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Andrés Gaudàn

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Bolivia: Transition to Plurinational State Begins

by Andrés Gaudín
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Bolivian President Evo Morales' administration is gradually organizing the new plurinational state, as mandated by the Constitution approved in a plebiscite last year (see NotiSur, 2009-02-13). The process is gradual because the right, weak and with scant legislative representation, is nevertheless pulling out all the stops to delay congressional passage of the five laws that must be approved by July 22. Although one step at a time, the process will go forward.

Meanwhile, the administration continues deepening the changes. Between May 1 and June 15, it nationalized four large multinational electric companies (bringing the total state-controlled electricity generation to almost 60%); reduced the retirement age from 65 to 58 (the opposite of advice from the International Monetary Fund [IMF] to European countries in crisis); and renationalized the pension and retirement system (managed until now by the Swiss group Zurich and Spain's Banco Bilbao Vizcaya).

Vice President Álvaro García Linera, referring to the right, said, "While they play at delaying the revolutionary process, we continue acting, and the new Constitution will be fully in force within the established time frame. We know how to learn from history." And Bolivia has a rich constitutional history.

The 1886 Constitution was written and presented personally by South American liberator Simón Bolívar in Chuquisaca—present-day Sucre, the administrative capital of the country. It had some unique features such as dividing the government into four branches: a tricameral legislative branch, comprising three chambers—Senate, Tribunes, and Censors; the executive, headed by a president-for-life and four ministers; the judicial; and the electoral, made up of the citizens and charged with selecting authorities.

New Constitution, new world view

After 183 years and 15 short-lived constitutional reforms, on Feb. 7, 2009, President Morales obtained approval for the Constitución del Estado Plurinacional de Bolivia. To not break the tradition of uniqueness, the text, from its almost poetic preamble, presents a new world concept for a country that suffered for five centuries a silent but systematic marginalization and was invisible to the large centers of world power.

The text begins, "In time immemorial mountains arose, rivers ran, lakes were formed. Our Amazonia, our Chaco, our altiplano, and our plains and valleys were covered with lush greenery and flowers. We populated this sacred Mother Earth with different faces, and we have understood since then the plurality existing in all things and our diversity as beings and cultures. That is how we formed our communities. We never knew racism until we suffered from it beginning with the disastrous colonial times."

The end of the preamble is written in a unique literary style for this type of document, generally formal and cold. "Fulfilling the mandate of our people, with the strength of our Pachamama and thanks to God, we refound Bolivia," it says.
Beyond the lyricism, this Magna Carta, which is being provided with the necessary complementary legislation, proposes a complex framework that integrates the 36 recognized nationalities, including the Aymara, Quechua, Guaraní, and Afro-Bolivian, among others, in a "Single Social State of Plurinational Communitarian Law, free, independent, sovereign, democratic, intercultural, decentralized, and with autonomies." And it is organized through the separation and independence of the executive, legislative, judicial, and electoral branches, as was the 1886 Bolivarian Constitution.

The legal framework will establish five parallel levels of government—plurinational, departmental autonomy, regional autonomy, indigenous autonomy, and municipal autonomy—which require an arduous administrative mechanism for a country trying to eradicate centuries-old injustices without resorting to racial extermination, a mechanism so well-known in other corners of the world that are used as an example.

The approval of the Constitution effectively implies a revolution, and thus all laws in effect now will have to be reformulated to conform to this new concept of state and the shared life among its peoples. The basic laws for the functioning of the new Bolivian state will be approved by July 22. Recently, during the festival of Inti Raymi—the sun god—President Morales signed the Law of Judicial Authority, a system also unprecedented and probably exemplary in that it meshes four levels of judicial administration: ordinary, agroenvironmental, special, and indigenous-campesino jurisdictions.

The first, ordinary jurisdiction, covers civil, commercial, family, childhood and adolescent, tax, administrative, labor and social security, anti-corruption, and penal law. Agroenvironmental jurisdiction's function is to intervene in agrarian, livestock, forestry, environmental, water, and biodiversity issues. The indigenous peoples and nations will now have their own judicial functions and competency, which will be exercised though their authorities, applying their principles, cultural values, norms, and ancestral procedures.

"Today Bolivia begins to build what we have called a plurinational state, a communitarian social economy, and a process of decentralizing power under the distinct forms of autonomy. It is undoubtedly a complex state," García Linera told an auditorium of experts from the UN Economic Commission for Latin America and the Caribbean (ECLAC). "We are proud to reclaim this egalitarian dimension of our country. We reclaim the importance of the state, but not a suffocating state, rather one with a pluralistic economic system that continues working with private business and with foreign markets and also protects domestic demand and the rights of its citizens."

**People to elect Tribunal Supremo justices**

Another unique and significant feature of the new Constitution is that judges, including those in the Tribunal Supremo de Justicia (TSJ), which has nine justices plus their respective alternates, will henceforth be elected by direct popular vote, with the first judicial elections scheduled for Dec. 5, 2010.

"We hail this new law for revolutionizing the judicial branch," said Morales at the signing. "The time has come to decolonize the Bolivian judiciary, to nationalize and to democratize the law."

What is being attempted is to "leave aside the discriminatory treatment by public officials who often treat someone wearing a tie better than someone wearing a poncho," said the president.
The law explicitly stipulates that "all payments for official stamps, forms, and fees for filing for any judicial appeal in any type or class of process, payments for Judiciary Treasury certificates, and any other type of payment that encumbers litigants is hereby suppressed and eliminated."

The pursuit of justice will be free and universal, something that, like electing TSJ justices, is unique and unprecedented in the world. "In addition, justice will now be truly humane, without discrimination, without exclusions," said Morales.

It is not surprising, then, that opposition to this law has come from the most conservative sectors of Bolivian society—sectors that for centuries had privileges based on exploiting the indigenous majorities—from the right that attempts the secession of the rich eastern and southern departments where few descendants of the original peoples live. Nor is it surprising that the traditional judiciary is hurling all kinds of insults because these changes leave it without its professional prerogatives. Thus in recent weeks, the media have been up in arms, reporting on some actions in which, in the name of communitarian justice, all kinds of outrages were committed, such as the assassination of four police in a town in the southern department of Potosí.

"It would even seem that these acts, precisely at this moment in the political life of the country, were instigated and financed by the same right that wants to divide the country's people and society," said a commentator on a community radio station in the department of Cochabamba.

Sen. René Martínez, interim president of the upper house, told the Argentine daily Tiempo that, in this as in other cases brandished by the right and the rightist media, there is a deceptive vision of reality that tries to prove the supposed inability of the communities to administer justice. "Indigenous laws are the oldest and do not allow the death penalty. There can be excesses, which must be investigated, but that is not the law of indigenous peoples," he said.

"In these days and as a result of a crisis that threatens continental integration, Europe is experiencing the most brutal budgetary cuts, which represent, perhaps, a death blow to the welfare state. They are part of the same IMF recipes imposed on Latin American countries in the 1990s. And let's not forget that they failed and brought these countries their worst crises," said Argentine analyst Alberto López. "Bolivia is an example. Europe would do well to look to this poor altiplano country that has been giving lessons since the first uprising against the monarchy, in Chuquisaca, on May 25, 1809, 201 years ago."

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