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Tensions High as Bolivia Seeks to Negotiate Ocean Access with Chile

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In what looked to be a major diplomatic step toward resolving its more than century-old territorial dispute with Chile, Bolivia presented the International Court of Justice (ICJ) earlier this year with a series of documents spelling out its arguments.

Since then, however, relations between the two countries have shown no real signs of improvement. And just as it has been for the past 138 years, Bolivia continues to be landlocked, a fact that harms the country's identity and leaves it vulnerable to the ups and downs of its bilateral negotiations with Chile when it comes to access to commercial sea ports ([NotiSur, June 10, 1992](#)). The lack of coastline also hurts Bolivia economically, costing it an estimated two percentage points in annual growth numbers, according to various studies cited by Evo Morales, the Bolivian president.

Foreign Affairs Minister Fernando Huanacuni presented Bolivia's arguments before the ICJ—a UN tribunal based in The Hague, Netherlands—on March 21. Morales was undergoing medical treatment at the time to remove a tumor from his larynx, so he was unable to attend. During the hearing, it was established that the Chilean government, led by President Michelle Bachelet, would have until Sept. 21 to present an official response.

And yet, given that the ICJ case involves two of the three countries that, starting in 1879, fought a four-year war that would come to be known as the War of the Pacific (the third country, Peru, sided with Bolivia), things don't always play out the way they're supposed to. Indeed, shortly before Bolivia submitted its arguments, Chilean forces detained seven Bolivian civilians and two soldiers for supposedly breaching the disputed, 890-km border separating the two countries. Bolivian authorities retaliated with arrests of their own, and both sides took to haranguing each other with decidedly non-diplomatic language.

As a result of the War of the Pacific, Bolivia and Peru, its ally, both lost land and coastline ([NotiSur, Aug. 5, 2016](#)). In Bolivia's case, the loss of ocean access was total. Most historians argue that the conflict began at the behest of Great Britain—then the dominant power in the region—which was interested in Bolivian resources, namely guano, borax, tin, copper, silver, and saltpeter. But Bolivia lost the 400 km of Pacific coastline it had had since independence in 1825, its four ports (Antofagasta, Cobija, Tocopilla, and Mejillones), and the Litoral and Antofagasta territories, which together measure approximately 120,000 sq. km. In 1904, the defeated Bolivian government was forced under threat of arms to sign a peace treaty recognizing Chilean sovereignty over the conquered areas.

Legitimate expectations

What Bolivia is seeking before the ICJ isn't the return, plain and simple, of the lost land and coastline, but the launch, rather, of negotiations that would allow it to gain the sovereign ocean access it so desperately needs for trade.

Its hope for such a solution is based on overtures made by various Chilean governments that, one way or another, acknowledged the possibility of satisfying the Bolivian demand. The last of those

gestures came in 1975, when dictator Augusto Pinochet (1973-1990) offered, in exchange for land, a sovereign corridor to the sea. In practical terms, that meant access to a port without any obligation, on the part of Bolivia, to follow Chilean rules and regulations or pay tariffs. Bolivia's demands are based on various international resolutions and on an international law theory known as the right of legitimate expectation.

In the documents it presented in The Hague, Bolivia drew attention to a number of pacts and resolutions supporting its claims. In 1979, the Ninth Assembly General of the Organization of American States (OAS) voted on a declaration qualifying the Bolivian demand as a "matter of hemispheric interest" and recommended the "initiation of negotiations between the parties aimed at giving Bolivia a free and sovereign territorial connection to the Pacific Ocean." In 1980 and 1981—both times with Chile voting in favor—the OAS again approved resolutions insisting on dialogue. And at the 13th General Assembly, in 1983, the OAS member states (Chile included) called on the parties to "initiate a process of rapprochement aimed at overcoming the difficulties that separate them and come up in particular with a formula for providing Bolivia sovereign access to the Pacific Ocean in a way that satisfies the rights and mutual interests of the parties."

The Morales government also likes to recall the position taken by former Chilean leader Salvador Allende (1970-1973), a figure of enduring international importance with whom it shares a political affinity. Allende, a socialist, was overthrown on Sept. 11, 1973, in a bloody coup led by Pinochet.

Three years earlier, shortly after assuming power in November 1970, the Chilean president told the journalist and historian Néstor Taboada that Chile has "a century-old debt" with Bolivia and that "the time has come" to honor it. "We're prepared to work on a historic solution," Allende said. "Bolivia will once again have sovereign [access] to the Pacific. We ask nothing in return from the suffering and hardworking Bolivian people. We only want to redress the cruel plundering they were victim to."

Bolivia was led at the time by Juan José Torres (1970-1971), a progressive general who was overthrown nine months later by fellow general Hugo Bánzer (1971-1978), an ultra-nationalist. The political shift scuttled Allende's plans.

War of words

The nine Bolivians detained by Chilean military police in March were locked up for 93 days before finally being released and expelled from the country. The two Chileans arrested in retaliation went free after spending 52 hours in a Bolivian police station.

Dozens of such episodes have occurred in recent years. Because of that, and with the possibility in mind that the ICJ could call for talks between the sides, Bolivia's representative for the UN's Office of the High Commissioner for Human Rights (OHCHR), Denis Racicot, invited the professional lawyer associations of both countries to make a "healthy criticism" of the process that led to the expulsion of the nine Bolivians.

"The decision by the Chilean justice system commands attention, and I call on all Bolivian and Chilean lawyers to study this case," Racicot said in an official OHCHR press release. "From the perspective of criminal law and human rights, there ought to be healthy criticism so as to avoid similar decisions in the future."

A spokesperson for the UN delegation later described the press release as “what can be said out loud diplomatically,” according to the government news service Agencia Boliviana de Información. “But Racicot also met with the top diplomats from both countries to let them know how poorly [the OHCHR] views the insults being thrown back and forth at this time,” the source added.

Already in August 2016, in reaction to another of the many border episodes, Morales had said, threateningly, “Our armed forces are prepared to respond at any time in defense of the sovereignty on the borders.” Bachelet then replied, “It’s impossible to have a dialogue with irrational people who only use insults and threats to communicate with people who don’t think like them.”

Morales again resorted to strong language after the arrests of the Bolivian soldiers and civilians. “This is in revenge for the arguments we presented to the ICJ,” he said. “The Chilean justice system followed orders from Bachelet, just as she once followed orders from the military.” This time around, it was Heraldo Muñoz, Chile’s foreign affairs minister, who responded: “Mr. Morales lies and insults,” he said.

In the midst of this verbal jousting, Huanacuni announced that the Bolivian government had invited Chilean authorities to meet, starting the last week of July, through the Comité de Fronteras (Borders Committee), a bilateral group set up in 1997. The idea, Huanacuni said, is to “initiate productive talks allowing us to develop agreements on bilateral procedures and protocols to solve future incidents.” The Comité de Fronteras is a permanent mechanism that brings together leaders from the two countries’ foreign affairs ministries, representatives from various public services—police, armed forces, customs, livestock, and agricultural produce sanitation—and certain invited members of the private sector.

Muñoz accepted the invitation but kept up the harsh language that has become so commonplace. “We’ll go to these meetings despite Mr. Morales’ lies, which are meant to provoke and frustrate these kinds of encounters so that later he can lie again saying it’s our fault the Comité de Fronteras talks failed,” he said.

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