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Water Dispute Adds to Chile-Bolivia Antagonisms

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With its hands already full examining claims Bolivia presented three years ago in hopes of forcing Chile to negotiate sovereign access to the Pacific Ocean, the International Court of Justice (ICJ) in The Hague, Netherlands, is now having to consider a completely separate case involving the Andean neighbors, this one submitted by Chile.

The Chilean suit, filed in June, demands that the government in La Paz allow shared use of water from the Silala, which begins as an aquifer and succession of springs in the Bolivian Altiplano (high-plateau) before flowing west across the border into Chile.

Bolivia’s quest for direct ocean access, something it lost—along with a sizeable chunk of its national territory—in the bloody War of the Pacific (1879-1883), has been a permanent source of conflict between the two countries since the early 20th century, when the sides signed a treaty that both nations cyclically violate (NotiSur Jan. 23, 2004, and May 2, 2014). Their dispute over fresh water resources adds even more fuel to the fire.

Given the political and ideological profiles of the current leaders of the two countries, Evo Morales (Bolivia) and Michelle Bachelet (Chile), many political analysts had anticipated a possible rapprochement. Some even hoped that Bolivia and Chile might settle certain aspects of their long-running dispute. The reality of the situation, however, has proven otherwise, with no clear end to the conflict in sight.

Complicating matters are complaints from Bolivia regarding the treatment of Bolivian cargo operators in the Chilean ports of Antofagasta and Arica (both in territory Chile won in the War of the Pacific). The government in La Paz, together with the Cámara Boliviana de Transporte Nacional e Internacional, a business association of freight movers, accuses Chilean port authorities of imposing special conditions and restrictions, including high tariffs, that increase operational costs for Bolivian handlers and thus have the double effect of making the country’s exports less competitive and its imports more expensive.

Juan Carlos Alurralde, Bolivia’s deputy minister of foreign affairs, spoke out publicly on June 3 about the demands Chilean authorities are exerting for the use of their ports. “This is a flagrant violation of international law and the Treaty of 1904,” he said in reference to the accord that was supposed to have regulated relations between the countries. “[The Chileans] are demanding advanced payments, even security deposits, for use of their services,” the Associated Press quoted Alurralde as saying. “Just to give an example: In 2004, the stowage tariff was US$1.87 per ton. At the beginning of this year, it was US$7.64. We’re talking about an increase of 400% that has no justification.”

Fanning the flames

In both countries, the general public is bombarded constantly with verbal reminders—from the respective leaders, news media, and politicians—that add to the animosity, so that even simple
football matches between the two nations are fraught with friction. And in all of this back-and-forth, attention always turns to the so-called Treaty of Peace and Friendship, signed in October 1904.

Chile insists that it fulfills the obligations it incurred when it signed the accord. Bolivia, on the other hand, systematically points to the treaty’s Article VII, which calls for the Republic of Chile to “recognize on behalf of Bolivia, and in perpetuity, the broadest and most open rights to commercial transit through its territory and Pacific ports.” The text goes on to say that “both governments will come to specific agreements on how best to regulate matters so as to ensure the aforementioned objective.”

But the diplomatic approaches used by the two countries are not leading to any concrete solutions. The Bolivians have a habit of taking tough stances and using harsh and sometimes insulting language. The Chileans, for their part, tend to use sarcastic and aggravating language to counter what they see as Bolivia’s diplomatic incompetence. The dynamic was on display July 12, when Bolivia’s foreign affairs minister, David Choquehuanca, announced plans to visit the ports of Arica and Antofagasta with a delegation of Bolivian lawmakers and cargo operators to “inspect and verify on site the violations of the 1904 treaty.” Chile rejected the idea.

**Whose water is it?**

In filing its suit on June 7, Chile got ahead of Bolivia, which had been expected to make a similar move. Less than three months earlier, on March 23, President Morales had made the mistake of going public with his plan, even revealing key details of how Bolivian lawyers would argue their case in the Hague. In response, and fearing that Bolivia might block the flow of water into Chile from the Silala source, the Bachelet government submitted its own claim to the ICJ.

The material itself, however, wasn’t rushed: Chile’s foreign affairs minister, Heraldo Muñoz, revealed that a team in Santiago had been working exclusively on the issue for two years. “We’ve collected legal and factual evidence allowing us to build this case on a solid foundation,” he said. “The ICJ will be able to determine conclusively that the Silala is an international river and that both countries, consequently, have the right to the equitable and reasonable use of its waters.”

To justify the suit, Muñoz said that the normal channels of dialogue, as evidenced by the insults levied against Chile, had dried up. “Our people suffer a permanent aggression that has left our bilateral relations in a state that is far from being what Chile wanted,” he said.

Bolivia challenges Chile’s claim that the Silala is an “international river” and disagrees, therefore, that it should be obligated to share the water on equal terms. The Bolivian stance is that the Silala is a succession of some 70 springs in the Andean region of Potosí that flow toward Chile through artificial channels built in 1908 for use by the Antofagasta and Bolivia Railway Company Limited, a British company. The firm later asked the Potosí departmental government for a concession to use the water to supply the trains that connected the Chilean port of Antofagasta with Bolivia.

At various times, the Bolivian government has asked for compensation payments from authorities in Santiago and from the businesses in northern Chile that benefit from the water. The money issue is at the heart of the suit Bolivia planned to file with the ICJ and that Morales went public with in March. The president noted, for example, that Bolivia’s national water agency (Servicio Nacional de Meteorología e Hidrología) estimates Chile’s outstanding water debt to be in excess of US$1 billion. Morales explained that Chile consumes approximately 4.8 million cubic meters of Silala water annually, meaning that as of 2000, it had used 450 million cubic meters, accruing a debt of...
roughly US$900 million. “In reality, though, [the debt] surpasses the US$1 billion mark since you have to add what was consumed in these first 16 years of the new century,” Morales said.

‘This is farce’

The Chilean press has complained at various times that the government in Santiago isn’t willing to continue tolerating the abuse it takes from Bolivia, which “lacks diplomatic ethics,” according to the Santiago-based newspaper La Tercera. The daily also accused the Bolivian leadership of “insulting Chile so as to distract their own people, who are angry about the current economic crisis.” And on June 7, one of Chile’s leading statesmen, José Miguel Insulza, addressed Morales directly when he said, “We’re fed up with your insults.” Insulza is a former foreign affairs and later interior minister who also spent a decade as the secretary general of the Organization of American States (2005-2015) (NotiSur, May 6, 2005).

Observers in La Paz accuse Bachelet of adopting a similar tone because “her image at home has gone down the drain.” Morales, for his part, spoke about filing a countersuit with the ICJ. “We Bolivians can no longer tolerate being robbed by the Chileans,” he said.

Each government, in other words, accuses its counterpart of doing the same thing: using the dispute to fire up nationalist sentiment among the general public and draw attention away from domestic problems. If that really is the case, then it would also seem that the strategy hasn’t been equally successful for the two administrations. In Chile, Bachelet’s surviving predecessors, Eduardo Frei (1994-2000), Ricardo Lagos (2000-2006) and Sebastián Piñera (2010-2014), visited her on July 26 in a show of solidarity. With that exception, though, reactions to her government’s handling of relations with Bolivia have been negative.

“This is farce,” said Esteban Velásquez Núñez, mayor of the northern city of Calama. “They talk about sovereignty with regards to using fresh water from the Silala. Sovereignty? For whom? For the people of Calama? For the north of Chile? For all Chileans? This is about nothing more than defending the interests of private companies.” Roberto Muñoz, head of the Casa Bolívar cultural center in Santiago, had a similar reaction. “They talk about sovereignty, but in reality, all they want is to favor a sector that is economically well off. [The suit] is of no value to the Chilean people as a whole.”

The situation has been kinder to Morales. Samuel Doria Medina, the head of Unidad Nacional, Bolivia’s leading opposition party, has joined forces with the president on this particular issue, calling for “unity with the government” and promising a combined effort “to defeat the Chilean ploy.” He went on to suggest that Chile is unfairly profiting from the Silala. “No one can deny that the water they take from us is sold in Chile,” the opposition leader said. “It gets used by companies [there]. They generate business from it, for the exclusive benefit of the most powerful Chilean sectors. And for Bolivia? Nothing.”

Even the opposition press has come out in support of Morales. And on July 4, the full Bolivian Congress, with all of the political parties represented, celebrated a special session in the area of the Silala’s headwaters.