type of democracy relevant to the discussion that follows is that of radical democracy. In this variant, democracy is pushed to its limits (from below) in the pursuance of consensus but respecting a plurality of views (such as those of minority groups). An important consideration on this theoretical view, as pointed out early on by Laclau and Mouffe (1985), however, is that the power asymmetries that exist in every society (such as political control by hegemonic social/ethnic groups) might oppress

1 For a relevant list visit the Working Group on the Quality of Democracy at the Kellogg Institute, University of Notre Dame at <http://kellogg.nd.edu/publications/workingpapers/democracy.shtml>

2 For the purposes of this article only these main variants are described, acknowledging the enormous amount of literature on different "types" of democracy.

3 For example Mutz (2008) and Pateman (2012).

differing views, particularly those of minority groups. This is precisely the difference between direct and representative forms of democracy, because the pursuance of 'true' democratic values requires not only addressing these asymmetries but also having them altered if necessary. The way to achieve this objective is by incorporating spaces for dissent, particularly at the grassroots, as an intrinsic part of the democratic game. As Cohen and Fung (2004, 23) argue, radical democrats '[...] seek a fuller realization of democratic values than competitive representation itself can attain'. This means that citizens should engage more deeply in political issues, with emphasis on deliberation. For Van Cott (2008, 8) this evokes '[...] a distinctive form of democracy through which a free and dynamic civil society and formal representational institutions' are altered by participatory-deliberative arrangements in which '[...] citizens address public problems by reasoning together about how best to solve them - in which no force is at work' (Cohen and Fung 2004, 23). Thus, the radical democracy view emphasizes cultural changes and the deepening of democracy by '[...] making it more participatory and deliberative' (Van Cott 2008, 9). This view, however, is not immune to criticism. One of which is the highly idealized view on democracy, with the implicit assumption that participation is both equal and meaningful. Another observation is the lack of concrete models applicable to real case scenarios, particularly beyond the local realm, in which substantial policy issues are discussed on a regular basis and fostering effective consensus. Another relevant observation is that of Van Cott (2005), who argues that precisely one of the limitations of radical democracy is that its essence, participatory processes with emphasis on debate and consensus building, is hard to measure. There is an intrinsic qualitative element in this type of democratic practices that escapes quantitative exercises. For example, how can we measure if the opinions of women are respected during and assembly meeting? This does not mean that radical democracy experiences cannot be assessed, but instead that different markers have to be observed.

From the discussion above, it is evident that these variants are neither antagonistic nor closed categories. *Au contraire*, these variants are self-reinforcing and their coexistence in a political system can be seen as a clear sign of healthy democratic practices. For example, representative governments can use referendums on a regular basis to allow higher (and more meaningful) levels of political participation, or enhance the public agenda to reach the grassroots through radical democracy practices. For the purposes of this article, this theoretical discussion on democratic practices is highly relevant because the success of the AC relied on a

combination of democratic practices that were present at different instances of the constitutional review process.

These distinctive views on democracy have also fuelled a parallel discussion on the quality of democracy. In the case of Latin America, the debate has taken a few directions. One of the streams emphasizes theoretical aspects of democratization adapted to this region. Recent literature includes the works of Altman and Pérez-Liñán (2002) on measurable quality indicators; Foweraker's (2002) study of the rule of law; O'Donnell et al.'s (2004) theoretical discussion and Coppedge et al.'s (2011) attempt to reconceptualise democracy. To summarise, an important part of the scholarly debate on the quality of democracy has focused on harmonizing related concepts and definitions.

With similar theoretical roots, another stream of research emphasizes the practical use of democracy's qualitative dimension. This means identifying those aspects perceived to have a larger effect on its quality and the indicators that serve as proxy measures. A noticeable difference is that some of this work uses compact and functional definitions of the quality of democracy. A good example of this type of work is the five dimensions proposed by Levine and Molina (2011). Anchored in the tradition of procedural democracy, their notion focuses on political processes that allow democracy to function and survive, identifying five crucial dimensions. The first one is electoral decision, characterized by the formal use of the ballot in a free, fair and frequent manner and relies on public access to quality information. The second dimension is meaningful participation through formal channels (e.g. assemblies and public consultations) but also through informal means, such as mobilizations and protests. But for successful participation, the kind that helps reduce political manipulation, some additional conditions are necessary, such as quality education, freedom of information and citizen engagement. The third element is accountability in the form of social and institutional means for making public officials subject to control and possible sanction by the population. Effective accountability can be the result of both formal and informal means, such as the work of the press or that of active social organizations, what Peruzzotti and Smulovitz (2006) define as social accountability. The fourth dimension is responsiveness in the form of a democratic process that induces governments to implement institutional changes in response to public demands. Evidently, responding to particular social demands is not enough as the policy outcomes can be damaging to the system as a whole (which is the logic of short-sighted demagoguery). Instead, this dimension is relevant when the public response comes in

the form of an inclusive and well-articulated government policy with both short and long term goals, regardless of the potential outcome. The fifth and final dimension is sovereignty, defined as the government's political independence and its capacity to rule against potential external and/or internal constraints.

From the different theoretical approaches, this article draws on Altman and Pérez-Liñán's practical definition as well as the conceptual framework of Levine and Molina for a couple of reasons. Both approaches are culturally sound for Latin America as they incorporate dimensions relevant to this region such as the importance of higher accountability and responsiveness from the state, but without detaching themselves from a broader conception of procedural democracy. This does not mean that these dimensions are not relevant to other regions, however, in countries with developed institutional settings these dimensions (accountability and responsiveness for example) are perceived to be slightly less relevant as many institutions perform as expected, which is not necessarily the case of Latin America. Specifically, Altman and Pérez-Liñán (2002) focus on the effectiveness of civil society rights, participation and competition. These three dimensions were crucial during the AC process. By default, the exercise of re-writing the country's constitution demanded a stable political climate that would allow society at large to express their views; therefore respect for civil rights was an objective in itself. At the same time, participation was seen as another important component, not only from elected representatives to the AC, but also from social organizations and movements with vested interests in the process. Also, the design of the AC, through elected political parties representatives, automatically created competition in the form of different regional, ethnic, gender and ideological demands. Levine and Molina's (2011) perspective adds to this reflection on the quality of democracy with the already discussed dimensions of electoral decision, accountability, responsiveness and sovereignty; elements that were also present in the AC exercise. Moreover, their notion of accountability is interpreted not entirely under the assumption that effective institutional mechanisms are already in place such as a functioning judiciary (as it might be the case in more developed nations), but also because it incorporates accountability mechanisms that are growing in importance in this region through an empowered civil society.

Evidently, restricting the analysis to specific conceptual approaches has some advantages but also limitations. On the virtues, they allow for the dissection of a highly complex process into multiple parts. As Smith (2005) argues, when citizens look at state capacity and policy performance

they “savour well-being”, in other words they pay more attention to the desirable effects of democracy in the form of tangible outcomes.⁴ This is precisely what was expected from the AC, the efficient delivery of a particular product: a new constitution. And in simple terms, this is what the AC did. Therefore, one can argue that civil society was not greatly concerned about the inner workings of the AC, the performance of its members, or how inclusive it was, as long as the final product was delivered. But this is not the point, as the quality of democracy relies not only on efficacy but on following the sometimes cumbersome rules of the democratic game that makes processes inclusive. These theoretical dimensions precisely allow such a distinction between procedural aspects, such as electoral rules, and other important qualitative elements such as responsiveness and accountability that fosters that egalitarian ethos intrinsic in democracy.

But there are also some limitations. Perhaps the most noticeable is restricting such an abstract concept such as the “quality” of democracy to a few dimensions. But in a sense, quality can be seen as an attribute, one of preferences, like taste. While some scholars might enjoy a particular flavour of democracy, for others it might be distasteful. Assuming that we all enjoy the same flavour of democracy is, by default, a flawed argument. The theoretical challenge, therefore, is to assess democracy’s quality not by selecting a single flavour but instead by providing a broad sample that appeals to different tastes.⁵ Another limitation, often cited in the literature, is the subjective character of some of the potential indicators. Evidently, this restriction affects not only a multi-dimension analysis such as this one but to the overall study of democracy. This is not an attempt to justify the subjective elements, which are plenty, but instead to argue that by definition the notion of democracy carries with it a subjective connotation as to what values are seen as more “relevant” for its good functioning. While this conceptual approach might not entirely solve this dilemma; the subjective dimension is contained by providing, as much as possible, several objective (measurable) dimensions that were observed during the AC process.

Different than other descriptive pieces on Bolivia’s Constituent Assembly, this article argues that not only this process tested democracy to its limits but also had an effect on the quality of democracy. In this sense, the notions on the quality of democracy described above will provide a useful

4 See also Stokes (2001) and Przeworski et al. (2000).

5 Coppedge et al. (2011) provide a good discussion on comparable measures of democracy (its different flavours).

theoretical approach to understand this highly complex institutional process of social and political transformation. Some of the fundamental questions to be addressed are: Was the use of the ballot effective in this process? Was democratic participation meaningful? Did Bolivian democratic institutions perform as expected? Was the AC accountable to the population? Did the AC have the necessary independence to carry out its entrusted task? Using evidence from multiple sources, the next section provides answers to these questions but without losing sight on its deeper effects on the quality of democracy.

THE ROAD TO THE ASSEMBLY

The pending indigenous political agenda was perhaps the main cause that led to a comprehensive constitutional review. Part of the origins of the AC can be traced back to the 1990 historical *Marcha para la Dignidad* (March for Dignity), when thousands of indigenous peoples from the Lowlands, representing at least twelve ethnic groups, marched 700 kilometres to the city of La Paz. Their demands were not only related to the recognition of basic civil rights but more importantly, to the transformation of Bolivia into a multiethnic, pluricultural and more inclusive state (Albó 1995). This effort was different from previous attempts because it was led by Lowland indigenous organizations (little known by most Bolivians) who rather than representing specific regional demands, embraced a larger indigenous political agenda at a time when these social objectives were distant ideals. The response of the state, however, was limited and came mainly in the symbolic, but highly important, re-phrasing of the constitutional text in 1993 to acknowledge the “pluri-ethnic and multicultural” character of this nation.⁶

By the end of the 1990s, the indigenous demands resonated with more power in an increasingly weakened political system. The so-called *democracia pactada* (pact for democracy), a series of coalitions of dominant parties (some of them of neoliberal leanings) that alternated power during this decade, had failed to decisively solve Bolivia’s most pressing issues. This scenario gave way to the emergence of alternative political forces, such as the *Movimiento al Socialismo* (Movement Toward Socialism, MAS) led by the charismatic *cocalero* leader Evo Morales Ayma, Different than other political parties that pursued mild reforms appealing to nationalist

6 1993 Constitutional amendment.

sentiments, MAS embraced greatly the ideals of indigenous re-vindication as part of a larger social reform agenda. Part of the objectives of MAS, therefore, included the need to reform institutions from the roots up with an ethnic discourse that replaced the traditional class discourse of the Bolivian left and its traditional corporatist alliance with miners and peasants.

Bolivia's political crisis during the first years of the twenty-first century culminated in the forced resignation of President Sánchez de Lozada in 2003. The anti-neoliberal banner became a unifying element for social groups. Moreover, specific problems resulting from the privatization/capitalization schemes and the use of natural resources, such as gas, encouraged the mobilization of diverse social forces that ended in violent episodes.⁷ The idea of re-writing the constitution as a mechanism to halt and reverse neo-liberal reforms became highly appealing in many intellectual and political circles, in addition to the powerful political discourse of re-founding Bolivia through an alternative philosophical view rooted in the notion of "*Vivir Bien*"⁸ and as a mechanism to jumpstart the decolonization of the Bolivian state⁹. To many Bolivians, the 'constitutional way' seemed a more consistent and enduring approach to alter the current economic model, and certainly a more expedient solution to the alternative painstaking process of legislative review through a perceived unreliable parliament.

Another important element that favoured the viability of the AC was the demand of higher autonomy in the eastern departments, the so-called *Media Luna* (Half-Moon) for its crescent shape.¹⁰ Different than the indigenous demands for recognition, the eastern departments saw the possibility to re-write the constitution as a mechanism to incorporate longstanding demands for higher political and fiscal autonomy. Pro-autonomy civic organizations in the East, however, did not campaign actively for the AC, as the ownership of this process was perceived to be in the hands of indigenous groups and social movements. Instead, the most active groups, such as the powerful *Comité Cívico pro Santa Cruz*¹¹

7 The most symbolic cases were the so-called 2002 Water Wars in Cochabamba and the 2003 Gas Wars.

8 Despite the abundant literature related to this topic, there is still a lot of debate on the meaning of this term and its policy implications. For example, while Vega (2011) focuses on its philosophical elements, authors such as García Linera (2010) focus on potential policy implications, including the consolidation of the *vivir bien* within the framework of communitarian socialism.

9 For relevant comments on the notion of decolonization and the constituent process see Zuazo and Quiroga (2011).

10 Composed of the departments of Santa Cruz, Beni, Pando and Tarija.

(Pro-Santa Cruz Civic Committee), sponsored a series of demonstrations aimed at showing the strength of the autonomy movement. Part of their strategy, therefore, was complacency with the AC process, as long as their demands were incorporated in the constitutional review. The most visible demonstration was the January of 2005 *Cabildo Abierto* (open town-meeting) with an estimated quarter million people demonstrating in the streets of Santa Cruz. This event also put pressure on President Carlos Mesa (2003-2005) to sign a decree granting more autonomic powers to these departments and the election of governors (then called prefects). Because the figure of prefectures was absent from the existing constitution, Mesa had to recur to a legal subterfuge and signed Decree 27988 early in 2005 (later transformed into Law 3015) which stated that the president “would designate” as prefects those candidates who obtained a simple majority in their departments. This decree, therefore, was a political compromise and promise rather than an actual enforceable law. After a difficult eighteen months in the presidency, Mesa succumbed to social and political pressures and resigned in June 2005. This gave way to the transitional government of Rodríguez Veltzé (2005-2006), a Harvard-educated lawyer, head of the Supreme Court at the time and the constitutional successor after both heads of Congress (senate and lower chamber) refused to accept the presidency. From the beginning, Rodríguez made clear that the main objective of his government was to reinstate democracy and called for an early election, leaving the demands for a AC to his successor. His government, however, managed to give some continuity to some of the promises made by his predecessor Mesa, corroborating the proposition to democratically elect departmental prefects (simultaneously with the upcoming presidential election) and signing a decree to carry out a national referendum on departmental autonomy by the next president.

Overall, the years preceding the AC process were characterized by growing and meaningful social participation and a seemingly responsive state. Although the Bolivian democracy suffered several drawbacks in this period, characterized by an acute political crisis early in the new millennium, there were some other signs of consolidation. The road to the AC perhaps represent one of these signs, where the constant activism of indigenous organizations, social movements and civic association, were encountered not by a dismissive state as had happened in the past, but instead to a political system aware of the need to pursue deeper institutional

11 In theory a civic organization with large regional and diverse membership but in practice the political institution that represents the interests of the autonomy movement in the Lowlands.

reforms. For the most part, therefore, the effects on the quality of democracy were positive and characterized by effective civil rights and meaningful participation.

NEW PRESIDENT, NEW HOPES

In December 2005, Evo Morales became president with an outstanding victory, winning 53.7% of the popular vote, an unseen percentage in Bolivia's recent democratic history. This wide margin granted his party certain political control, including a comfortable majority in Congress' Lower Chamber (although not in the Senate). But Morales' arrival to the presidency also crystallised the ambitions of social and indigenous movements to reach the highest instances of political power in a country historically dominated by an oligarchic political class. An important political goal for MAS, therefore, was to take advantage of this historical opportunity to carry out deep reforms. In this scenario, therefore, the re-writing of Bolivia's constitution became a crucial initial step.

On January 2006, a day before of his inauguration, Morales participated in an elaborated indigenous ceremony in the ruins of Tiwanacu and highlighted some of his goals:

The participation of aboriginal (*originarios*) indigenous peoples was neglected in the foundation of Bolivia in 1825, for this reason the aboriginal indigenous peoples are claiming the re-founding of Bolivia through a Constituent Assembly (La Razón 2006a).

During his inaugural speech Morales repeated continuously the historical importance of redrafting Bolivia's constitution. But his discourse was not limited to only symbolic aspects, but also to practical ones, stating that “[...] the Constituent Assembly should go beyond a mere constitutional reform but instead one that becomes a state reform [...] this parliament [i.e. the AC] will be a national liberation army for the battle for our second independence; if they [i.e. the politicians] don't do it then the social movements will” (La Razón 2006b). The arrival of Evo Morales, however, was not the only significant political change as citizens also voted for governors for the first time. Contrary to the main expectations, MAS' national triumph was not enough to guarantee regional victories and this political force obtained only one third of the regional governments, leaving the rest in the hands of the opposition (Table 1). Swiftly, the governors of the *Media Luna* became open critics of the central

administration, a posture legitimized by their direct election. However, they were in a weaker position as they relied on the upcoming constitutional review for their formal recognition. But MAS made clear that the AC was an irreversible process. This attitude responded in part to Morales' electoral promises (which generated sympathies among indigenous voters) but also to MAS' pragmatic approach to have a clean start that would allow deep institutional reforms.

Table 1. Results of the 2005 national and regional elections (winning parties by department)

| Department | National Election(President) | | Regional Election(Prefect) | |
|------------|------------------------------|-----------------------|----------------------------|-----------------------|
| | Winning Party | Share of the vote (%) | Winning Party | Share of the vote (%) |
| La Paz | MAS | 66.63 | Podemos | 37.99 |
| Oruro | MAS | 62.58 | MAS | 40.95 |
| Potosi | MAS | 57.8 | MAS | 40.69 |
| Cochabamba | MAS | 64.84 | AUN | 47.64 |
| Chukisaca | MAS | 54.17 | MAS | 42.31 |
| Tarija | Podemos | 45.28 | ERCC | 45.65 |
| Santa Cruz | Podemos | 41.8 | APB | 47.88 |
| Beni | Podemos | 46.31 | Podemos | 44.64 |
| Pando | Podemos | 45.19 | Podemos | 48.03 |

Source: Own elaboration with data from Bolivia's National Electoral Court (CNE) at www.cne.org.bo [accessed on 15 January, 2007].

In terms of the quality of democracy, the relevant dimension of Morales' election was responsiveness. It took the Bolivian state fifteen years to address the social demands expressed in the 1990 indigenous march, but there was a response at the end. Evidently, these demands were not new and can be traced back to the inconclusive goals of Bolivia's historical 1952 Revolution and beyond. But the point is that the democratic period that preceded the AC allowed the state to reorient its goals. Many institutions became responsive along the way, meaning they acted decisively when needed. Not only the ones close to this process such as the presidency (clearly President Morales put a lot of faith in this process as did his two predecessors) but also other institutions such as parliament and political parties. After all, democratic governance and its sometimes cumbersome bargaining process is not necessarily an expedient process. Under this logic, therefore, Morales' priority to create the AC responded not only to his electoral promise but also to a pending social agenda that finally found response in a democratic state.

THE CONSTITUENT ASSEMBLY, BETWEEN REPRESENTATIVE AND RADICAL NOTIONS OF DEMOCRACY

Three months into his administration, Morales signed two laws, one defining the mandate of the AC (*Ley de Convocatoria*) and the other one calling for a national referendum on departmental autonomy.¹² Different than the straightforward question on autonomies to be asked at the referendum,¹³ the strategic design of the AC was much more complex. It was clear from the beginning, however, that MAS did not want to share ownership of this process. Despite the demands of the opposition and many social groups to participate in the initial stages, MAS did not share the details of this Law and the overall AC strategy until last minute. The drafting of the Law, therefore, was carried out by a selected group of MAS' intellectuals under the direct supervision of the President and Vice-President in semi-secrecy conditions in order to avoid any delays or compromises.

The institutional design of the *Ley de Convocatoria* favoured partisan affiliation over broader participation and inclusiveness. First, in order to get elected to the Assembly aspiring candidates had to be sponsored by either a political party or a citizen's association, or represent an indigenous group.¹⁴ As a result, most AC candidates were required to represent political forces by electoral circumscriptions rather than interest groups, with the exception of indigenous communities that benefited from less restrictive registration requirements. This approach, therefore, created a seemingly insurmountable entry barrier to 'outsiders', favouring already established political forces such as MAS and the main opposition party Poder Democrático y Social (Democratic and Social Power, Podemos), particularly due to the time constraints to gather the necessary firms and follow the protocols of the National Electoral Court to register new groups. This option responded in part to a calculated political risk from Morales and MAS, encouraged by their recent electoral success and their growing

12 Laws 3364 and 3365 of 6 March 2006.

13 The question practically asked a simple 'yes' or 'no' to grant more autonomy to each department.

14 Citizen's Associations are the result of recent electoral reforms in Bolivia that break the monopoly of political parties over electoral processes by allowing the election of civil society leaders to public positions. One of the conditions is to obtain the signatures of at least 2% of the registered voters either at the national, departmental or municipal level, depending on their electoral intentions.

popularity. Moreover, a timely large public opinion survey carried out by the Latin American Public Opinion Project (LAPOP) in 2006 confirms these perceptions. From the people interviewed, most believed that candidates to the AC should have been selected by Citizen's Associations (39.7%), by territorial circumscriptions (21.9%), civic regional committees (13.4%) and/or by union or indigenous organizations (13.0%). Ironically, although only 8% of citizens believed that candidates should have been selected by political parties, this was the most used procedure to register candidates to the Assembly.¹⁵

The losers from this approach, evidently, were the hundreds of small activist organizations and particular interest and ethnic groups that did not have the strength in numbers concentrated around single electoral districts. This did not mean that they could not send their leaders to compete for positions at the AC, but instead that they lost any direct influence over the process. Moreover, even when these groups managed to register their candidates, many of them ended up as alternates behind the political appointees of sponsoring parties/associations. This was the case for many groups such as the Afro-Bolivians (dispersed in several communities mainly in the Yungas region in La Paz), small ethnic groups in the Lowlands, gay and lesbian rights activists, Christian based organizations, economic interest groups (such as miners and workers' unions) and many others. Therefore, direct representation was denied to important segments of society, perhaps those that needed constitutional reforms the most. Consequently, these groups had a limited participation in the initial stages of the AC and were forced to look for alternative (and creative) ways to insert themselves in this process. This strategy also left entirely out those institutions that had to maintain an apolitical posture, such as the Catholic Church, the military and the police.

Second, this Law did not establish internal procedures for the Assembly itself such as the dynamic of the upcoming debates, the composition and number of thematic commissions, the possibility to have external civic involvement and the participation and representation of interest groups. The only general guideline provided was the use of the Parliament's debate protocols that basically established meeting and voting procedures and forms of participation. Leaving this pending issue to the Assembly itself, would later prove to be a fundamental flaw that was detrimental to the whole process.

Third, in terms of gender equality, the Law made explicit that the

15 Source LAPOP, available at www.vanderbilt.edu/lapop/.N=3,000 [Last accessed on February 2, 2013].

list of candidates presented by parties or associations had to alternate between men and women but it did not establish a minimum quota for the participation of women. As a result, most lists placed male candidates as the first option leaving women as the “second choice”. In other words, for women to get elected, the competing party/association had to secure enough votes to get at least two candidates elected.

Fourth, assembly members (*asambleístas*) received the same privileges, immunities and remuneration as congressmen for the length of the process. The lack of details, however, left an open space for interpretation and *asambleístas* received generous allowances for the hiring of their own staff in addition to their salaries; another detail that later proved damaging to the whole process as there were numerous allegations of corruption, nepotism and other misconduct. In addition, the many privileges granted to assembly members made congressmen wary of the strength of this new body and the possibility that it would become a legislative competitor as opposed to a transient institution.

Finally, the Law made explicit that two-thirds of the votes were necessary to approve the articles of the new Constitution and that its final approval had to be subject to a public referendum. As it will be discussed below, the two-thirds vote issue generated an internal gridlock that practically paralyzed the whole process.

In terms of democratic quality, although the institutional engineering of Bolivia's Constituent Assembly seemed rooted on notions of liberal representative democracy, a scrupulous review of the Law, its different mechanisms and the process itself, say otherwise. The election through circumscriptions denied direct representation to interest groups, therefore creating a representational breach. This issue made the whole process highly susceptible to manipulation by controlling political forces, much in tune with Gramscian notions of political hegemony (Gramsci 1991). This means that the dominant political forces used not only institutional mechanisms to influence the expected outcome, but also non-institutional mechanisms for example by encouraging and in some cases sponsoring the mobilization of social sectors (pressure from below). As it will be discussed later, a good example of this behaviour was the *Cumbre Social a la Asamblea Constituyente* (Social Summit towards the AC) that took place on 10 September 2007 (Última Hora 2007) at Sucre's soccer stadium with the attendance of at least ten thousand people representing peasant and indigenous organizations mostly from La Paz and El Alto.

The main purpose of the meeting was to defend the AC following the request of President Evo Morales for social support. In terms of democratic institutionalism, the AC, with its temporary timeframe, had

some legitimacy challenges to operate as an independent body, which not only created a natural mistrust in society but also hindered the possibility to transmit social demands effectively. Evidently, social movements have played an important role in the recent political history of this country and are a reflection of healthy social participation. However, the strong pressure that these movements can exert over formal institutions, such as the AC, questions the sovereignty that this body had. Moreover, the AC's voting mechanisms opened up the possibility for a majority rule, or what French political philosopher Tocqueville referred to as the *dictature of the majority*, and their potential nefarious effects on such a heterogeneous and diverse society. On the positive side, this process seemed more in tune with radical notions of democracy that favour the type of grassroots activism common in social and indigenous organizations in this country.

A BRAND NEW ASSEMBLY

On 2 July 2006, 255 representatives to the AC (*asambleístas*) were elected, simultaneous with the referendum on autonomy where the “No” to autonomy prevailed nationally with a slight margin (53.5%). This national result, however, was contrasted by solid regional results where the “Yes” to autonomy prevailed in 4 of the 9 Departments. These results placated momentarily the animosity of the autonomy movement, who became an avid observer of the AC.

An important and positive effect on the quality of democracy was the turnout increase, with a massive participation of 84.5% registered voters in this electoral process, a number that broke another record in this country's recent democratic history (CNE 2006). The election of *asambleístas* and the autonomy referendum clearly fit Levine and Molina's (2012) critical qualitative dimensions of electoral decision (the process itself was transparent) and of meaningful participation (citizens had a direct voice on two crucial issues). In historical terms, it was the second time that a referendum was used in recent years, the first being the public consultation by President Mesa in 2004 for the use of hydrocarbon resources by the state. As the historical electoral data shows (Table 2), a salient aspect of this election was the higher overall turnout of 72.3%, the highest at the time since the historical re-election of Víctor Paz Estenssoro at the peak of *Movimiento Nacionalista Revolucionario's* (Nationalist Revolutionary Movement – MNR) popularity in 1964. This turnout was also higher than the presidential election average since 1956 of 67.24%. However,

different than the 2004 consultation that received no policy response from the Mesa administration, this electoral process empowered voters substantially by giving them direct responsibility in two crucial decisions, the selection of assembly members and the highly disputed issue of departmental autonomy.

Table 2. Voter Turnout Presidential Elections and Referendums. Bolivia (1956-2014)

| Year | Registered Voters Turnout | Voter Turnout* | Total votes | Voting age Population |
|-------------------------------|---------------------------|----------------|-------------|-----------------------|
| Referendums | | | | |
| 2009 – Constitutional | 90.00% | 61.82% | 3,511,557 | 5,680,498 |
| 2008 – Recall | 83.33% | 61.53% | 3,370,980 | 5,478,006** |
| 2006 – Autonomy/AC | 84.50% | 72.35% | 3,713,376 | 5,132,373** |
| 2004 – Gas consultation | 72.10% | 56.01% | 2,678,524 | 4,786,740** |
| Average | 79.48% | 62.93% | | |
| Presidential elections | | | | |
| 2014 | 91.86% | 90.54% | 5,487,676 | 6,060,980 |
| 2009 | 94.55% | 85.55% | 4,859,440 | 5,680,498 |
| 2005 | 84.51% | 63.44% | 3,102,417 | 4,890,318 |
| 2002 | 72.06% | 66.82% | 2,994,065 | 4,480,674 |
| 1997 | 71.36% | 64.54% | 2,321,117 | 3,596,616 |
| 1993 | 72.16% | 50.01% | 1,731,309 | 3,461,850 |
| 1989 | 73.16% | 50.64% | 1,563,182 | 3,086,880 |
| 1985 | 81.97% | 65.15% | 1,728,365 | 2,652,750 |
| 1980 | 74.32% | 59.11% | 1,489,484 | 2,520,000 |
| 1979 | 90.50% | 69.05% | 1,693,233 | 2,452,050 |
| 1978*** | 102.62% | 82.62% | 1,971,968 | 2,386,800 |
| 1966 | 86.57% | 54.93% | 1,099,994 | 2,002,500 |
| 1964 | 91.91% | 78.92% | 1,297,319 | 1,643,850 |
| 1960 | 75.98% | 63.57% | 987,730 | 1,553,850 |
| 1956 | 85.04% | 63.71% | 958,016 | 1,503,740 |
| Average | 81.85%*** | 67.24% | | |

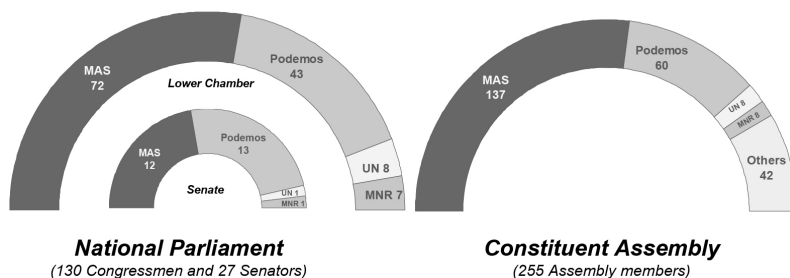
* Defined as the percentage of the voting age population that actually voted.

** Demographic estimation based on historical data from INE.

Sources: International Institute for Democracy and Electoral Assistance at <http://www.idea.int/vt/countryview.cfm?id=29> [last accessed on August 13, 2015]; and Órgano Electoral Plurinacional de Bolivia (OEP) formerly Corte Nacional Electoral (CNE).

*** This year is not included in the average as this was a fraudulent election.

It should be noted that the relatively high levels of turnout in Bolivia (compared to other countries in the region) are explained in part by the fact that voting is compulsory. Also, there has been a historical gap between voting age population and registered voters in this country, meaning that a segment of the population did not vote regularly. This situation is not related to apathy but is explained by deficient civil registration mechanisms in rural areas (such as birth certificates and other documents), something that historically marginalised an important segment of the population, mostly indigenous groups and women. As mentioned before, MAS had vested political interests in this process and its positive outcome depended on high participation at all levels of society. Consequently, there was a conscious effort by the state, and all its institutions, to increase voter registration, narrowing the voter gap significantly. It is not a senseless assumption, therefore, that the meaningful participation in this process combined with MAS' registration efforts, contributed to increase electoral turnout. This positive effect has continued in subsequent electoral processes, including an impressive 90.5% overall turnout in the 2014 presidential election. Also, most democracy scholars would agree that the use of public consultation mechanisms, such as referendums, enhances the quality of democracy (in its participatory form). If this is the case, the AC contributed on this front by demonstrating a valid and transparent use of referenda in the public agenda. Although it is difficult to foresee the importance that direct consultations will have in the future, it is evident that the AC process not only taught valuable lessons on the use of referendums (and its diverse political effects) but also served as an institutional training mechanisms for several organs of the public administration such as the National Electoral Court (renamed Plurinational Electoral Organ in 2010) and the Plurinational Assembly (Congress).



Source: Own elaboration with data from CNE (2006) and CNE (2007)

Figure 1. Political distribution of Bolivia's Parliament and Constituent Assembly (2006)

In terms of results, the AC resembled greatly the composition of Parliament's *Cámara de Diputados* (Lower Chamber) as MAS obtained 137 seats (53.7%) followed by the main opposition force Podemos with 43 seats (23.5%) and the rest split on smaller parties. This composition left the Assembly divided between *oficialistas* and *opositores* (Figure 1). In terms of gender, although eighty-six female *asambleístas* were elected (one third of the Assembly) most of them were alternates in their original electoral circumscriptions, thus maintaining their subordinated role. Ethnically, the indigenous representation at the Assembly was quite significant and although this particular aspect has not been quantified through formal surveys, it is estimated that at least a third of the assembly had a predominantly indigenous background. In generational terms, the AC was predominantly young with most members in their mid to late 30s, one fourth younger than 35 and only 18% older than 51 (La Razón 2006c). This meant that most Assembly members came of age in democratic Bolivia (this is post 1982) and therefore had distinctive views on democracy compared to previous generations that had to endure the repression of authoritarian regimes. *Cocalero* leaders were perhaps the exception, as many of them suffered repression from the state as part of coca eradication efforts.

Another important aspect, and one that characterizes MAS as a political force, was the strong presence of former union and grassroots leaders, almost one third of the Assembly (73 members). Interestingly, the high number of activists was balanced by many lawyers elected to the AC, one fifth (58), which was by far the most represented profession. It is not a surprising result, considering the “job description” of re-writing the country's constitution. Other professions represented included farmers (17), teachers/educators (17), and journalists (12) in addition to a few coca-growers and miner leaders. Local analysts, such as Gonzalo Rojas Ortuste¹⁶, coincide that most *asambleístas* had little or no prior political experience (with a few notable exceptions) and lacked the basic oratory and technical skills required to discuss substantive topics. This situation created a dependency between *asambleístas* and their political leadership. Moreover, according to Salvador Romero Ballivián, President of the National Electoral Court at the time,¹⁷ the election via circumscriptions created an overrepresentation of rural areas. But perhaps the most contrasting figures at the Assembly, which highlights the participation of different segments of society, were that of its President Silvia Lazarte, a *cocalero*

16 Interview, La Paz 2009.

17 Interview, La Paz 2009.

leader that completed 6th grade and former municipal councillor; and that of the main leader of the party Unidad Nacional (National Unity, UN), Samuel Doria Medina, a graduate from the London School of Economics, one of the wealthiest men in the country and former Minister of Planning.

As this brief portrait illustrates, the AC was diverse, with people from different walks of life filling the ranks of the represented political forces. Undoubtedly this was a positive qualitative democratic gain resulting from a fair electoral decision. In this sense, Bolivia demonstrated a good degree of electoral maturity, not only in terms of citizens voting but also because related institutions, such as the National Electoral Court¹⁸, performed as expected not only on this occasion but also during the few times in which formal public consultation was required.

A DEMOCRATIC KALEIDOSCOPE

The political and democratic culture in this multi-ethnic society, or what famous Bolivian thinker René Zavaleta described as *sociedad abigarrada* (multicolour society), varies considerably. The AC, therefore, became a kaleidoscope of social and political actors who brought with them not only particular demands but also their distinctive notions of democracy. Effective political democratic representation in Latin America, however, is elusive. Instead, as O'Donnell (1994) argues, democracy might take a “delegative” form, in which dominant elites use democratic means to access power, but then turn their backs to their constituencies in order to pursue particularistic goals. If this is the case, the result is limited accountability (as the bonds between representatives and constituencies are weak), mistrust in formal institutions and trust in less formal channels, such as social movements. At the same time, the democratic ethos of another segment of society is participatory and more in tune with notions of radical democracy, where the presence of an active and consciously responsible civil society could be effective influencing representative institutions through participatory-deliberative arrangements. As Van Cott (2008, 8) points out, the emphasis of radical democracy is on institutions that promote public debate on policy issues, creating opportunities for meaningful participation, including quasi-state institutions that represent

18 The New Constitution enhanced its powers and renamed it as the *Órgano Electoral Plurinacional* (Plurinational Electoral Body).

identity groups among others; and to a degree this is what the AC represented. The essence of this interpretation, however, lies on social and cultural values that favour participatory and deliberative mechanisms, regardless of ideology.¹⁹ Wolff (2013) presents an alternative view. He argues that the democratic model in Bolivia is a “post-liberal” one, characterised by a less liberal representative electoral democracy that also incorporates participatory elements in some sort of hybrid approach.

These theoretical considerations made possible the identification, in some sort of controlled democratic experiment, of two streams at the assembly.²⁰ The first one, mostly visible among MAS representatives (many of them indigenous), was consequent with notions of radical democracy. The abundant literature on the political culture of indigenous groups in Bolivia emphasizes greatly on the communal ancestral decision making logic. At the communal level decisions vary from when to start harvesting to which candidate will be supported in the next presidential election.²¹ Even basic decisions, therefore, entail lots of bargaining and negotiation in the pursuance of basic consensus. Moreover, the possibility of coercion as a tactic contrasts the basic tenants of liberal democracy and its emphasis on personal freedoms. Also, most often than not, individual rights have to give way to collective objectives. Once certain consensus has been achieved, social mechanisms are put into place to secure the compliance by the rest of the community. In many cases decisions are enforced by sanctions and community members that do not comply with the directives can be subject to harsh punishments, such as lack of support in times of need (social isolation/exclusion) or even corporal punishments and destruction of property in extreme cases. Also, leadership positions are expected to rotate among community members (known in many rural areas as the *cargo* system). Leaders, therefore, do not have long-term expectations and must comply with the command of the majority rather than their own principles. This is what Mendoza-Botelho (2012) defines as “stretching social capital”; this is leaders stretching community values and norms beyond the realm of the community. Under this logic, radical democracy leaders have little space to manoeuvre as they are much more accountable to their bases, and different to “delegative” representative leaders that can much more easily make decisions on their own terms.

19 See also Zegada (2011).

20 For other recent analyses of the Constituent Assembly process see Borzutzky and Zwart (2009), De la Fuente Jeria (2010), Laserna (2010) and Postero (2010) among others.

21 For views on indigenous politics, including the cargo system, see Albó (1995), Canessa (2005) and Van-Cott (2005) among others.

This tendency was visible at the AC as many assembly members, particularly on the side of MAS, refused to reach any kind of compromise on key issues, as they were not entirely sure of the directives of their party and their communities. The phrase '*vamos a consultar*' (we are going to consult) became common currency at the end of meetings, provoking extensive delays.

This radical democratic approach, however, was not exclusive of indigenous leaders, as many leaders of social movements and unions (*sindicatos*) were also present at the AC. Different than indigenous organizations, these social leaders carried with them a tradition of contestatory politics (and a natural distaste for state institutions), which is explained by decades of political marginalization, including a strong Trotskyist discourse among many of them.²² In these groups the leadership tends to be strong and the ideological competition at *la cúpula* (the top) is intense and in many cases personalistic, although the debates remain open to all members. But once a group (or an individual) dominates the debate and some consensus has been achieved members are expected to comply with the decisions. At the AC this attitude translated into direct contestation (as opposed to conciliation), where another phrase became common: "*ni un paso atrás*" (not a single step backwards). This approach evidently benefited MAS due to its large affiliation with unions and social movements, including the disciplined *cocalero* leaders.

The second stream at the AC, mostly the opposition such as Podemos, favoured liberal and representative democratic values, perhaps closer to its "delegative" form. This current was dominated by politicians and professionals linked to traditional political parties (often described as oligarchic and hegemonic), many of them with ties to the autonomy movement in the East. For example, Podemos' candidates were chosen from its cadres, most of them professionals with little political experience (as to not be linked with the past) and endorsed by high-ranking members. Overall, Podemos was relatively successful in urban areas, among middle classes and in the *Media Luna*. The two other important opposition parties at the AC, the MNR and UN, acted with a similar logic. But despite this democratic approach, opposition representatives were not entirely independent and acted reluctantly to reach compromises, as they too had to answer to their respective leaderships.

22 As John (2009) describes, many of Bolivia's grassroots leadership is ideologically unique in the region because of Trotskyism's important historical influence and its local adaptation by influential ideologists and union leaders such as Guillermo Lora and Tristan Maroff (Gustavo Navarro).

The AC therefore, became a closed arena where these distinctive views on democracy confronted each other.²³ This doesn't mean that one side of the Assembly carried Dahl's banner of liberal democracy and the other a more radical Gramscian notion of participatory processes to control the state in a counterhegemonic way. Instead, the *asambleístas* of both sides of the AC arrived not only with distinctive democratic views, but also with lots of restrictions from their respective sponsoring political forces. The composition of the AC, and the distinctive idiosyncrasies of its members, had an important effect on the democratic quality of this process. Although there was a sense of democratic representation, AC members were not able to carry out independently their entrusted mandate legitimised at the polls. This outcome responded in part to an institutional design that favoured a representative model based on electoral circumscriptions with limited mechanisms to make members directly accountable to the population. This issue is not necessarily problematic, as long as the mandate is clear and the bond between representatives and their constituencies is strong. But the issue at the AC was precisely that. Not only was the mandate of representatives not entirely clear as they did not represent interest groups; but also the bonds were relatively weak because early on AC members subordinated to their sponsoring political forces. As it will be discussed next, it is not that the AC was entirely ineffective from the onset, but instead that these distinctive democratic views deviate much of the energies towards futile procedural aspects, leaving little room for a much needed substantial constitutional debate.

THE CRAFTING OF THE NEW CONSTITUTION

Once the inaugural ceremonies were over, the work of the Assembly began and focused on the creation of thematic commissions and internal procedures. The autonomy of the AC, however, was compromised from the beginning as *oficialistas* and *opositores* couldn't agree on even basic procedural issues and depended on the will of their respective leaderships. The constant disruption of meetings by an endless parade of cell phone calls from La Paz and Santa Cruz (characterised by a colourful variety of ringtones) was a common sight. The structure of commissions also

23 Zuazo and Quiroga (2011) provide interesting accounts of the internal dynamics at the AC that allow to observe, in a systematic way, the frictions between these two distinctive democratic views.

responded to MAS' political (reformist) objectives outlined at the presidential campaign (see Table 3). Although some commissions met, most of them were unsuccessful even outlining a basic work agenda. Also, despite the wide array of institutions and interest groups providing technical support, many of the meetings lacked substantive information for the debates. Moreover, there were external actors openly lobbying for their interests. A good example was that of Brazil's Oil Company PETROBRAS (with large operations in Bolivia), which opened a permanent office in Sucre and eventually brought a group of *asambleístas* from the Commission on Hydrocarbons to visit installations in Brazil.

Table 3. List of Internal Commissions at Bolivia's Constituent Assembly

| | |
|---|--|
| Nation-building | Economic and sustainable development |
| 1) A vision for the country (Visión de País) | 12) Hydrocarbons |
| 2) Citizenship and nationality (ies) | 13) Mining |
| | 14) Water resources and energy |
| Restructuring of the state | 15) Productive rural development, agriculture and agro- industry |
| 3) Duties, Rights and Guarantees | 16) Renewable natural resources, land, territory and environment |
| 4) Organisation and Structure of the New State | 17) Amazonian integral development |
| 5) Legislative | 18) Coca |
| 6) Judiciary | 19) Economic development and finances |
| 7) Executive | |
| 8) Other powers of the state | International affairs and security |
| 9) Departmental, regional and provin autonomies | 20) National borders, international relations and integration |
| Social development | 21) Security and national defence |
| 10) Education and Inter-cultural affairs | |
| 11) Integral social development | |

Source: Own elaboration based on AC's internal documents.

These distinctive democratic views also affected the AC's daily dynamics. The lengthy consensus-seeking sessions dominated by MAS clashed with the "all business" style of the opposition. Moreover, the latter felt that the pursuance of consensus was a disguised form of cooptation and showed little faith in the whole process from the beginning. But ultimately, both sides shared the burden of reporting back to their respective leaderships before any agreement could be reached. In more than one occasion important accords collapsed just a few minutes short from being approved in plenary sessions. Even the AC President had to retract herself a few times after receiving outside calls. This pessimistic attitude translated into a lack of

interest to reach agreements and a concealed boycott of the work of the commissions (members not showing up at meetings, etc.).

To the detriment of this historical process, the first seven months were devoted to the futile task of agreeing on the number of votes necessary to approve the (non-existent) articles. Finally, in February it was decided that for some articles a simple majority was sufficient, while those articles seen as controversial had to be approved by either two-thirds of the AC or a referendum. Curiously, there was no agreement (again) regarding which articles could be potentially classified as “controversial” (!). Nearly a whole year was already gone and only a few Commissions had met occasionally to discuss substantial issues, making evident that the technical and political capabilities of the AC had been overestimated.

At the end of the first year, however, the spirit of the AC revived briefly through a series of *Encuentros Territoriales* (national consultations). As national analyst Andrés Torrez comments,²⁴ these consultations were positive and brought some accountability to the AC. At least 3,000 documents were gathered with all sorts of suggestions (De la Fuente 2010). But once the consultations were over, and to make things worse, the constitutional review resurrected Bolivia's capital's, the city of Sucre, historical claims to host the whole central administration, currently shared with La Paz.²⁵ Dozens of civic organizations in this city demonstrated on the streets demanding the incorporation of this topic into the AC agenda. To counteract these claims, on 20 July 2007 civic entities in the cities of La Paz and El Alto organized the so-called “*Cabildo* of the 2 million” to demand the exclusion of this topic in the constitutional debate.²⁶ As it will be discussed later, the brewing regionalist sentiments of the city of Sucre became an insurmountable challenge to the AC that forced drastic measures.

The LAPOP surveys help to track the evolution of the public sentiments throughout the process (Table 4).²⁷ In 2002, although two-thirds of interviewees believed that the constitution had to be rewritten, most of the support was concentrated in the Andes. In the *Media Luna* only half of respondents believed that such a change was necessary. This number increased in 2004, and it was estimated that most Bolivians (85.8%) deemed important to change the constitution, including higher support in the

24 Director, Institute for Democracy, Catholic University of Bolivia. Interview, 2009.

25 A sensitive issue resulting from Bolivia's Federal War of 1898.

26 La Razón, 2007a and El Deber, 2007.

27 Source LAPOP, available at www.vanderbilt.edu/lapop/. $N \approx 3,000$, 1.5% margin of error for all years [Last accessed on February 2, 2013].

East. This perception continued in 2006 (83%). But throughout this process support for the AC was noticeable higher among indigenous groups (70.3% in 2002) than in any other groups, such as people that considered themselves white (61.9%) or *mestizo* (66%). While in 2004 the support for a new constitution was high among all ethnic groups; the year in which the AC was created (2006) this divide grew again, yet overall support to change the constitution remained strong. These estimations, therefore, reinforce the notion of democratic quality through state responsiveness by the MAS administration to a national sentiment rather than the reaction to the particular demands of indigenous organizations or the assumption that the AC was mostly Morales' electoral promise.

Another interesting outcome observed in the surveys is the growing disillusionment with this process. Ironically, while most Bolivians believed that changing the constitution was necessary, a lesser number were optimistic about its future effects. While in 2006 half of Bolivians agreed that a new constitution could help solve some of the country's main problems, by 2008 only one fourth believed so. The disaggregation of this data by ethnicity shows similar patterns. In 2008, although national expectations about the potential positive effects of the new constitution were low (22.8%), indigenous groups and people living in rural areas were relatively more optimistic about the outcomes (34.6% and 35.1% respectively). On the contrary, the majority of respondents in the *Media Luna* departments (86.3%) did not believe that the new constitution could help solve Bolivia's main problems.

On 6 August 2007, at the end of the Assembly's one-year mandate, a sketch of the constitution was presented to Congress. It was evident, however, that this process was not even near to completion and a four-months extension was granted to the AC (*Ley de Prórroga*). Also, in a plenary meeting in mid August Sucre's demands were eliminated entirely from the AC agenda (President Morales' was emphatic about this issue). Moreover, as mentioned before, President Morales requested social support and the government sponsored the *Cumbre Social a la Asamblea Constituyente* (Social Summit towards the AC) that took place on 10 September at Sucre's soccer stadium with the attendance of at least ten thousand people representing peasant and indigenous organizations mostly from La Paz and El Alto. These events provided the final blow to an already weakened AC and violence ensued. Civic groups in Sucre, with the support of student organizations, mobilised and blocked the access to the AC's headquarter at the historical theatre Gran Mariscal de Ayacucho. Swiftly, an executive order came from La Paz ordering the Assembly to relocate to the military

facility of La Glorieta in the outskirts of the city. This move enraged civic groups in Sucre even further and a climax was reached on 24 November when protesters disrupted a crucial meeting with the tragic result of three people dead and hundreds wounded (La Razón 2007b).

Table 4. Public perceptions about the role of the AC (2002-2008)

| | Do you think that it is important to change the Constitution? (Yes) | | | Do you think that the New Constitution will help to solve most of problems of the country? (Yes) | | If a referendum to approve the Constitution would take place tomorrow would you approve it? (Yes) | Percentage of people surveyed that voted in favor of the New Constitution |
|------------------------|---|-------------|-------------|--|-------------|---|---|
| | 2002 | 2004 | 2006 | 2006 | 2008* | 2008* | 2010* |
| Bolivia | 65.5 | 85.8 | 83.0 | 49.2 | 22.8 | 49.5 | 79.5 |
| - Half Moon | 53.4 | 87.8 | 78.3 | 50.8 | 13.7 | 28.8 | 60.9 |
| - Rest of the country | 71.5 | 84.8 | 85.4 | 48.4 | 27.6 | 60.3 | 87.5 |
| By ethnic group | | | | | | | |
| - White | 61.9 | 81.7 | 75.8 | 43.0 | 13.7 | 29.3 | 57.6 |
| - Mestizo** | 66.0 | 87.2 | 83.9 | 48.4 | 20.1 | 44.9 | 76.8 |
| - Indigenous | 70.3 | 81.6 | 86.6 | 59.1 | 34.6 | 71.0 | 93.7 |
| - Other | 73.7 | 85.1 | 81.8 | 56.9 | 32.2 | 58.5 | 81.8 |
| By gender | | | | | | | |
| - Men | 66.7 | 87.1 | 85.8 | 50.7 | 25.2 | 51.0 | 79.1 |
| - Women | 64.3 | 84.4 | 80.0 | 49.3 | 20.3 | 47.7 | 79.9 |
| By location*** | | | | | | | |
| - Urban | 63.7 | 85.5 | 82.9 | 43.9 | 21.0 | 44.6 | 76.5 |
| - Rural | 68.2 | 86.3 | 83.1 | 56.7 | 35.1 | 60.3 | 87.5 |

Source: LAPOP 2013.

* The average number of respondents for each year is around 3,000 (N~3,000). Surveys were carried out between February and April of their respective years (weighted, estimated margin of error ± 1.79).

** In the 2002-2006 surveys, mestizo includes the categorization of “cholo” and indigenous includes that of “originario”.

*** For 2002-2006 urban is defined as locality with more than 20,000 habitants. Since 2008 the category urban includes large, medium and small cities as estimated by LAPOP.

By the end of November it was clear that the whole process was in jeopardy and social groups became increasingly impatient. The central government, however, had a contingency plan. The *assembleístas* at La Glorieta received a full draft of a constitutional text, previously prepared in semi-secret conditions by a select group of MAS' intellectuals, and with the support of external advisors (national and foreign).²⁸ Although this draft incorporated some elements from the initial work of the commissions, a large portion was entirely new and unfamiliar to the majority

28 This information has been corroborated by several sources and the evidence points mainly to the participation of the Presidential Representation to the Constituent Assembly (REPAC) and from Spanish advisors from the Centro de Estudios Políticos y Sociales (Centre for Political and Social Studies, CEPS).

of *asambleístas*. The story of this draft is an interesting topic in itself, but for the purposes of this article it suffices to mention that one of the crucial review meetings took place at the building of the National Lottery in La Paz. Under the directives of the President and Vice-President, participants to this meeting agreed that time was of the essence and that a finalized draft had to be produced soon. Moreover, it was made explicit that this version should contain additional articles that later would serve as bargaining tokens with the opposition.²⁹ It is not that crucial negotiations behind doors are uncommon in Bolivian politics, but instead these actions reflect how the AC, despite its democratic legitimacy, was incapable of breaking a perverse and path-dependant political behaviour.

In this context, sovereignty has been closely linked to the relative autonomy (or lack thereof) under which the Assembly operated. For the democratic quality of the AC process, sovereignty matters greatly because without sovereignty democracy is just a façade. Democracy, in its representative or participatory forms, opens a unique space for ideas to be tested, contested and agreed upon. The AC was precisely created to facilitate this space, yet the way in which the process was carried out demonstrated that sovereignty was compromised from the beginning. The political actors entrusted with the mandate to re-write the constitution became highly dependant on decisions taken outside this body by the dominant political forces early on. Moreover, several foreign actors played important roles at different stages of the process, which also signals to the limited sovereignty enjoyed by the Assembly.

Two weeks later, on December 9, the draft of Bolivia's New Constitution was approved in the city of Oruro by 164 *asambleístas* (technically a few members short for the required two-thirds), after the AC had to be moved to this city due to the turmoil in Sucre. The opposition was practically absent at this meeting, partly due to their hesitation to approve an unfamiliar text but also because this plenary session was organised with extremely short notice.³⁰ Despite this impasse, eventually the majority of the AC,

29 The testimonials of the drafting of this text, including the historical meeting at the National Lottery Building, were transmitted by several reliable sources (some present at the meetings) who for confidentiality issues must remain anonymous. The presence of foreign advisors was also corroborated several times by multiple informants. The list includes Spanish advisors from the radical left (in addition to those of CEPES) and Venezuelan and Cuban collaborators. The ownership of this draft, however, is mostly attributed to MAS' intellectuals.

30 Opposition *asambleístas* denounced that they were misinformed about the purpose of the meeting and there were several allegations that social organizations loyal to the government physically impeded them from reaching their seats.

accepted a revised draft that included with a few inputs from parliament that were the outcome of negotiations that began the previous month but with very short notice and minimal debate. With this action the official work of Bolivia's Constitutional Assembly was over and the constitutional process moved to Bolivia's Congress.

RENEWING THE PACT BETWEEN STATE AND SOCIETY

The next step was the approval of the new constitution via a referendum (through a new law). The necessary legislation by Congress was supposed to be a formality; nevertheless it still proved problematic. Specifically, the opposition was not entirely satisfied with the whole AC process and was ready to mount some resistance. This attitude forced MAS to give important concessions to the opposition regarding the constitutional text.³¹ As it has been documented,³² in a crucial day to discuss the call for the referendum in Congress in February 2008, Vice-President Álvaro García Linera organised a meeting in his office with opposition members from parliament precisely to discuss this issue. At some point he left to attend a phone call but never returned. Instead he headed to Congress to lead the official session for the approval of the referendum. The opposition representatives left behind rushed to Congress but were impeded to enter the building by a crowd loyal to the government, all of this with the complacency of the police, and the call for the referendum was approved by simple majority. Later on, this law was rejected by the National Electoral Court, forcing Congress to renew negotiations, but the implications for Bolivian democracy were obvious. A representative body, Congress, crippled by a dubious political manoeuvre.

This conflictive beginning set the climate for the approval of the new Constitution, with the central government promoting its approval on the offensive, and the opposition on the defensive. The year that followed was plagued by protests and hunger strikes, with all sorts of pro and anti-constitution demonstrations throughout the country. The LAPOP surveys captured some of the public perceptions (see Table 3). Although

31 For detailed accounts of those crucial months, see Romero et al. (2009) and Gamboa (2009).

32 See La Razón (2008b), Lehoucq (2008), Laserna (2010) and Romero et al. (2009) among others.

half of Bolivians were willing to approve the new constitution in 2008, only 28.8% of people in the *Media Luna* departments intended to do so, a similar figure to those that considered themselves white (29.3%). These numbers are contrasted by the relatively higher support in the rest of the country (60.3%) and from of indigenous peoples (71%). Following extensive negotiations, a climax was finally reached in October 2008, when several congressmen representing the main political forces, MAS, Podemos and UN, surrounded by external observers, announced in front of a crowd of at least a hundred-thousand people that a compromise had been reached. The next day, 21 October, Congress approved by two-thirds the changes to the Constitutional draft to be put forward for approval via a national referendum.

Finally, on 25 January 2009 the New Constitution was approved with 61.43% of the votes with a 90% turnout (INE 2009). Despite this sound victory for the Morales administration, a close scrutiny of the results reveals the sour side of this process. In the *Media Luna* Departments only 36% of citizens voted to approve the new constitution, compared to 72% in the rest of the country. Moreover, the 2010 LAPOP survey shows that 93.7% of indigenous respondents affirmed having voted to approve the constitution, compared to 57.9% of people that consider themselves white. The referendum, therefore, was not entirely benign as it accentuated the geographic, class and ethnic divisions that precisely the new constitution attempts to address with *the establishment of a plurinational state*.³³ Also, the prevalence of the ‘No’ in the Media Luna departments might undermine the legitimacy of this constitution, but only time will tell.

In terms of the New Constitutional text, perhaps the most innovative elements, *in addition to the recognition of Bolivia as a plurinational state*, is the constant inclusion and explicit use of the term ‘*pueblos indígena originario campesinos*’ (indigenous aboriginal peasant populations), which was purposely left out of practically all constitutions that preceded this one and the incorporation of ‘*Vivir Bien*’ in the constitutional text.³⁴ The former appears 104 times in the New Constitution, giving response to a pending social demand that began in the 1952 Revolution, when the political claims of peasant-indigenous organizations were not entirely addressed. The notion of ‘*Vivir Bien*’ is mentioned early in the text (Article 8) as one of the

33 See Tapia (2008) and Schavelzon (2010) for relevant discussions on the plurinational state.

34 For concise analyses of the New Constitution see Quiroga (2009) and Schilling-Vacaflor (2011).

'moral and ethical' principles of the Bolivian state and is mentioned four other times. But the use of these terms is far from symbolic, as it has already triggered a process of legislative review, bringing indigenous demands to the forefront of the political debate in Bolivia.

Another salient element is the interpretation of "autonomy", deriving not only from longstanding regional claims but also the one pursued by indigenous groups. In practical terms, the New Constitution generated a wide revision of Bolivia's legislation, with the immediate effect of making many laws contradictory and/or obsolete. Some examples of the subsequent debate include the permissible limits to land ownership, the envisioned structure of the decentralised state and the different forms of autonomy, the appropriation and exploitation of natural resources by the state (such as hydrocarbons), the presidential re-election and the recognition of *justicia comunitaria* (community justice) in indigenous territories, among others. Perhaps the biggest casualty of this process, and the only institution that pre-dates the Bolivian State, is the Catholic Church. In an explicit way, the new text emphasises the secular character of the state in an attempt to separate, once and for all, church and state. The words *iglesia* (church) or *Católica* (Catholic) is entirely absent in the new text. Also, although the role of the state is described with as much detail as possible, the text is still ambiguous and leaves plenty of room for interpretation. This will certainly be a challenge for Bolivia's pivotal institutions such as the Constitutional Tribunal, the Supreme Court and the Parliament, and perhaps the prelude of future confrontation between interest groups, an issue where the 'devil' is in the details.

THE LIMITS OF DEMOCRACY

An important objective of this article was to go beyond a description of the events that lead to the approval of Bolivia's New Constitution and link those to contemporary democratic theory. More specifically, the tumultuous constitutional review process in this country was used to illustrate the limits and quality of democracy. In this task, Altman and Pérez-Liñan's (2002) notion of the quality of democracy, and Levine and Molina's (2011) five dimensions provided a conceptual framework that allowed the identification of many positive and negative effects. On the one hand, the revision of Bolivia's constitution was an unavoidable exercise for a state that historically neglected the rights of much of its population. It was not a coincidence, therefore, that the government that carried

out this reform was that of the first President with strong indigenous roots, Evo Morales. In this view, the final product, Bolivia's New Constitution, is a great achievement; represented by a progressive and balanced document that reflects, for the most part, the values and moral sentiments of this nation. This is a positive qualitative change. The AC process also relied extensively on electoral decisions, from the initial public consultations to the final approval of the constitution. On this front, Bolivia's electoral institutions performed as expected. Participation, for the most part, was also meaningful as citizens from all walks of life mobilised on many occasions to express either their support or dissatisfaction with this process, showing an expansion of civil rights.

On the other hand, the harsh reality showed how the democratic ideals were compromised in order to achieve political objectives; the old issue of the ends justifying the means. Evidently, MAS is not entirely responsible for these shortcomings, as this process also reflected a path-dependant political culture with rigid institutions and longstanding unsolved historical disputes. The way in which the opposition acted from the inception is a point in case, attempting to undermine this project at every opportunity. Also, the conflict at the AC eventually moved to the streets; and the many episodes of violence were a sombre reminder of the limits of democracy as a conciliatory tool, particularly when accountability (and the institutions required to carry it out) is not present. Many institutions were bruised in the process, thus ironically the New Constitution was born undermining the same kind of institutions that its text tries to protect. Finally, from its inception the AC failed to become the independent and effective (although transient) institution envisioned by its proponents. This lack of sovereignty (domestic and foreign), characterised by the excessive jealousy in which the opposing forces attempted to dominate the debate, hindered the quality of democracy and a potential for greater success.

The essence of this process, however, was democratic, with many triumphs but also shortcomings. It is not that democracy is designed to solve political disputes, as some ideological divides might never meet. Instead, democracy facilitates a dialogue for the harmonization of collective, oftentimes competing, interests. And maybe that is what the AC did. The many virtues of democracy were present and visible through the massive electoral and civic participation throughout this process. However, the limitations of democracy were also there, showing how much a deeply embedded political culture can alter idealistic objectives, particularly in plurinational countries with weak institutional settings such as Bolivia. But the many lessons that were gained remain, and if this society uses

them wisely, the quality of democracy will certainly increase in the future. As Bolivians would say, the New Constitution allows for a *borrón y cuenta nueva* (clean start). This country, therefore, needs to take advantage of this recent history and continue the quest to build enduring institutions that will allow this complex multicolour society to prosper, and the New Constitution is perhaps just the beginning.

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