



Competing Regionalisms? The Role of the OAS and UNASUR in Bolivia's Constitution-Drafting Process

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Acronyms

ADN	<i>Acción Democrática Nacionalista</i>
ALBA	<i>Alianza Bolivariana para los Pueblos de Nuestra América</i>
CA	Constituent Assembly
CELAC	<i>Comunidad de Estados Latinoamericanos y Caribeños</i>
DPD	Department for the Promotion of Democracy
IADC	Inter-American Democratic Charter
MAS	<i>Movimiento al Socialismo</i>
MNR	<i>Movimiento Nacionalista Revolucionario</i>
NGOs	non-governmental organizations
OAS	Organization of American States
PODEMOS	<i>Poder Democrático y Social</i>
UDP	<i>Unidad Democrática y Popular</i>
UNASUR	<i>Unión de Naciones Suramericanas</i>
UNDP	United Nations Development Programme

Competing Regionalisms? The Role of the OAS and UNASUR in Bolivia's Constitution-Drafting Process



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Introduction

Regional organizations have made significant progress in promoting democratic norms such as human rights, good governance, rule of law and accountability. In the Americas, the Inter-American Democratic Charter (IADC), enacted by the Organization of American States (OAS), is a clear manifestation of member states' formal commitment to collectively defend democratic principles and ideals. However, various factors since the end of the Cold War changed the context for regionalism in the hemisphere. Due to the evolving politico-economic landscape at the domestic and regional levels, OAS now shares the stage with other regionalist projects such as *Mercado Común del Sur* with the Rio Group, and more recently with the *Alianza Bolivariana para los Pueblos de Nuestra América* (ALBA), the *Unión de Naciones Suramericanas* (UNASUR) and the recently created *Comunidad de Estados Latinoamericanos y Caribeños* (CELAC). The emergence of regional non-state actors such as the Carter Center, the Friends of the Inter-American Democratic Charter and the Club of Madrid add to the complexity. These developments offer a unique set of challenges for the relatively nascent democracy promotion regime in the Americas, which the OAS has carefully built over the years. This paper examines the role of OAS and UNASUR in democracy promotion in the Americas, particularly its interventions in the 2008 constitution-drafting process in Bolivia.

Very little is written on the role of regional and subregional organizations in building and strengthening democratic regimes in this region. Most of the scholarly literature has analysed the role of the OAS in mounting a collective defence of democracy and the various sanctions it applied to member states that experienced unconstitutional alterations of power (Legler, Lean and Boniface 2007; Mace, Thérien and Haslam 2007). But recently, OAS interventions in countries undergoing democratic crises have diversified to incorporate different

types of measures, which are often carried out with other regional actors (McCoy 2006). In the cases of Peru (2000) and Venezuela (2002), OAS-led efforts included mediation between contending political forces, electoral observation and other democracy-promotion activities (Cooper and Legler 2006). Such a relatively novel form of intervention warrants careful examination.

The politics of post-democratic transition provide a fertile ground for empirically examining how the OAS and UNASUR helped foster constitutional governance and the rule of law. After recovering from one of the highest hyperinflations in the world and 20 years of dictatorship, in 1985 Bolivia adopted sweeping economic and political reforms. By the mid-1990s, Bolivia was described within international academic and development circles as one of the most successful cases of democratization and economic liberalization in Latin America. This stability was generated by a pact forged between political elites.

In 2000, Bolivia's representative democracy unravelled in the face of massive societal protests and civic unrest. Democratization provided political space for newly empowered actors such as social movements, indigenous associations and other members of society. This process also saw the (re)emergence of long-standing historic cleavages in Bolivian society, as dormant ethnic, regional and societal divisions fuelled the clamour for socio-political transformation. Unresponsive political institutions such as the Parliament and political parties found themselves on the defensive from civil society forces. Violent state repression ended in bloodshed that further angered the protesters and delegitimized existing governments. Between 2003 and 2005, the 'Gas Wars' waged by social movements against the state forced two presidents—Gonzalo Sánchez de Lozada and Carlos Mesa—to resign (Dangl 2007; Webber 2011).ⁱ

Garnering 54 per cent of the national vote in 2005, President Evo Morales promised to implement the profound changes needed to address the country's political problems, including a new constitutional project pushed by his party, the *Movimiento al Socialismo* (MAS), and other social movements that were active during the Gas Wars. An election was held to form the members of a Constituent Assembly (CA) assigned to draft a new constitution—a long-held demand by civil society groups and social movements, as they believed this was a more democratic way to formulate a new social contract for the country.

It was not a smooth process; the CA's work reflected the intense political polarization that had plagued the country since 2000. For more than 18 months, procedural issues hounded the constitutional drafting body and

prevented it from accomplishing its promised goals. During a period of gridlock (May–September 2008), OAS and UNASUR (created by the Morales Government) played an informal mediating role between the government and the opposition, which was based in a particular region in Bolivia. However, after violence broke out in the province of Pando, the intervention of the newly created UNASUR brought the contending parties to the negotiating table.

By examining the OAS and UNASUR interventions in Bolivia's constitutional drafting process (2006–10), this paper seeks to address the following questions:

1. What were the roles of the OAS and UNASUR in promoting democracy during the Bolivian constitution-building process?
2. What is the relationship between this OAS intervention and the conceptual foundations of the IADC?
3. What was the relationship between the OAS and other actors such as UNASUR?

This paper argues that the Bolivian CA process represented another arena for the conflict between domestic political actors. CA members from the opposition welcomed OAS assistance, while the Morales Government had reservations about the OAS intervention and preferred UNASUR, an organisation that it helped create.

This conflict centred on a movement to change the neoliberal and representative character of Bolivia's democratic regime. Representative democracy is one of the main principles agreed by OAS member states. The Morales Government wanted the CA to propose a more participatory and direct model of democracy, which was not clearly provided by the IADC, the hemisphere's primary document regarding democratic norms and principles.

The external linkages between the parties in conflict, within the context of the hemisphere's changing ideological environment, were also influential in determining the type and extent of intervention (e.g., mediation, expert advice, intermediation). In other words, although the OAS and UNASUR are autonomous political actors in their own right, the Bolivian case showed that the political weight of some member states within these organizations, and the nature of their current relations with Bolivia, mattered. Finally, this case revealed one of the limitations of the region's democracy promotion to date: the tensions between two competing models of democracy; President Morales advocated for a more participatory vision of democracy, while his opposition supported representative democracy. The democracy promotion

regime set up by the OAS is founded on the principles of representative democracy. However, since several other left-leaning governments in the Americas expressed solidarity and support with President Morales's vision, the OAS was unable to assist Bolivia's constitution-drafting process. In the end, the government-dominated CA leaned more toward UNASUR, and the new draft constitution reflected a democratic regime that veered away from the OAS' representative vision of democracy.

This paper discusses the changing regional context in the Americas that has affected the interventions to promote democracy in the region. It then provides background information on the Bolivian CA process and examines the dynamics behind the OAS and UNASUR interventions. It concludes by enumerating lessons learned for undertaking future multi-actor interventions to promote democracy, constitutionalism and the rule of law in the Americas.

In the name of democracy: the changing context of OAS intervention

Scholars of regionalism in the Americas agree that the end of the Cold War produced structural changes for cooperation on common issues such as democracy promotion (Legler 2012; Shaw 2003). The evolution of the democracy promotion regime in the OAS is a clear example of the impact of the changes both outside and within the region's borders. The end of the Cold War took the pressure off of the United States to continue tolerating right-wing military or dictatorial rule. Though undesirable, these regimes were necessary to contain the spread of communism. By the 1980s, their inability to solve economic crises and quell societal unrest eventually led to their downfall. These regimes were replaced by democratic governments, often through the combination of elite negotiations and/or popular upheavals (Linz and Stepan 2011; O'Donnell and Schmitter 1986). Called the third wave of democratization, most Latin American states underwent democratic transitions by the 1990s (Huntington 1991). To a great extent, democracy became 'the only game in town' (Di Palma 1990).

Major OAS legal documents reflect this solidarity toward strengthening its newly formed democratic regimes. The first is Resolution 1080, a declaration made in 1991 that commits the OAS to defend and promote democracy across the region using an explicit procedure in the event of a democratic crisis in any member state.ⁱⁱ After a year, the Protocol of Washington added the threat of suspension of membership to any country whose elected government has been unconstitutionally removed (Boniface 2002; Muñoz 1998). The

implication of this agreement was that continued participation in the inter-American system requires a member state to have a representative democratic regime (Parish and Peceny 2002).

In 2001, the OAS took a huge step in strengthening its democracy promotion credentials when its members signed the IADC. Through the major role played by some states, notably Peru, the collective defence of democracy norm now has firmer legal foundations in its pursuit to become a rules-based regime.ⁱⁱⁱ For some scholars, the document is also considered to be the first major effort of 'networked multilateralism' (Cooper and Legler 2006), as non-state actors such as non-governmental organizations (NGOs) were given an opportunity to provide inputs to the IADC.

However, it is simplistic to describe the progress of democracy promotion in the hemisphere as linear. There was resistance, some backpedalling and even inertia, and the norms of sovereignty and non-intervention in domestic politics remained strong in the region. Hawkins and Shaw (2008) argued that Latin American states were particularly concerned with possible US unilateral intervention in their affairs, given its leadership in the Global War on Terror. This fear also translated into the slow development of other institutions within the OAS that promote the participation of other political institutions within member states. Executive sovereignty continues to define the institutional make-up of the OAS, with heads of state or ministers of foreign affairs dominating the organization. Furthermore, every time the OAS undertakes democracy-promotion initiatives, it requires the consent of its member states, even though all of these initiatives are enshrined in the IADC (Insulza 2012; Legler and Tiekou 2010).

Peruvian President Alberto Fujimori's *autogolpe* (self-coup) was the first test of Resolution 1080. While the OAS denounced the power grab, it for the most part was paralysed and ill equipped to respond to the gradual backsliding of Peru toward authoritarianism prior to the *autogolpe* (McClintock 2001). The set of crises in Venezuela from 2002 also reinforced the reactive orientation of the OAS. The fissures between its members also contributed to the lack of a rapid response. While a majority of its member states condemned the coup against Chávez in April 2002, some (e.g., United States and Colombia) rapidly recognized the new government, which they rescinded once the president was restored to power. As political conflict in Venezuela continued, the OAS became more involved in mediation efforts—but in partnership with other external actors such as the US-based Carter Center (McCoy and Diez 2011; Parish, Peceny and Delacour 2007).

The OAS also faces limitations on how to meet expectations regarding its mandate to foster democratic deepening. There are units—such as the Department for the Promotion of Democracy (DPD) and the Secretariat for Political Affairs—within the organization devoted to undertaking activities solely for this purpose. However, much of their attention has been on ensuring free and fair elections through electoral observation (Levitt 2006; McCoy 2012).^{iv} The DPD's resource deficits are also an obstacle to achieving its democracy-enhancing objectives (Cooper and Legler 2006). Another problem is the lack of formal monitoring mechanisms to monitor state compliance with the IADC, a critical step in detecting (and proactively addressing) immediate threats to democratic stability and incremental democratic retrogression.^v If the OAS wants to avoid acting only in the midst of a full-blown democratic crisis, it needs regular and timely information on the state of democracy of its members. Thus while the OAS is legally empowered to carry out democracy promotion, its activities are more focused on defensive interventions when there is a clear and deliberate threat to representative democracy in a member state. To promote democracy, the OAS needs to do more than condemn coups (Levitt 2006).

The OAS' institutional weaknesses need to be juxtaposed with the increasing complexity of threats to democracy in the Americas, and how these threats are perceived by the OAS and its member states. McCoy (2006) catalogued various kinds of democratic crises, from civil wars and traditional military coups to grey areas such as civic unrest and presidential exits implemented by the legislature, courts and even civil society. She argued that OAS intervention in relatively novel types of democratic crises occurs when the threat to representative democracy is clear, and when it has evolved into a full-blown crisis. Other authors have supported this thesis by stating that the OAS 'remains reluctant to condemn democratic deficiencies' (Arceneaux and Pion-Berlin 2007, p. 24).

The historical baggage of the OAS also threatens its internal cohesion. The Cold War left an imprint on the organization as a US instrument to control the hemisphere. The creation of the Rio Group and the Andean Group are manifestations of the perceived preference of Latin American nations to have other options for multilateral endeavours. This diffused environment for regionalism has affected the coherence of the inter-American system, particularly in responding to threats to democratic stability in the region (Legler 2012).

A clear indicator of competing centres of authority on democracy promotion has been the formation of ALBA, CELAC and (most importantly) UNASUR

within the span of a decade. Under the leadership of Venezuela and Cuba, ALBA was created as a response to the US-led Free Trade Area of the Americas. CELAC was a deliberate effort to form an organization that did not include the US and Canada. UNASUR was formed in 2008; this grouping of South American nations has its own democratic charter with the status of a treaty. Members agreed to implement strict diplomatic sanctions against governments formed through extra-constitutional means (Sanahuja 2011; Serbin 2009).

The proliferation of these alternative projects are efforts by some states (e.g., Venezuela, Brazil, Mexico) to assert a steering role within the region, but could be seen as further evidence of the decreasing economic and political dependence of most countries (Horwitz 2011). One sign of the absence of strong leadership is the inability to arrive at a consensus on the definition of democracy. The OAS's legal documents use the term 'representative democracy', but there is no authoritative interpretation of what exactly constitutes this regime. As Cooper and Legler wrote:

One sign of these problems ... is the continued lack of agreement on what the concept of democracy constitutes in the region of the Americas. One fundamental criticism of the OAS that remains is that the linkage of democracy with the formal process of representation in its institutional approach subordinates justice to the preservation of the status quo (2006, pp. 43–4).

In the 2000s, many left-leaning parties captured governments in Latin America. Their leaders envisioned an alternative to the OAS-style representative democracy that emphasized principles related to socialist, participatory and direct models of democracy.^{vi} For some analysts, these changes reflect democratic backsliding or creeping authoritarianism, a phenomenon that potentially undermined the OAS' capability to protect and defend democracy (Boniface 2012; Legler, Lean and Boniface 2007; Levitt 2006). The regional organization became a venue of intense debate between these competing visions on how to implement democracy in Latin America. From 2006–10, Bolivia's process of political transformation became the battleground for reconceptualizing democracy in the region.

Bolivia's conflictive Constituent Assembly

From democracy's return to the legitimacy crisis of political institutions

After Bolivia's chaotic transition to democracy between 1978 and 1982, Hernan Siles Zuazo, who led a coalition of leftist parties called *Unidad Democrática y Popular* (UDP), began his term in office. The UDP tried to establish a national popular regime; its redistributive measures created a downward economic spiral. The Bolivian economy collapsed after experiencing the highest hyperinflation in its own history and one of the highest peacetime inflation rates in the world.

In December 1984, in the context of an acute socio-political and economic situation, the political parties in Congress accepted the president's proposal to call for early elections the following year (Laserna 1992). The *Movimiento Nacionalista Revolucionario* (MNR) and the *Acción Democrática Nacionalista* (ADN)—two of the oldest parties in Bolivia—reached an agreement to form a coalition called *Pacto por la Democracia* (Pact for Democracy), which became a pacted democracy that resulted in the peaceful transition of power for four consecutive elections (Mayorga 1999). Yet corruption and the abuse of power threatened the legitimacy of the political parties and Parliament toward the end of the 1990s.

The external shock of the 1997 Asian financial crisis, combined with the progressive deterioration of the legitimacy of representative institutions, triggered a prolonged political crisis and resulted in the forced resignations of President Sanchez de Lozada in 2003 and Carlos Mesa in 2005. Evo Morales, who led an indigenous/popular coalition of social movements under the MAS, won a landslide electoral victory in December 2005.^{vii} Yet despite his electoral majority, the first two years of the Morales Administration were characterized by successive episodes of political confrontation and episodic violence in what is known as the Half Moon departments (states) of Pando, Beni, Santa Cruz, Tarija and Chuquisaca (see Molina 2008). The conflict was over the MAS-led coalition's key political project: calling for a CA to write a new constitution that would transform the country into a plurinational state that is more participatory and inclusionary. In response, the Half Moon departments declared themselves autonomous from the central government.

From a legitimacy crisis to a regime crisis

The fight for popular legitimacy led to a succession of electoral contests between 2006 and 2008 that polarized the electorate at the national and

subnational levels. In 2006, the CA was installed but soon found itself in a gridlock between the majority (MAS) and opposition *Poder Democrático y Social* (PODEMOS) and other minor organizations from the Half Moon over issues such as the power struggle between the CA and MAS and the size of the majority needed to approve the new constitution.

From ballots to bullets

The new draft constitution lacked legitimacy because it was only approved by the MAS majority. To break the ensuing gridlock that this caused, President Morales and the congressional opposition agreed to hold a referendum on his presidency and the prefects. The recall referendum delivered a 64 per cent victory to Morales, who used the favourable recall results to call for a national referendum on the 2007 draft constitution by decree.^{viii}

In response, the opposition launched hunger strikes and road blockades in various parts of the country to force Morales to incorporate aspects of the autonomy of the Half Moon departments into the new constitution. Soon, a regional airport and government offices were taken over, and a gas pipeline was blown up (Romero, Böhrst and Peñaranda 2009; Bonifaz 2011; Rodríguez Ostris 2012). In the department of Pando, what began as a march of villagers to the capital city to protest escalated into taking public officials hostage and villagers being shot and killed; several hundred villagers escaped into Brazil. The government declared a state of siege in Pando and its prefect was imprisoned.

The role of international organizations

From constitution building to mediation

Most observers^{ix} agree that an emergency meeting of UNASUR at the peak of the crisis in Pando prevented further violence from taking place.^x The UNASUR initiative had followed the OAS mission of April 2008. The OAS role in accompanying the Bolivian democratic process since 2006 has been twofold. On the one hand, the OAS has carried out regular electoral observation missions since Morales' election as president in 2006. On the other hand, after the CA entered a stalemate in early 2008, OAS Secretary of Political Affairs Dante Caputto was given the mandate to mediate between the government and the opposition in the legislature and the prefects.^{xi}

The OAS issued a declaration supporting the democratic process in Bolivia and called for a dialogue under the principles of democracy and the rule

of law between the government and the opposition in an attempt to move the government closer to the possibility of accepting an international mediation. The regional and congressional opposition rebuffed the OAS' intermediary role on the grounds that it was biased toward the Morales Administration.^{xiii} Nevertheless, the prefects tried to level the playing field by bringing the Catholic Church into the mediation efforts. Later, confronted with the need for an international platform on which to communicate their demands, the opposition^{xiii} reluctantly accepted the role of the OAS.

The OAS used a triangulation mediation strategy. Caputto would approach the parties separately, communicating the demands and perceptions of the other side to them. Between March and April 2008, the OAS made three visits to Bolivia. At the beginning, the positions were highly polarized, and each side's perception of what the conflict was about was also very different. According to Morales and his government, the conflict revolved around the fact that they were the legitimate representatives of the people, and that the people gave them the mandate to realize the vision of a plurinational state. The opposition, in turn, tried to block this project because, according to Morales, they were oligarchic minorities. The opposition maintained that they were not separatists, and that the conflict was based on the fact that Half Moon departments had been historically abandoned by the Bolivian state.^{xiv}

After the surprising request for the presidential and prefectural recalls, the role of the OAS returned to the electoral sphere. Although it was unclear what criteria should be used to interpret the referendum results,^{xv} the OAS agreed to carry on with its electoral observation. Notwithstanding the legal vacuum within which the process took place, the electorate was very clear in attributing electoral legitimacy to both parties. Moreover, the popular vote clearly mirrored the political loyalties of the contending parties. Morales felt that he was the only legitimate force at the national level. For their part, the opposition-controlled Half Moon prefects firmly believed they were the legitimate forces within their respective jurisdictions.

The OAS ended up out of place, especially because the opposition believed that the electoral process was not entirely transparent. With a weakened OAS, the UNASUR stepped in after the violence erupted. A communiqué, read by the UNASUR pro tempore chair, President Michelle Bachelet, included language of strong support to the Bolivian government: 'the [UNASUR] governments emphatically reject and will not recognize any situation that attempts a civil coup or ruptures the established institutional order, and that compromises the territorial unity of Bolivia'.^{xvi} The meeting and communiqué are generally regarded as the initiative of the Brazilian government, through both a special

advisor to President Lula da Silva and his minister of foreign affairs. According to a former ambassador of Bolivia to Brazil, Gustavo Fernandez, Brazil was keen to bridge the divide that surrounded the communiqué (Bonifaz Moreno 2011).^{xvii} Zuvietta also corroborated this version. The ideological divide in place in the Americas at that moment, between the so-called two lefts and those in line with the so-called Washington Consensus agenda, was replicated within the UNASUR meeting. At one extreme, Venezuela advocated strong government action against the prefects: judicial prosecution. At the other extreme, Peru and Colombia were highly sceptical of the Venezuelan position. Chile and Brazil occupied the middle ground. However, the Brazilian position was key in bridging the divide by conditioning its presence at the meeting on a final draft of the communiqué that would allow for a negotiated solution.^{xviii}

The immediate effect of the UNASUR declaration muted the territorial opposition and placed President Morales in a strong position to proceed with the capture and imprisonment of Leopoldo Fernandez and to call for talks with the opposition over the next few days. UNASUR also agreed to send a fact-finding mission to Bolivia and provide mediation/negotiation assistance to jump-start talks with the opposition. They named Juan Gabriel Valdez as the key figure in charge of the mediation efforts. He, in turn, put Rodolf Mattarollo in charge of issuing a report on the violence in Pando. However, important shortcomings within the report^{xix} called the UNASUR mission's credibility into question.

Over the following days, both the UN resident coordinator in Bolivia and the EU chair in Bolivia sent messages urging a cessation of violence and offering technical assistance to both sides of the conflict. Their roles, while less prominent than that of UNASUR, would eventually be very important during the Cochabamba talks that ensued on 18 September. According to Carlos Böhr, one of the key leaders of PODEMOS in Parliament and an important part of the negotiations, the role of UN representative Yoriko Yasukawa and her technical team was very important in the negotiations that followed the violence in Pando.^{xx}

From the streets to the negotiation table: the Cochabamba Dialogue

The first meetings after the violent confrontations were held in the city of Cochabamba from 18 September to 5 October. They were intended as a national dialogue between the Morales Administration and the regional opposition, led by the prefect of Tarija, Mario Cossio.^{xxi} The UN, OAS,

UNASUR and the EU sent observers to the meeting, as did leaders of the Catholic and Evangelical churches and the four main political parties in Congress. The negotiations were held back, on the opposition side, by a lack of compromise on the majority test of the draft constitution and a pending regional demand to reinstate hydrocarbon revenues in a manner that favoured the departments. One important element in the failure of the Cochabamba agreement relates to the fact that despite the flexibility of the prefect of Santa Cruz, the civic committees that served as their support base adopted such a radical position that the prefects could not sign the final draft of the document. The negotiations were held back on the government side by a lack of compromise on including more than cosmetic changes to the draft constitution and not addressing some of the underlying tensions on autonomies and re-election.^{xxii} Furthermore, there were some radical positions within the government, as well as those of the former ambassador to the UN, Pablo Solon, and Juan Ramon Quintana, who strongly opposed opposition prefects returning to their regions to get feedback from their constituents.^{xxiii}

The meetings, however, set the stage for future talks between the government and opposition in congress. On 26 September, in a move that was perceived as undermining the negotiation process in Cochabamba, President Morales decreed a unilateral call for a constitutional referendum. UN and EU observers played a key role in keeping the players at the table in Cochabamba and advancing a more detailed set of procedural talks that would eventually take shape in October. Böhrts^{xxiv} recounted that the OAS, EU and UN, at moments of gridlock, pressured the opposing parties to remain engaged at the negotiation table. Furthermore, the Electoral Court eventually observed the legality of the referendum decree and effectively returned the contenders to the negotiation table.^{xxv}

From the negotiation to the parliament, again...

The talks moved from open-door meetings in Cochabamba to closed-door meetings in La Paz, between leaders of the congressional majority (Carlos Romero of the MAS) and minority (Carlos Böhrts of PODEMOS). The regional opposition had effectively marginalized itself from the talks in Cochabamba and ruled out further compromise with the government. The talks between Böhrts and Romero had started months earlier.^{xxvi} Zubieta has acknowledged the importance of a series of documents that the Friedrich-Ebert-Stiftung (FES), in coordination with the Bolivian Foundation for Multiparty Democracy, published throughout 2008. The importance of these documents is based on the fact that Romero and Böhrts worked, sometimes

close together, during the political, legal and technical windows of opportunity to bridge the differences between the 2008 constitution draft and the four departmental statutes.^{xxvii} The final agreement modified 144 articles of the 411-article constitution, one-third of which included substantial changes to the original text. Such an amount of work could not have been done in such a short period of time without having these documents as a basis.

Three issues sealed the compromise agreement. First, the government agreed to seek a single re-election period for President Morales under the new constitution, thus forfeiting the possibility of serial re-election or at least two consecutive re-elections.^{xxviii} Second, the opposition agreed to scale down its demands in the autonomy chapter of the constitution and push substantive disagreements to a future law on decentralization, to be negotiated by a new Congress. Third, both sides agreed to a common electoral roadmap, which would involve the ratification of the new constitution in the following months and general elections the following year. The OAS carried out electoral observation missions in the 2009 constitutional referendum, in which the modified constitutional draft was approved by more than 60 per cent of the electorate, and the elections of 2009, in which Evo Morales was ratified by a landslide majority of 64 per cent of the votes.

However, despite the fact that a nationwide majority approved the constitutional draft, the majority of the citizenry of the Half Moon rejected it, which suggests that the structural east-west divide that was deepened in the 2000–08 state crisis may have not been overcome.

Conclusions

The Bolivian case demonstrates the limitations of the democracy promotion regime in the Americas. The weaknesses associated with the IADC from its inception became clear during the polarized process of constitution building in the country. This paper argues that the conceptual underpinnings of the IADC, through its emphasis on the principles of representative democracy, were inappropriate for a state attempting to reshape its political regime by introducing participatory and more direct forms of democracy. The OAS' inability to intervene from the outset, and UNASUR's subsequent success in mediating between opposing political groups in Bolivia, revealed the bifurcation of regionalism in the Americas.

The emergence of new actors, such as social movements advocating more participatory forms of democracy, and the parallel emergence of subnational powers demanding the devolution of legitimacy and responsibilities to their

territories, raise questions about the comprehensiveness of the IADC as an instrument of democracy promotion in the Americas.

The case of the prolonged political crisis in Bolivia reflected the changing domestic and regional environment for democracy promotion in the Americas. The unravelling of its pacted democracy in the early 2000s exposed the limitations of an elitist and purely procedural democratic regime. Morales benefited from this widespread political discontent through a solid electoral majority in the 2005 presidential polls, a feat unseen in Bolivian political history. Treading the same path as Hugo Chávez in Venezuela, his government embarked on a radical political transformation process, starting with a constitutional overhaul. Apart from recreating the state to have a 'plurinational' character, Morales used his popularity to impose his agenda on the CA, the elected body mandated to change the Bolivian constitution. The MAS-led government hoped to introduce more participatory and socialist principles into their democratic regime, a move considered dangerous and highly suspect by the traditional opposition and moderate forces in the country.

Bolivia's CA process provided a window of opportunity for the OAS to carry out its responsibilities to promote democracy in the hemisphere. However, norms related to executive sovereignty and non-intervention continued to define how member states such as Bolivia engaged the OAS, which hindered its ability to influence the process. Its perceived reputation within the Morales Government as a US-dominated institution also did not help the OAS' cause. One of the reasons he became president was his fiery rhetoric against US imperialism and foreign intervention, which struck a sensitive and painful chord among ordinary Bolivians. Finally, the OAS democratic solidarity paradigm is mainly grounded on the model of representative democracy, a vision that Morales and the MAS advocated replacing with a more direct and participatory version. In the end, the usual repertoire of OAS interventions did not fit Bolivia's needs or demands. Neither the government nor the opposition found the oldest regional organization to be a viable mediator capable of producing credible commitments between the contending political forces in Bolivia.

The OAS saw the conceptual limits of the IADC throughout its intervention in Bolivia, when it was embroiled in a conflict that symbolized the gap between legality and legitimacy in the country. In an effort to stop the violence, the OAS privileged an electoral view of democracy over the principle of the rule of law. For example, it recognized the illegal but legitimate departmental statutes as valid demands. Something similar happened with the constitutional project

of the MAS, the legality of which was also dubious. Finally, the OAS carried out an electoral observation of the recall referendums that became a struggle over legitimacy, taking place in a legal vacuum with no legal background for any third party to assess the results. The outcome was that both sides, empowered by popular support from their respective constituencies, used legitimacy as a vehicle for violence. Yet this was not simply a failure of the OAS as an organization or of the IADC as a legal instrument for the collective defence of democracy in the region; it was the by-product of the unresolved dilemmas regarding the conceptualization of democracy under the changing conditions of the 21st century.

UNASUR's role was no better in this regard. After all, its communiqué endorsed the Morales Government and labelled the instability perpetrated by opposition forces as attempts to carry out a civic *coup d'état*. However, it is unclear whether this concept constitutes a violation of a shared understanding of what constitutes a democratic regime in the region. If we would have to acknowledge the existence of such a thing as a civic *coup d'état*, then the Morales presidency could be depicted, at least, as indirectly benefiting from an undemocratic precedent—namely the forced resignations of his predecessors Sánchez de Lozada and Mesa.^{xxix} In the end, UNASUR's intervention proved highly volatile and susceptible to a complex ideological and geopolitical map. The volatility of its intervention is demonstrated by the fact that the UNASUR was very important in the Cochabamba dialogues, but almost absent from the debates in Congress. In this regard, the institutional capacity and density of the OAS proved more stable and helpful in carrying out the mediation in the long run, despite being perceived by the Morales Government as less objective than UNASUR.

In any case, the efforts of the OAS, UNASUR, UN, EU and some international NGOs (e.g. FES, the Bolivian Foundation for Multi-Party Democracy) proved complementary in their attempts to help overcome the deep crisis faced by Bolivian democracy. Overall, the intervention of these organizations proved effective in preventing further escalation of the violence. The gaps and mistakes in this regard, as mentioned above, are related to the fact that there was no shared understanding of the idea of democracy embedded in an instrument of international law. The only instrument available, the IADC, seems insufficient (though still highly necessary) to face the challenges raised by the growing gap between a procedural-legalistic and a substantive-popular understanding of democracy.

Policy recommendations

These conclusions lead to a recommendation to rethink—and possibly expand—the conceptual underpinnings of democracy and the international instruments (such as the IADC) aimed at promoting and strengthening it.

- *The existing OAS principles of democracy need to be redefined.* The process should be inclusive, carried out through regional deliberation in which other regional bodies, civil society and grass-roots organizations, and the subnational territorial levels of states embark in serious debate with the hitherto monopolizers of international law (national governments, particularly the executive branches of government). The outcome should be an enhanced and broadened covenant on democracy, which is embedded in a new instrument of international law that is able to absorb the emerging political actors and practices of democracy.
- *The collective defence of the democracy clause within OAS documents needs to be assessed and modified.* The results of the abovementioned deliberation could inform the OAS and other regional organizations on the new scenarios and challenges in which the international community should be called on to intervene in the event of a potential backlash against democracy. Nevertheless, since the international community is still a monopoly of the governments of member states, the prospects of such a debate taking place in the first place are unclear.
- *The IADC should be systematically reviewed.* A concrete step should be a serious assessment of its effectiveness in the overall democracy defence and promotion regime in the Americas. As it has been invoked a few times, it is time to take stock and identify its ambiguous parts. If regionalism in the hemisphere is to lead to more rules-based regimes, this review is essential and a periodic evaluation in the future is encouraged.
- *An intergovernmental organization dialogue between the OAS and UNASUR should be encouraged.* Dialogue between at least these two regional organizations is necessary in the future; the involvement of other organizations such as CELAC is also encouraged. The OAS and UNASUR share the goal of collectively defending and promoting democracy, but they should not view themselves as competitors. Such an adversarial disposition did not help Bolivia's cause. A serious conversation about how democracy could be strengthened and improved among its member states is a first step toward building confidence and trust.
- *There should be more participation of international NGOs and other non-state actors in determining measures to promote democracy in the Americas.* In a world of sceptics, confidence and trust is in short supply. Yet other external actors could act as dialogue partners between regional organizations.

Institutions such as International IDEA, whose scope of operation is global, could perform such a role; support from other organizations (e.g., UNDP, Carter Center) could be explored. If successful, such an inter-regional dialogue could explore the opportunities of what is possible and desirable for the promotion of democracy in the Americas.



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Notes



- ⁱ Popular mobilizations forced then-President Gonzalo Sánchez de Lozada to resign in 2003 and his successor, Carlos Mesa, in 2005.
- ⁱⁱ Resolution 1080 instructs the secretary-general to convene the Permanent Council and hold an ad hoc meeting of the ministers of foreign affairs and/or a special session of the General Assembly within ten days after the crisis.
- ⁱⁱⁱ The IADC was adopted as a resolution by the OAS General Assembly and is not a legally binding international treaty that member states needed to ratify.
- ^{iv} For an analysis of OAS electoral observation missions, see Muñoz-Pogossian (2012) and Mellenkamp and Gutiérrez (2012).
- ^v The United States tried to propose this in the OAS General Assembly in 2005 but only got the support of two members. The Florida Declaration mandated the OAS to report its democracy promotion activities, but not to generate an assessment of the quality of democracy of its member states (Hawkins 2008, p. 398).
- ^{vi} For a discussion of the rise of the left in Latin America, see Cameron and Hershberg 2010; Castañeda 2006; Weyland, Madrid and Hunter 2010.
- ^{vii} See Crabtree and Whitehead (2008) for a historical overview of the significance of the Morales transition.
- ^{viii} See TSE and UNDP 2013.
- ^{ix} See Romero, Böhrst and Peñaranda 2009; Bonifaz Moreno 2011 for further discussion.
- ^x See Romero, Böhrst and Peñaranda 2009.
- ^{xi} The authors interviewed Rodrigo Zubieta, one of the key advisors of Dante Caputto.
- ^{xii} See ICG 2008.
- ^{xiii} Interview with Rodrigo Zubieta, 17 September 2013.
- ^{xiv} Interview with Rodrigo Zubieta.
- ^{xv} This is notwithstanding the fact that the national and local recall referendums were implemented without legislative approval, as is required in the constitution.
- ^{xvi} See UNASUR 2009.
- ^{xvii} Interview with Gustavo Fernandez, former Bolivian Ministry of Foreign Affairs and specialist in Bolivia-Brazil relations.
- ^{xviii} Interviews with Fernandez and Zubieta.
- ^{xix} The report had an incorrect figure regarding the number of casualties. Days later, people who were counted as dead (Nelson da Silva, Luis Eduardo Zavala and Vicente Rocha Suarez) appeared on the media to prove they were alive.
- ^{xx} Interview with Carlos Böhrst Irahola. See Bonifaz Moreno 2011.

- ^{xxi} Mario Cossio is currently accused of corruption charges by the Morales administration, and was granted political asylum by the Paraguayan Government in January 2011.
- ^{xxii} See ICG 2008.
- ^{xxiii} Interview with Rodrigo Zubieta.
- ^{xxiv} Böhrst was a key figure in the negotiations between the Morales Government and the opposition in Parliament led by PODEMOS.
- ^{xxv} Romero, Böhrst and Peñaranda 2009. The then-president of the Electoral Court faced such great pressure, especially from the government, that he resigned shortly after these negotiations.
- ^{xxvi} See Romero, Böhrst and Peñaranda 2009.
- ^{xxvii} Interviews with Zubieta, Böhrst and Carlos Toranzo (from the FES). See Bonifaz Moreno 2011.
- ^{xxviii} As is now known, Evo Morales will run for a new period in office, made possible by an interpretation of the constitution by the favourable new Constitutional Court. The secretary general of the OAS has made a series of declarations pointing out that non-consecutive re-election was a key issue in the negotiations in parliament in October 2008. The Bolivian Government has rejected those opinions.
- ^{xxix} For a discussion of civil society coups and other protest-induced political crises, see Arugay 2012.