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Bolivian Voters Approve New Constitution

by LADB Staff

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The Bolivian people took a far-reaching step on Jan. 25 when they approved a new Constitution that fundamentally changes the ethnic and social concept of the state and the political-administrative structure in place since 1825, when the country won its formal independence from Spain. Article I of the Constitution reads, "Bolivia is a united, plurinational, communitarian state, which is free, independent, sovereign, democratic, intercultural, decentralized, and with territorial autonomies [municipal, departmental, regional, and indigenous], based on plurality and political, economic, judicial, cultural and linguistic pluralism."

The Yes option for the document proposed by President Evo Morales received 61.47% of the votes, almost 23 points ahead of the No option, with 38.53%. In a second, simultaneous referendum, 80.65% of voters said that no person or legal entity can own more than 5,000 hectares of land. Any property larger than that will be considered a latifundio and subject to expropriation to be given to landless campesinos as part of the agrarian reform.

Since the referendum campaign began, there was confrontation, sometimes violent, between the government and right-wing political, business, and religious sectors, all accusing Morales of wanting to impose a socialist and authoritarian regime.

Morales says the new Constitution, with references to an economic model of solidarity and rights for the excluded in a country where the vast majority has historically been marginalized, is a giant step forward for "the refounding of Bolivia."

The opposition sees it differently. "The approved text is a new sign pointing toward a regime that is a mixture of Chavista [Venezuelan President Hugo Chavez] dictatorship, socialism, and indigenous fundamentalism that will destroy democracy," said civic leader Branco Marinkovic, a powerful landowner and businessman who heads the Santa Cruz separatist movement in eastern Bolivia (see NotiSur, 2009-01-19).

Document affirms new principles

In many respects, the Constitution recognizes new principles in Latin America. It declares basic services water, electricity, telephone fundamental human rights. It says natural resources, hydrocarbons, water, minerals, air, the soil and subsoil, forests, and biodiversity are strategic public-interest assets and "the inalienable and indivisible property and direct dominion of the Bolivian people." It also affirms the right to a healthy, protected, and balanced environment.

The new Constitution prohibits the manufacture and use of chemical, biological, and nuclear weapons as well as the introduction, deposit, and transit of toxic and nuclear waste. It defines Bolivia as a pacifist nation that promotes the culture of peace and cooperation among peoples

and establishes that genocide and crimes against humanity are imprescriptible. It prohibits and sanctions all forms of discrimination based on gender, skin color, age, sexual orientation, and social or ethnic origins. These and other provisions regarding sovereignty and social inclusion are what brought and still bring the political right to insist that the new Constitution has a socialist bent. Without any explanation, The New York Times quoted economist Gonzalo Chavez, a Harvard graduate who teaches at the Universidad Catolica de La Paz, saying, "Bolivia, little by little, is shutting itself off from the world."

The Conferencia Episcopal Boliviana (CEB) and the Iglesias Evangelicas Unidas (IEU), which includes a half-dozen Protestant Pentecostal denominations, allowed their bishops and pastors to become opposition point people who were even more virulent and impassioned than representatives of the large economic interests. The latter, now constitutionally blocked from exploiting natural resources, focused their criticism on "the excessive benefits" that the 90.5% of the population will receive that belongs to or is descended from the 36 recognized native peoples.

Bishops and pastors said from their pulpits, in official statements, and in their radio and TV programs that the new Constitution does not recognize the family as the foundation of society, allows marriage of homosexual couples, and does not allow the teaching of religion in schools. And, regarding the right to private property, they said their churches would be declared to be without economic and social purpose and, therefore, expropriated.

What put the CEB on the defensive was that, under the new Constitution, Catholicism is no longer the official religion, and it proclaims the state independent from any creed. However, other sections recognize "freedom of religion and of spiritual beliefs in accordance with the cosmic view" of each sector; the freedom to teach religion is recognized for religious schools; sexual practices are guaranteed, but marriage or civil union is defined as only between a man and a woman; and private property can be expropriated only if it does not fulfill a social function or if it is the site of indentured servitude or slavery in labor relations.

Since church schools do not fall in this category, they do not risk expropriation. In the weeks before the plebiscite, some bishops said, "The election is between Christ and Morales," or "God is voting No."

Faced with the campaign of the clergy, the government asked the CEB to say whether it supported or rejected the messages of the ministers. The spokesperson for the Catholic Church, Cardinal Julio Terrazas, answered that the person who should define his position was Evo Morales. "Let Evo say whether he is with God or with the devil," said Terrazas.

Constitution recognizes territorial autonomies

The new Constitution introduces the runoff to the electoral system and allows a single re-election for all legislative or executive officials, bans all foreign military bases and protects coca leaf as patrimony and a natural resource, considers Spanish and all indigenous languages official, and recognizes, for the first time, departmental and indigenous territorial autonomies. It puts ordinary justice and ancestral norms that operate in campesino and indigenous communities on an equal footing. Regarding autonomies, the Constitution states that the national government has exclusive

authority in areas such as international relations, security, defense, communications, natural-resource management, and setting agrarian policy.

In recognizing communitarian justice, which opponents said would cause serious jurisdictional conflicts, the Constitution says that it only applies to the members of each community.

"Communitarian justice will not replace the state," said anthropologist Alvaro Diez Astete. "It has precise functions and acts in specific crimes, such as adultery or stealing cattle. But in others, like murder and aggravated robbery, the police and ordinary courts have jurisdiction."

Because the No option won in four of the nine eastern departments the richest and territorially most extensive but demographically the least populated some analysts agreed with opposition leaders that the plebiscite left the country equally divided. "But 62 is not the same as 38," said Vice President Alvaro Garcia Linera when the leaders of Santa Cruz, Beni, Pando, and Tarija (the opposition lost Chuquisaca, the fifth department that voted against Morales in the last election) said that the government had to negotiate the terms of the approved Constitution. "What the people decided is not to be negotiated, it is simply implemented," said Morales.

Besides a 62-38 victory not being a tie, Garcia Linares gave a second line of analysis in an interview with Argentine daily Clarin. "In this election, we have not witnessed a confrontation between two projects, which is when the idea of a tie is valid. We have a national plan that faces regional resistance based on a series of fears. The No position is built on diffusing fear related to religion, family, and property, but fear is not a political project."

The vice president added, "There they all were, the old parties, conservative sectors of the Catholic Church, fascist civil groups, rightist communications media, hard-line business sectors, all expressing their rejection and their No to building an alternative. The only thing missing was Donald Duck."

In a previous conversation with BBC Mundo, Garcia Linera said, in a more serious vein, "Everywhere, the collapse of mechanisms and colonial and racist hierarchies bring difficulties, because it is necessary to break the habit of considering the other as a servant or inferior....Of course, there will be tensions, but tensions in the application of a principle of equality."

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