

## Ideas for a Constitutional Reform in Bolivia

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### SUMMARY

In this paper it is argued that the Constitution of Bolivia is a set of contradictory practices and institutions that deal with federalism, unitarism, presidentialism and parliamentarianism, and that the most important aspects to be reformed have more to do with the organic part of the Constitution than with its dogmatic part. The author recommends keeping an attenuated presidentialism and eliminating the 'parliamentarist' part of hybrid presidentialism, eliminating the Vice-presidency of the Republic, establishing a unicameral system, adopting the two-round electoral system for presidential and parliamentary elections, modernizing the system of local government, and calling for a Constitutional Assembly in order to perfect and consolidate democracy.

### Introduction and a Note on Methodology

The purpose of this paper is to justify the need for a profound and coherent constitutional reform in Bolivia. For several years I have argued that the Bolivian Constitution is an *ekeko* constitution. Indeed, it is a set of contradictory institutions and practices that deal with federalism, unitarism, presidentialism and parliamentarianism; thus, I believe that the first thing that we need to propose is to systematize and bring order to the Constitution; as well as to avoid the constitutional graphomania described by Professor Giovanni Sartori, who states:

... clearly, institutions and constitutions cannot perform miracles. But it will be very hard for us to have good governments without good instruments of governance.

This paper follows the guidelines of applied political science, politocological engineering, also called political engineering. Gianfranco Pasquino states:

When the problem of political engineering is defined in terms of the reform of a political system, what emerges then is the particular importance of the manner in which that system has been analyzed. Which is to say that the reform of a political

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system can by no means be correctly conceived in terms of piecemeal reforms, a sort of *bricolage*, but rather must be viewed and posed systematically, as a reform of the whole or, at least, as a reform that, even though referring to specific structures or processes, takes into account the systemic consequences and effects of occasional partial reforms.

Following a different approach and using different words, Sartori confronts this problem by referring to the need to take into account the “joint configuration” and the *field of equilibria* that must be structured, improved and re-founded. Sartori argues that political systems are “equilibrium systems” (he notes that more than an intuition this is a constant theme of political analysis since Aristotle and that, in modern thought, it can be found, synthetically, in every theorist of mixed forms of government. From Montesquieu to the Federalists and their idea of “*separated institutions sharing powers*”, and from John Stuart Mill to Max Weber, all are inclined to accept it and propose an operative version via their own political reflection). Distinguishing constitutionalism from political science based on the statement that, for the former, equilibrium is only a “good equilibrium,” whereas, for the latter, equilibrium is “any equilibrium,” Sartori continues:

... I stress that the *manner of cohesion* of a system is its *equilibrium solution* and that a characteristic of political systems is to “conform,” not statically ... but in a dynamic manner; that is, in a variable and mutable order based on the play of “checks” and “balances,” pressures and counter-pressures.

Moreover, if the approach and the words are different, the substance is clear and precise when political science attempts to provide adequate instruments for the reform of the political system; the perspective from which it poses them must be systemic. The objective it seeks is the creation of a system of equilibria between the different institutions, processes, and actors, based on the knowledge that change is possible *as long as* the direction is well defined, the objective is clearly indicated, and the means to be used are well adapted to the task.

From what is stated in this paragraph, it clearly follows that there is a profound difference between political engineering, in its specific version of applied political science (and particularly that which concerns politico-institutional systems), and *public policy*. Political engineering deals with a different field than *public policy*, and for that reason it cannot be characterized as a *problem solving* sub-sector of political science. Political engineering, that is, the application of political science that derives from theoretical, scientific reflection, is an integral part of political science itself; it is, as was stressed at the beginning of this essay, a component, latent or manifest, of the discourse, analysis and nature of “politology,” both old and new.

Finally, as Dieter Nohlen states: “We must always consider the feasibility and lessons of comparative experience, as well as in-depth analysis of the country in question.”

### **The Bolivian Constitution and Some Comparisons with Other Constitutions**

In Bolivia we have repeated, almost like a dogma, the ideas of Dn. Tomás Manuel Elío regarding the unity of the Political Constitution of the Bolivian State: “In my view (says Elío) since the founding of the Republic there has been only one Political Constitution, the same which was sanctioned in Chuquisaca on

November 6, 1826 and enacted the 19<sup>th</sup> of the same month and year, by the glorious Mariscal de Ayacucho, Dn. Antonio José de Sucre, and which has since had several revisions without altering its essential structure.”

I disagree with Dn. Tomás Manuel Elío, since a legal norm cannot be easily imposed or accepted unless it has been previously pacted among the power elites of a society. Ferdinand LaSalle, author of the book “¿Qué es la Constitución?”, rightly states that the Constitution is more a matter of power than of right, even when the former is expressed in legal terms. The fact of the matter is that real power factors configure the law at a particular moment in a society’s history, and they also change as the historical process advances.

The fact that the basic coexistence agreement has required progressive broadening via inclusion of sectors and classes not originally included in the constitutional framework of 1826, as well as the inclusion of social rights, universal suffrage instead of voter qualifications, the approval of the original domain of the State over natural resources, agrarian reform, State participation in the economy, and other features that have been incorporated into our constitution, allows us to understand “democracy” as an unfinished process that unfolds in response to the will and action of the different social and political forces involved. Democracy, then, is a work-in-progress, with advances and reversals, but always on the move. Political processes in any society unfold in the midst of confrontation to achieve coexistence via compromise among the conflicting interests that divide civil society.

Political life, as stated by Norberto Bobbio, an Italian political scientist of social-democratic persuasion, “develops through conflicts that are never definitely resolved, and solutions are arrived at via momentary agreements, truces, and peace treaties that are longer lived than constitutions”.

Therefore, there is no unity in the Political Constitution of the Bolivian State, since it has changed through the confrontation of interest groups. Thus, the presidentialism that began with independence became still stronger in the Constitution of 1831, which, among other powers, included that of dissolving the chambers of the National Congress. This presidential system persisted, with slight modifications, until the Constitution of 1878, which reformed the Constitution by including Article 73.

This change, according to Elío, tipped the balance from a presidential regime to a parliamentary system. This reform was influenced by the English and French systems, in vogue at the time.

With this reform we moved, in my view, to hybrid presidentialism, with the admixture of an attenuated presidentialism, as stipulated by Article 85 of the current Constitution: “The executive power is held by the President of the Republic, jointly with the ministers of State.”

More than one and a half centuries of republic experience have led to changes in the structure of the executive branch, as well as to reforms in the legislative branch. These changes began in the Constitution of 1826, which established three chambers; reduced to two chambers in the Constitution of 1831; and to a single chamber in the Constitution of 1871, only to return, once again, to bicameralism, with a Senate and a Chamber of Deputies.

Senatorial representation in our country is by departments; two senators are elected by majority and one by minority. The recent constitutional reforms, enacted in 1994, require that the national deputies be

elected in each department, half of them in uninominal circumscriptions, the other half in plurinominal circumscriptions.

The uninominal circumscriptions must have geographical continuity, territorial affinity and harmonization, must not transcend the limits of each department, and must be based on population criteria.

The electoral court delimits the uninominal circumscriptions by simple majority vote, and in the plurinominal circumscriptions the system is by proportional representation.

With these reforms we have adopted a mixed electoral system, better known as the German system or personalized proportional representation, changing, this way, the system of proportional representation, which was enacted in the electoral statute of 1956, and built into Article 219 of the Constitution of 1967.

In Bolivia, prior to these legal norms, there was a system for the election of deputies based on uninominal scrutiny in the provinces, and a system of proportional representation in the capitals of the departments.

In adopting the system of proportional representation, though the ability of the executive branch to control Congress was not weakened, the Movimiento Nacionalista Revolucionario (MNR) was not affected since it had a great deal of popular support.

However, with the return to democracy, it was affected starting with the elections of 1978, and particularly during the 1980's; and this situation has extended to this day, due to the increasing number of political parties, weakening the current system of attenuated and hybrid presidentialism.

The electoral system stains the political system and conditions its operation. Some renowned politicians and political scientists, such as Michel Debré, think that this issue is more important than the presidentialism vs. parliamentarism debate: "The electoral system is a much more important matter than the separation of powers".

In my view, this is a very important issue in political engineering, since the functioning of the political system is conditioned by the party system, which in turn is conditioned by the electoral system; but we must also remember that the party system affects the electoral system.

In concluding this section, I would like to point out that relations between the executive and legislative branches in Bolivia have been characterized, historically, by an all-powerful and hegemonic presidentialism, while Congress has been normally submissive and only occasionally obstructive. There have been periods of congressional preponderance, but they have been brief; so-called "presidential absolutism" or "superpresidentialism" has tended to predominate, in spite of constitutional safeguards.

With regard to the judicial branch—the Supreme Court, Constitutional Court, *Consejo de la Judicatura* (disciplinary council of the judicial branch), Public Ministry and the *Defensor del Pueblo* (ombudsman)—the following may be noted:

Constitutional Court: I was not in favor of its creation, because it is simply one more "add-on" to the Constitution; it would have sufficed to create another courtroom, for constitutional cases, and increase the

number of Supreme Court magistrates, given the Court's heavy caseload, which is one of the causes of delays in justice.

As for the *Consejo de la Judicatura*: I think its establishment was a step forward, though its composition seems inadequate; civil society should have had greater participation, as is the case of the *Consejo Nacional de la Magistratura* in Peru.

In Peru, the *Consejo Nacional de la Magistratura* has the following membership, according to the Political Constitution of the State: one member elected by the Supreme Court, by secret ballot in full session; one member elected by secret ballot by the board of public prosecutors; one member elected, by secret ballot, by members of the bar association; two members elected, by secret ballot, by members of the other professional associations in the country, as required by law; one member elected by secret ballot by the rectors of national universities; and one member elected by secret ballot by the rectors of private universities.

The number of members of the of the *Consejo Nacional de la Magistratura* may be increased to nine, with two additional members elected, by secret ballot, by the *Consejo* itself, among lists proposed by institutions representing the labor and business sectors.

Members in full standing of the *Consejo Nacional de la Magistratura* are elected, together with their substitutes or replacements, for a period of five years.

We should emulate this Peruvian example in order to ensure greater participation on the part of civil society, and greater control over the designation operation of the judicial branch.

The Public Ministry (Attorney General) should be linked to the Interior Ministry, which itself should be merged with the Ministry of Justice. This is the ministry of law and order. It should not be separate, as per the most recent administrative reforms. In the most important democracies of the world—England, the United States, in Brazil itself as well as in Spain—the ministries of Interior and Justice have been merged. In all of these countries, the Attorney General of the Republic is linked to this ministry, maintaining administrative and financial autonomy. In the case of the United States, the Attorney General *is* the Minister of Justice.

This is important because the Public Ministry is in charge of crime investigation. This ministry must have a permanent legislative commission charged with studying and preparing legislative bills for the reform of legal codes and procedures. The Attorney General of the Republic should be designated by the President of the Republic, and his term should be for five or six years.

The list of (three) candidates for this office should be submitted by the *Consejo de la Judicatura* and the nominee should be a citizen of high reputation and considerable legal knowledge. Other members of the Public Ministry should be hired by public contest of degrees and merits, and they should have guaranteed tenure in this important field, which serves as the auxiliary organ of the justice system.

I do not favor the institution of the *Defensor del Pueblo*, since it is a bad imitation of a Swedish institution, transplanted without much prior analysis, following the old habit of copying institutions when what we really need is to fully understand our own political and constitutional systems. The *Ombudsman* is a mechanism for control and oversight of the public administration, which makes sense in Sweden

because it is a parliamentary regime; whereas in Bolivia we have a presidentialist regime, albeit one of attenuated and hybrid presidentialism. As in the United States, the legislative branch in Bolivia is in charge of the Public Ministry, through its investigative commissions.

In Bolivia, the Constitution and Justice commission, and other commissions created to that effect, oversee the Public Ministry; therefore, the 157 congressmen are *Ombudsmen*. To create one more seems otiose, bureaucratic and beside the point. It seems odd that certain neo-liberals, far from reducing the bureaucracy, according to their theory, add to it instead.

Every state creates its own control mechanisms. In the former Soviet Union the public administration was controlled by the Communist party; in the United States it is the national Congress and the OGA (Comptroller General, an auxiliary technical organ of Congress); and in Sweden it is the *Ombudsman*.

To support this analysis we will rely on Samuel Huntington, a well-known American political scientist, who in describing the U. S. Congress stated: "Old ideas, old values, old beliefs refuse to die in Congress. The structure of Congress validates their perpetuation".

Given this widespread image, representative political systems tended to reduce the influence of the legislative branch in the elaboration of national policies. Not only was there a diminished degree of legislative competence in the elaboration of laws, but also a substantial change in views about the functions of Congress in the political-institutional process. In most countries, Congress ceded to the Executive the *initiative* in legislation and, also, the responsibility for *shaping and determining the content* of legislation. Nowadays, legislators expect that the Executive will send them, not a project to be amended, changed, complemented and redefined, but a complete and finished bill ready to be transformed into law.

To be sure, the loss of legislative initiative on the part of Congress is not absolute, and the degree of loss differs in different areas. It is almost total in strategic areas that require quick response on the part of the political system, and in basic areas of government policy, in which the Executive frequently is one step ahead of the Legislature.

In the United States, after 1963, the legislative branch absolutely lost control of issues related to national security and foreign policy, which is understandable, given that country's dominant position in international affairs (recently, President Clinton requested from Congress a *fast track* system for international trade agreements; however, Congress resisted).

Given that in the modern state the legislature's "main function" is no longer that of making laws, what then are its functions nowadays? Hermann Finer says that the main problem of the contemporary state is the control of government activities and day-to-day administration. This *oversight* power is increasingly the preserve of the legislature in most countries with representative political systems. For Huntington, Congress does not need to legislate in order to survive and maintain its importance; its main function must be to *control* government administration.

This point of view is clearly linked to a conception of State action in contemporary societies that differs markedly from that of classical liberalism. Huntington states that the decline of the legislative function of the U. S. Congress was coupled with an increase in its administrative functions. The modern State differs from the liberal State of the 18th and 19th centuries, mostly in terms of the greater control it exerts over

society, and in terms of the growth in size, scope and importance of its bureaucracy. The modern State requires greater control and supervision of its bureaucracy, and ways to improve it. Institutions and techniques vary greatly from one country to another. The Scandinavian countries entrust these powers to the *Ombudsman*; Communist countries use the party bureaucracy to oversee the State bureaucracy; in the United States this task is entrusted to Congress (in Bolivia as well, as per the Constitution).

In the modern State, therefore, the executive branch has increased its legislative initiatives in detriment of the legislative branch, and this tendency to increase legislation, upon executive initiative, is quite general. The legislature, in turn, has assumed and increased its oversight role.

One final comment on this subject. We live in a competitive democratic system, and it has been attempted to perfect the electoral system, as well as the composition of the Electoral Court, and we have also heard about participative (direct?) democracy, though the concept remains unclear, since we are still stuck in the crossroads of modern democracy which is representative (that is, indirect) democracy.

Though direct democracy is an unpractical utopia in contemporary mass society, participatory democracy is not less so. In this field we must innovate, and bear in mind what was expressed by Rodrigo Borja, former President of Ecuador: “We must move beyond one-dimensional democracy, which is strictly political, to three-dimensional political, economic and social democracy, and for that we must democratize democracy.”

### **Some Proposals for Institutional Reform**

In the dilemmas and challenges that we must face we do not seek, oftentimes, all possible solutions; thus the Danish philosopher Kierkegaard, gave us a norm to follow when referred to “a passion for the possible.”

Following this premise, I think that the most important aspects of the Bolivian constitutional system that need to be reformed have more to do with the organic part of the Constitution than with its dogmatic part. A better grouping and systematization is also required, since its titles, chapters and articles are dispersed.

The option for Bolivia, in my view, must be to maintain the system of attenuated presidentialism and do away with the “parlamentarist” part of hybrid presidentialism (interpellation); keeping, however, petitions for oral and written reports and ministerial participation at all stages of the preparation of legislation, and in commissions, when so required. Parliament should be strengthened, and linked to the Comptroller General of the Republic. These changes would produce better performance, and would strengthen this important branch of government.

Attenuated and hybrid presidentialism is not super-presidentialism (also referred to as the “imperial presidency”). Rather, it is a modern presidentialism that must be perfected in order to make it more efficient. An important part of this discussion about the system of governance will be to link the debate with the important issues of electoral systems and the party system as indispensable components of political engineering.

An important change in the characterization of the new model of attenuated and hybrid presidentialism would be to adopt the following reforms:

- a) The President of the Republic may dissolve the (unicameral) National Congress, but only once, during his term.
- b) The President of the Republic may call for referenda or plebiscites on specific issues of national interest, whether international or domestic.
- c) The Legislature may, on three-fourths majority vote, call for new presidential and congressional elections.

These reforms are very important in order to solve cases of extreme gravity, of generalized national crisis, or impasses between the executive and legislative branches.

These proposals address the concerns which Linz posed in the following terms:

Conflicts between these branches of government are procedural, and cannot be explained simply in economic, political or ideological terms, [and in this respect] the parliamentary system is superior to the presidentialist, since it does not establish a duality of powers with equal degrees of popular legitimacy, and because it is more flexible and, therefore, more able to respond to the changing situations that are typical of processes of transition and democratic consolidation.

I think it is important to propose the elimination of the Vice-presidency of the Republic. There are several reasons to justify doing away with this office, described by John Quincy Adams, first vice-president of the United States, as “his excellency the superfluous,” after stating that human imagination had never conceived of a more insignificant function.

Theodore Roosevelt, who was also vice-president of the United States, said that it was the “fifth wheel of the carriage”; and compared the vice-presidency to a lottery ticket, in which the holder sometimes won the great prize of presidential succession.

In the Bolivian constitutional system, the Vice-president substitutes for the President in case of absence, incapacity, death or resignation; meanwhile, he presides the National Congress and is president ex-officio of the Senate, participating therefore in two branches of government. Historically, vice-presidents have had conflicting relations with the presidency; these relations have not been exactly “honey and spice.” Though in the last three presidential terms the presidents have not had problems with their vice-presidents, this has not been the norm but rather the exception. Recall some conflicts between presidents and vice-presidents: Herzog and Urriolagoitia, Siles Suazo and Ñuflo Chávez Ortiz, Paz Estenssoro and Lechín, Barrientos and Siles Salinas, Paz Estenssoro and Barrientos, Siles Suazo and Paz Zamora ... ; and this without even mentioning the 19th century, over which this theory can claim even greater empirical relevance.

The office of Vice-president creates extra expenses due to its own participation in the executive branch, on occasions, and, as a matter of routine, in the legislative, creating unnecessary frictions through declarations and “political in-playing” which waste the President’s time in real or potential conflicts with his Vice-president. For this and other reasons, which I decline to comment further due to space limitations, it is suggested here that the Vice-presidency be eliminated from the Bolivian political system.

For purposes of presidential succession in cases of temporary absence, whether due to travel, illness or other causes, the office should be occupied by the president of the (unicameral) National Congress. In



case of resignation, death or removal from office, the successor shall be chosen by the National Congress by majority vote, and shall finish the previous incumbent's term until the next general election. The National Congress will effect this designation within 15 days of the vacancy. The President of the Republic, designated by this procedure, cannot thereafter stand for any future presidential election. If the Legislature decides to call for new elections, presidential or legislative, the president of the Supreme Court will take charge of the executive branch.

Regarding the length of the presidential term, five or six years seems adequate, provided that the president cannot stand for re-election. I think we should put in practice the slogan of the Mexican revolution: "effective suffrage and no re-election," which is one of the most effective ways to maintain democracy and prevent the *caudillismo* and personalism that has characterized Latin American politics. Plutarco Elías Calles and General Lázaro Cárdenas set a beautiful example: when the entire people called for their re-election, they stood by the Revolution's principle of no re-election.

S. P. Huntington, Professor of Political Science at Harvard, states:

The contrast between developments in Bolivia and in Mexico shows the importance of statesmanship for political stability and the institutionalization of power. The cardinal rule of the Mexican Revolution was "no re-election," and in spite of the temptations to remain in power, the leaders of the revolution stood by this principle. When Carranza tried to get around it by appointing a flunky to the presidency, he was deposed. During the 1920's, Obregón and Calles held office, and when the former was assassinated in 1928, the latter held to the non-reelection principle and refused a second term. To the contrary, he declared it was time to institutionalize the revolution, and created to that end the Partido Revolucionario Mexicano. Five years later, Calles was prudent enough to recognize that the revolution was stagnating, that new leadership was needed, and he accepted the nomination of Cárdenas. Paz Estenssoro, in contrast, undermined his country's political stability by trying to perpetuate his hold on power. Stability is partly the result of historical conditions and social forces, but it is also, in part, the result of choices and decisions by political leaders. A second reason for the differing degrees of political stability resulting from the Mexican and Bolivian revolutions has to do with differences between Calles and Paz Estenssoro as statesmen.

By dividing the M.N.R. in his struggles with Lechín, Guevara and Siles, Paz distanced himself from his supporters within the urban and working classes, retaining only the loyalty of the peasants. But when he created a new army to back up his authority, he gave birth to what he later described as a "military Frankenstein." When the final clash took place, the intellectuals and the workers were against the regime, and the peasants could not or would not act, so it was very easy for the army to depose him from power.

The president should not be re-elected under any circumstance, not even after the five years stipulated by the Constitution. This would allow for the renovation of political elites and would reduce tensions within the party system.

Another key reform is, certainly, the establishment of a unicameral or single chamber system, which might be called the National Congress or National Assembly, thus eliminating the Senate. The practical

reason for this reform is the following: in a unitary state there is no justification for a second chamber. Historically, second chambers have been justified when:

- a) The aristocracy, as in England, holds on to power through a House of Lords.
- b) The economic chambers associated with fascist corporativism.
- c) In federal states, where the member states cede part of their sovereignty to a central government, maintaining their representation through a second chamber: the Senate.

On this issue, I agree with Adalberto Ruiz Eldredge, who as deputy to the constitutional assembly of Peru, in 1978, stated, among other things:

From another point of view, the Senate might be justified in order to avoid hasty and unconsidered decisions in times of parliamentary dominance. Nowadays there are institutions and new systems that balance, restrain and coordinate. There is planning, technical administration, technical advisers to Parliament (in some countries), regulatory authority, and judicial appeals such as control of constitutionality. To this should be added the local governments, functional decentralization, the elimination of parliamentary initiatives that require expenditures, party organizations and worker participation, the press and public opinion. All these new elements and systems render the Senate completely useless. On the other hand, Constitutions, which are so important, arise from a single Assembly.

Regarding congressional representation, I would like to add a few important aspects, which should be considered among other necessary reforms in order to consolidate democracy, and strengthen the unicameral National Congress.

Firstly, we should “adapt” Article 133 of the Constitution of Nicaragua of 1986, which reads: “Also members of the National Assembly, as representatives, titular or substitutes, respectively, are the candidates to the presidency and vice-presidency of the Republic who, having participated in the corresponding election, were not elected, in which case they must have a National Circumscription with a number of votes equal or greater than the average of the regional electoral quotients.”

With some modifications, this article should be added to our Constitution so that the leaders of the political parties can join Parliament and lead their respective parliamentary blocs. This would strengthen and add prestige to the National Parliament, and avoid the embarrassing spectacle of party leaders at the so-called “palace summits,” making deals and then imparting instructions to their parliamentarians, leaving in the public mind an impression of manipulation on the part of an omnipotent Head of State facing a submissive Congress.

Another reform to strengthen this branch of government would be, as stated previously, to link the Comptroller, changing its name to one more in accordance with its function of External Auditor, designating it as the General Auditor of the Republic, as an auxiliary organ of the National Congress, and thus have better control over the executive branch.

Here it seems we should consider an article of the modified Argentine Constitution—I refer to Article 85 which deals with the General Auditor of the Republic—which reads:

External control of the national public sector in its patrimonial, economic, financial and operational aspects, shall be under the jurisdiction of the legislative branch.

The supervision and opinions of the legislative branch regarding the performance and general situation of the public administration will be based upon the reports of the General Auditor of the Republic.

This office of technical assistance to Congress, having functional autonomy, will be staffed as per the law which regulates its creation and operation, which will be approved by majority vote of the members of each chamber. The President of this entity will be designated upon nomination by the opposition party with the greatest number of legislators in Congress.

He will be in charge of controlling the legality, management and auditorship of every aspect of centralized and decentralized public administration, whatever its mode of organization, in addition to other functions that the law may grant. He will participate in the procedures for approval or rejection of accounts for revenues and investment of public funds.

This article, with some modifications, some formal and others of substance, should be added to our Constitution. In my view, the redaction would be as follows: "The Director of this entity will be designated upon nomination by the opposition parties." This would allow all opposition parties with parliamentary representation to discuss and select the candidate for this office. The modification that I propose is more democratic and pluralist.

I think we should retain the option, under the present Bolivian constitutional system, of impeaching the President of the Republic, ministers of state, legislators and members of the judicial branch.

Another important aspect of congressional reform should be the lengthening of ordinary sessions, from five to ten months of effective work, with Congress, during this time, in charge of the legislative process and control and supervision of the executive branch.

The rules of debate should be modified, and its procedures modernized. Committee sessions should be public, and there should also be public hearings in order to gauge the opinions of interest groups in the elaboration of bills.

The French two-round electoral system should be adopted, both for presidential elections as well as for the unicameral parliamentary elections. This reform is crucial for the operation of presidentialism.

Presidential and parliamentary elections should be simultaneous.

The complexity of the administrative function, due to the dynamics and changes of international political economy and its impact on the management of public affairs, requires modifications in the executive branch; therefore I suggest the following reflections and proposals:

The President is overburdened with many diverse tasks at many levels. Indeed, the President of the Republic is the head of state and the chief executive. Due to his multiple roles, some political scientists

and students of administration suggest the need to create an office of Prime Minister, to help him in governmental administration.

The presidential overload is due to the complexity of his tasks: he is in charge of foreign policy and defense (captain-general of the armed forces) as well as internal policy, even though he delegates a large share of responsibility to the ministers of Foreign Relations, Interior and Defense. The President is also obliged to closely follow the economy and social policies, even though he delegates responsibilities to the ministers in charge of the economy and social affairs.

The President of the Republic must attend many public ceremonies, sometimes as a matter of traditional protocol, and sometimes under force of circumstance. Whether he likes it or not, he must attend to the party or parties in power, and these relationships are not always peaceful, due to pressures for public office. Also, the country is often visited by foreign dignitaries, or persons visiting in a non-public capacity, but who are nonetheless important for other reasons. In order to make important decisions, on his own or jointly with his ministers, the President must read, review or write correspondence, both official and private.

Regarding the administrative reform approved by the current Bolivian government, replacing the “Ley de ministerios” approved by the previous government, it seems to me that it has not offered good solutions, and it commits the same mistakes of the previous law; for instance, merging Planning with Sustainable Development is not an adequate solution. Instead, we should have returned to an independent ministry in charge of the budget, the process of administrative reform, science and technology, inter-ministerial coordination, territorial zoning, plans for multinational or multi-state integration, and international technical and economic cooperation. This is the only way that a society with Bolivia’s characteristics (marked structural heterogeneity) can face its future.

This country needs a coherent and coordinated economic policy. The solution of the structural problems of poverty, income disparities, and regional disequilibria are long run tasks that should be entrusted to the Ministry of Planning. Short run problems, that is, the management of macroeconomic disequilibria (inflation, interest rates, aggregate demand, etc.) should be in charge of the Ministry of Finance.

To simplify, Bolivia should have 14 ministries:

- 1.- Ministry of Foreign Affairs.
- 2.- Ministry of Interior (merged with Justice).
- 3.- Ministry of Defense.
- 4.- Ministry of Planning.
- 5.- Ministry of Finance.
- 6.- Ministry of Education and Culture.
- 7.- Ministry of Health and Human Services.
- 8.- Ministry of Labor and Employment.
- 9.- Ministry of Trade and Industry.
- 10.- Ministry of Agriculture and Food Supply.
- 11.- Ministry of Energy and Mining.
- 12.- Ministry of Transportation and Communications.
- 13.- Ministry of Urbanism, Housing and Basic Sanitation.
- 14.- Ministry of Environment, Forestry and Landscape.

The Presidency should have a General Secretary with ministerial rank, in charge of relations with Congress and serving as presidential spokesman. Also, there should be a Legal Advisor to the executive branch, to provide guidance on legal matters, prepare studies, provide opinions or proposals for norms and guidelines, suggest legal measures in the public interest, and present reports as requested by the courts whenever legal actions are presented against presidential acts. This official may assist the minister of Planning in inter-ministerial coordination, prior to presenting administrative acts to the President's consideration, through the Secretary General of the Presidency.

Regarding lower levels of government and administration, that is, the prefectures, which are disconcentrated entities of the central government, we think they should be designated by the central government, as per the current system.

As for the composition of the departmental councils, the members should be the municipal mayors, who should be elected directly, and separately from the municipal councils.

The city mayor should be elected on a separate list from that of the municipal councilmen.

A profound reform would be to elect municipal authorities directly by the people, not through political parties but by neighborhood boards.

Councilmen should be elected by uninominal circumscriptions, and the mayor by plurinominal circumscription, both by relative majority.

For municipal elections absolute majorities and second rounds are not necessary. The term for these authorities should be five years, instead of the six years proposed for the Presidency of the Republic and the unicameral National Congress.

In the matter of regional development, polarization of economic space should keep pace with urban development. Bolivia should study the conformation of metropolitan governments, focus on reducing poverty in places with the highest levels of extreme poverty, and use both incentives and deterrents in the implementation of development zones.

Given the mistakes committed in the constitutional and administrative reform approved in August 1994, and then again in 1997, I disagree with the Bolivian political scientist Eduardo Gamarra, who in his otherwise excellent paper "Presidencialismo híbrido y democratización," states towards the end that "constitutional engineering is a task for the political class"; which seems to imply that it is their task exclusively. I believe, however, that the political class should be helped by specialists.

To improve the efficiency of the President of the Republic and the ministers of state, who jointly hold the executive power, it will be necessary to redesign the structure of the executive branch in order to determine the scope of presidential delegation.

Current legislative procedure should be studied, and then modified. Current legislative procedure, no doubt, should be modernized.

Finally, a Constitutional Assembly should be summoned in 2002, coinciding with the upcoming presidential elections. We should not follow the rules for reform established in the Political Constitution of the State, if we really want to perfect and consolidate democracy. We must re-found the State and its institutions in order to achieve a transparent democracy.

## **Final Conclusions**

This analysis and these proposals suggest the following conclusions:

a) An attenuated and hybrid presidential system is proposed that will allow:

Calling for new legislative elections as a presidential prerogative, for one time only during his term.

The president may call for referenda or plebiscites so that the citizenry may decide on certain issues of national interest.

The Legislature may call for new presidential or legislative elections, in cases of grave national crisis, or impasses between the branches of government.

The President of the Republic, as in Mexico, may not be re-elected.

b) We suggest eliminating the office of Vice-president of the Republic. Whenever the President is absent, due to travel or illness, the President of the National Congress will take his place temporarily, and in case of resignation, death or removal from office, the National Congress will elect by majority vote a new President to complete his predecessor's term.

c) We suggest a single house of Congress, retain procedures for impeachment, extend the period for ordinary sessions from five to ten months, modify the rules for debate, establish open and public committee sessions, and public hearings for the elaboration of legislative bills.

d) A two-round electoral system should be established, both for presidential and parliamentary elections.

e) Presidential and parliamentary elections should be held simultaneously.

f) Incorporate the Comptroller General of the Republic or Auditor General of the Republic as an auxiliary organ of the unicameral National Congress.

g) Preserve the role of Head of State and declare that the President is Commander in Chief of the Armed Forces, as in most countries of the world, rather than Captain-General of the Armed Forces, which is atypical.

h) Enable the President of the Republic to delegate some responsibilities to one of the ministers of State for the task of coordinating with other ministers of State. The President does not relinquish his role of chief executive, but simply delegates to a minister of State. This is to help the President of the Republic in the coordination of matters of common interest that concern more than one ministry.

i) The President's jurisdiction over foreign affairs is preserved, but more matters are delegated to the *Cancillería* (Ministry of Foreign Affairs).

j) Legislative procedures should be modified.

k) The current system of local government should be modified, for the sake of modernization and increased efficiency.

l) A Constitutional Assembly should be summoned in order to perfect and consolidate a transparent democracy.

*Translated by Julio H. Cole.*

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