

“Perspectives on Constitutional Reform in Bolivia”¹

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Friends and colleagues at the Catholic University, you have granted one of my deepest wishes, to return to the city of my birth, to the pure air and embracing hospitality of LaPaz, to the warmth of Bolivia. I was born eight blocks from here at the Methodist Clinic, where my mother was a nurse. I feel like a child returning to his home after a too long trip away, and I thank you for welcoming me home.

I want to acknowledge the presence here today of Bolivian authorities and several former ministers in the government. Can there possibly be a gathering with more finance ministers in once place? Thank you, also, to Gonzalo Chavez, to Claudia Arce, and to the faculty of the MpD program. Thank you to my dear friend Ramiro Ortega, whose son Pablo, now studying at Notre Dame, is a gift to us all. I am especially happy to see [Eugenio Poma](#), who held me as an infant, and who upon graduating from high school in LaPaz went to the Southern Methodist University in Texas, then to Geneva Switzerland, and who works among you again today.

I am here today because I love Bolivia, because I am myself Bolivian, and because I have watched from outside as Bolivia has come ever closer to political chaos.

Now Bolivia is approaching a turning point in her history when her political institutions will be open for debate, when the constitution itself may be changed. I will not speak about the choices among presidential candidates, because I will not take a position in your elections. (I leave that folly to our former ambassador here, who may have more to do with Evo Morales’ possible victory than his supporters in Caracas or Havana.) Rather, I am here to tell you of my concerns over the choices Bolivians must make in the writing of a new constitution. Poor choices will lead to disaster and to the further destruction of Bolivian society. Wise choices in constitutional reform may – if Bolivians work together as brothers and sisters – wise constitutional reform may lead to a

¹ Please note that this brief lecture was delivered at the Catholic University in La Paz about a month before the elections that brought Evo Morales to power. It is more “personal” than “academic,” and should be read as such.

just democracy for every Bolivian, whether living in LaPaz, or in Santa Cruz, or Cochabamba, or scratching out a living on the Altiplano

My friends, Bolivia does not have a democracy of justice and fairness today. This is a society divided. Divided among the rich and the poor. Between the East and the West. And most of all between the Quechua, the Aymara and the other indigenous peoples, numbering at least sixty-percent of your citizens, and the elites of Spanish descent.

Bolivian history is also not one of justice and fairness. Since breaking off from the Spanish in 1825, you have seen nearly 200 coups and counter-coups. The revolution of 1952 gave indigenous people the right to vote, guaranteed a collective society, and strengthened the state. But the promises of that revolution were not visited on most of your citizens. The revolution of 1952 succeeded in some important areas, such as land reform, but it was an incomplete revolution won by the elites of this society. Bolivia's leaders have lived for more than fifty years with a comforting fiction that their society was one of equality and justice, but the revolution was not truly revolutionary. Even since civilian democracy was finally established in 1982, Bolivia has nearly exhausted itself with the kinds of public confrontations more reminiscent of a dictatorship than of a democracy.

Why are your streets so often blockaded from El Alto to LaPaz? Because at least sixty-two percent of Bolivia's citizens have not grown up learning how to build bridges instead of blocking roads. Why do your national labor unions protest at the slightest provocation? Because at the national level the legacy of these unions are socialist; they do not promote democratic debate within their own ranks, and so they do not understand the benefits of democratic dialogue with the society as a whole.

My friends, many of you comfort yourselves in the belief that the revolution of 1952 spread wealth and economic prosperity to the natives, because they were given a right to vote. And many of you are rightly proud of the democratic reforms that have taken hold since 1982. Bolivia today does not have the same political landscape that I saw when I was a small child here. But in those days my diapers were changed by an Aymara; my clothes were washed by an Aymara; my food was prepared by an Aymara, and through a child's eyes I thought I loved these people who were doing

so much for my family. And in small ways we seemed to be making their lives better off. Today, my friends, I see through the eyes of an adult, and I am amazed by how much has changed.

When I left Bolivia in 1968, the Soviet Union was America's greatest enemy. Today Russia's democracy is far healthier than what we find in Bolivia. Their next presidential elections in 2008 will be a triumph of democratic values. In 1968, Indonesia was ruled by General Suharto, a dictator who murdered nearly a million of his own people. Today Indonesia's multiparty democracy is vibrant and growing. Both Russia and Indonesia have language barriers and geographical challenges that make those in Bolivia seem silly. There are twelve major languages spoken in Russia, in a country spanning 17 million square kilometers. There are eight major languages spoken in Indonesia, a country knitting together 17,508 islands. And you think Bolivia has problems integrating Quechua, Aymara, Guarani, Uru, Chipaya and Spanish between the Altiplano and the low-lands? No, Bolivia's democratic failures have very little to do with geography and language. Democracy and economic prosperity can – can – take root in Bolivia, but only if Bolivians honestly confront their own political and economic shortcomings.

Like the eucalyptus tree that grows with such vigor here, but which spoils the soil around it for planting, Bolivia's greatest problem is deeply rooted and hard to eradicate. There is a log in your eye, and it is inequality.

Equality of opportunity – not equality of outcomes – is the basis of every democratic constitution written anywhere in the world over the past twenty-five years.

The United States suffered greatly, and for more nearly two centuries, when our hollow words promising equality were not fulfilled in practice. We in the United States did not have an indigenous people's problem for long, because our weapons were strong, their resistance to diseases was weak, and we herded them like cattle to reservations in the Western United States. But for a hundred and fifty years before our revolution, we did hold slaves from Africa who changed our diapers, washed our clothes, and worked in the agricultural fields. Even after our revolution, it took a civil war – fought by whites against whites – to free the African Americans. These slaves were freed, on paper, by 1863 – but the laws that gave them freedom were not fully realized. By 1905, African

Americans were hanged by angry white mobs on a weekly basis. Thousands were killed. Millions were discriminated against. And it was not until the early 1952, just as Bolivia was extending the right to vote to the Quechua and Aymara, that African Americans began their own journey to freedom.

You, my friends, must face similar truths today. For today, the African American population in the United States is only 8 percent, and it has never been higher than 10 percent. The injustices in Bolivia are visited on nearly two out of every three of your people.

The Catholic University has not asked me to come here and preach to you from the 5th Chapter of the Book of Matthew. I am no preacher, but I have spent much of my life watching and trying to understand why political institutions succeed and why they fail.

Let us begin with a question on the minds of perhaps several of you in this room: does Bolivia need a new constitution? After all, several countries – notably Britain – do not even have a constitution. Other countries, such as Norway, Belgium and the United States have constitutions that stood the tests of centuries. Norway since 1814, Belgium since 1831, and the United States since 1789. Of course each of these constitutions has been amended on occasion, but the fundamental values underlying the relationships between citizens and the state have remained largely the same.

The central question in constitutions is whether the people of a country believe that the institutions of government are legitimate. Without legitimacy, a nation's citizens no longer feel like citizens, and no longer willingly comply with the sacrifices needed to form a social compact. As political scientist Hans Dieter Klingemann notes, a government does not need to be a democracy in order for citizens to think it legitimate. A government regime needs at least two of three things: public support for the political community, public support for the regime's principals (in a democracy these are democratic principals), and approval of a regime's performance. In Bolivia today, the overwhelming majority of citizens does not support the national political community, does not approve of the national regime's performance, and is only just now learning – because of the popular participation laws that have transformed municipal government – is only just now learning how to function in a democracy.

Bolivia's current constitution was written for a different time. A time when popular participation among the indigenous people was an illusion, when the rich elites of Spanish descent ruled Bolivia in much the same way that the Spanish colonialists had before 1825. The national government has lost legitimacy, and the overwhelming majority of citizens no longer believe in the unfulfilled promises of a constitution written by and for people who never truly represented them.

For most of my life, Bolivia has been the "South Africa" of South America. The good news, of course, is that even South Africa ceased being the "South Africa" of South Africa with the emergence of Nelson Mandela and the subsequent 1996 constitutional reforms. That constitution held fast to the primary rule: constitutions should protect equality of opportunities.

Successful constitutions are based on shared values in a society, and they are written by a group that represents the country both geographically and ethnically. What are the shared values in Bolivia? This may be the most difficult question of all, because Bolivians often define themselves by what they do not share than what they have in common. Indeed, when I ask Bolivians, "What does it mean to be Bolivian," most are stymied by the question. Ask, "What brings you pride," and one is likely to hear about the days when La Paz hosted the World Cup.

The national dialogue that surrounds Bolivia's eventual constituent assembly must – absolutely must – revolve around what core values Bolivians share. If Bolivians, East and West, do not view each other as brothers and sisters in a common cause, the foundations of the constitution will be too weak to last even one generation.

If the experiences of Professor Torrez's simulation are a guide, the men and women who write Bolivia's next constitution may well discover that they are, indeed, brothers and sisters who share core values. The interests of the whole country, then, need to be reflected in the final document, never pitting East against West or rich against poor.

Successful constitutions also avoid concentrating power in a single branch or a single city. Given their calls for succession, it is no surprise that politicians in Santa Cruz are rallying for local control of government if the succession movement fails. Their

instincts are probably sound, because democracy is best learned at the local level, in municipalities and in schools and in local unions.

Recall the riots in France last fall, with a strong centralized government under attack. Why? Because new immigrants have no opportunities to become democratically engaged in local municipalities. Riots break out in Paris with regularity, every generation. The French constitution dates from only 1958. Ten years later there were massive riots and student protests. Riots have followed every 8 to 12 years ever since, including large-scale destruction in October 2005.

Large national governments are good for raising armies and for setting broad regulatory policies and for distributing resources from the rich to the poor and from the young to the old, and only national governments should negotiate trade agreements. But the single most important lesson of political history over the last 25 years is that centralized governments are not good at delivering goods and services to citizens in their homes. National politicians and bureaucrats in a central government are notoriously not being responsive or accountable to citizens.

Finally, one rule of successful constitutions should be tattooed on the hands of every politician in Bolivia: never, under any circumstances, should public policies be written into constitutions. Every successful constitution in the world contains three elements: (1) a statement of shared values or fundamental rights, (2) a description of the responsibilities of governmental institutions, and (3) a way to change the constitution by a vote of the entire population. In every case that I can think of, when public policies have been written into constitutions – such as a specific minimum wage, or specific tariff numbers, or policies on land reform or the sharing of natural resources – in every single instance this has proved to be a mistake.

Constitutions are about shared public values supporting a political process. They must never be used to write public policy.

Bolivians may be tempted to use the constituent assembly process to write long-promised public policies into law. That would be a mistake. Bolivia faces a choice between two kinds of constitutions. One that would try, in a single step, to fix many of the social problems that have existed there, including land reform, mineral rights, hydrocarbons, and education. A constitutional assembly that re-writes laws is appealing,

both to parties of the left and to parties of the right. But this approach would be a grave mistake.

Constitutions are about rights and democratic processes, not about public policies. Does anyone, for example, think that Venezuela's 1999 constitution will last even four years after President Chavez eventually leaves office? Of course not. I would hope that Bolivia's next president aspires to building a more lasting and nobler legacy, framed around equality and fairness, but leaving the details of policymaking up to deliberative legislatures year-in and year-out.

Politics is about the art of compromise. Good leaders show that they can learn and also educate. As one of the U.S.'s great Supreme Court justices, Oliver Wendell Holmes, Jr., once wrote, "The law must be stable, but never stand still." My friends, you need a stable constitution, built on a foundation of shared values. But you need political institutions that are flexible, that never stand still, that take on difficult problems and solve them.

I was struck, when I arrived here at the airport a few days ago, with the pervasive pessimism of Bolivians. It was as if, waiting for their bags to be unloaded from the plane, my fellow passengers expected their luggage to have been lost or stolen. Pessimism is everywhere. See long gas lines? Blame the Peruvians for hoarding gas. See decreased investments in Bolivia's oil fields? Blame big oil in Texas instead of myopic economic policies in La Paz. See how difficult life is? Blame Paraguay for injuring the national pride in the Chaco War eighty years ago. See how bad the economy is? Blame Chile for taking Bolivia's access to the sea in 1884.

This pessimism confuses me. Your future is in the future, not in the past. And with a healthy political dialogue surrounding a successful constitutional process, more Bolivians can claim a stake in the country's future. I am not pessimistic about Bolivia or about Bolivian democracy. Real change, of course, will take unity – and an honest and evangelistic – call for shared Bolivian values centered around the essential dignity of everyone here, whether of Spanish or Indigenous descent.

The road ahead will not be easy. Your courage may sometimes fail, but each of you in this room, and all Bolivians here and abroad must share a common conviction, a common dream for a better tomorrow. Choose your constitution wisely.