

**The Role of Parliaments in Crisis Prevention and Recovery:
Latin American Component**

CASE STUDY: BOLIVIA

“ROLE OF THE LEGISLATURE IN SOCIAL CONFLICTS”

By Arthur Sist

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INTRODUCTION

i. Purpose

The purpose of this case study is to evaluate the appropriateness of international assistance in its efforts to strengthen the Bolivian congress and its effect on the legislature's role in preventing and resolving social conflict. To accomplish this objective, this study will provide:

1. a brief description of the changing nature of conflict in Bolivia's recent history,
2. an analysis of the important role of the congress in resolving the institutional crisis of President Sanchez de Lozada's ouster resulting from the insurreccional "gas war" of October 2003
3. a consideration of both the positive and negative actions of the congress in confronting the continual social and political crises which ultimately brought down the government of President Carlos D. Mesa in June of 2005
4. an analysis of the conditions necessary for the congress to function as an effective instrument for the prevention and resolution of social conflict in Bolivia
5. an evaluation of international assistance to the congress in the light of these conditions and recommendations for further international support.

ii: The Bolivian Political System

In the past decade and a half, Bolivia reformed both its political party law and its electoral system in attempts to respond to popular criticisms that neither the parties nor the congress were sufficiently representative democratic institutions. The party law, among other reforms, introduced rules to increase transparency and assure internal democratic procedures through party elections. The electoral system was changed in the constitutional reform of 1995 from a proportional (list) system to a mixed proportional/majoritarian system. According to this reformed system in place since the elections of 1997, half of the members called "uninominals" are elected in uninominal districts in "first past the post" elections, while the other half, the "plurinominals", are elected according to the former system of closed and blocked party lists, the number of deputies elected corresponding to the proportion of votes received by the party/presidential candidate. The objective of this reform, as in every mixed system, was to increase representativity by establishing a one-to-one correspondence between electors and uninominal deputy, while simultaneously maintaining party discipline by the plurinominals within the congress. There are 68 uninominal and 62 plurinominal deputies in the present congress. Regional balance is achieved through the bicameral nature of the legislature, where the senate consists of 3 senators elected from each of the nine departments.

The Bolivian constitution grants several attributes to the congress to control the President of the Republic, such as budget approval and oversight/investigative functions, but in practice, an extreme form of presidentialism has prevailed since 1985 with a predominance of the President over the legislature. The Executive branch by and large has determined the legislative agendas and initiated most important proposals. As we shall see, this situation changed radically after October of 2003.

I. THE CHANGING FACE OF CONFLICT AND ITS RESOLUTION: 1982-2005

In 1982 Bolivia initiated a period of uninterrupted democratic government that lasted for 23 years (1) until a series of violent popular protests in October of 2003 culminating in the insurrection led by the inhabitants of the city of El Alto toppled the center-right government of President Sanchez de Lozada. During this democratic period, political power in Bolivia was transferred peacefully through free and fair elections on five occasions to the political opposition, an amazing feat for a country notorious for its extreme instability and whose number of coups d'etat had outnumbered its years of independent existence.(2) There were basically five essential reasons which accounted for this stability:

- a. The discrediting of the military. The last military government of Gen. Garcia Meza (1980-82) became an international pariah because of its narco trafficking and shamed the armed forces.
- b. The weakening of the left. During the government of Siles Zuazo, 1982-85, public opinion turned against leftist leaders whose radical and unreasonable demands forced the resignation of this popular center-left president. In the following government of Paz Estensorro, the scrapping of the leftist economic model the adoption of a neo-liberal economic policy and widespread privatization, especially in the mining sector, decimated the labor movement and neutralized the leadership of the formerly powerful Central Labor Union (COB).
- c. An electoral system favoring stability. A candidate receiving less than 50% of the national vote is elected by the congress by majority vote, thus insuring a strong presidency ("*presidencialismo extremo*") and a majority rubber-stamp legislature through agreements or "pacts" between the President and the parties who elect him/her in the congress.
- d. Strong political parties. Forceful leadership and cohesiveness characterized the four to five major political parties, all but one of which (CONDEPA, altiplano based) with national scope.
- e. An opposition in its infancy. Traditionally margined groups including peasants, indigenous peoples and the landless were only beginning to organize and could offer no definitive threat to stability.

It was not easy to maintain this political stability during this period, which by no means rested upon a contented and peaceful population. Social conflict was continually fierce, and gradually became much more difficult to resolve as the factors favoring stability deteriorated and new social actors emerged. As workers and miners lost their jobs because of privatization in the mid-80s, many migrated to the coca growing areas of Chapare in the department of Cochabamba and a new class of social activists, the **coca leaf producers** (*cocaleros*) and their militant leaders, replaced the traditional workers as the major protagonists of social unrest. Counting on their long tradition of social organization and mobilization, these ex-miners formed close-knit unions and a powerful federation. The coca growers thus emerged as the most militant of the social protest groups, often provoking violent and armed confrontations. Then in the decade of the 90s, the **indigenous peoples** and ethnic aymaras and quechuas began to voice their rejection of their burden of poverty, discrimination and marginalization and the indigenous groups from the eastern lowlands organized massive protest marches to La Paz. Added to these were the **landless peasants** from all parts of the country who became fed up with government incapacity and/or bad will in implementing the land reform measures mandated by law and began to promote land takeovers. The previously harmless **neighborhood juntas** found new strength as they realized that their strategic geographic position in the city of El Alto allowed them to paralyze the government with just a few thousand or even hundred protesters. Finally, during the post-2003 crisis the weakness and ineffectiveness of the government of President Mesa allowed the **Citizens' Committees** to become strategic actors. These citizens' committees are ostensibly composed of all the organized civic groups within a city, and in some cases surrounding rural areas, but in practice are dominated by the business, banking and industrial classes. Their original purpose was to lobby for a greater share of departmental resources and their power differs from department to department. The stronger committees have expanded their role to demand changes in legislation and during the Presidency of Carlos Mesa the committees of Santa Cruz and Tarija grew strong enough to exert a national influence.

Meanwhile, other important factors favoring stability were suffering a disastrous loss of credibility. The major problem was the deterioration of the political parties, which became increasingly sectarian, promoting the personal and party interests of the professional politicians within their ranks. Among the reasons for this deterioration were the lack of internal democracy allowing party leaders to stay on as antiquated and self-serving "caudillos", monopoly control by parties of the electoral system which discouraged transparency and accountability to the electorate (see below, p.6) and, very importantly, the "pact" system of electing the President by the congress, which delivered to all parties within the majority coalition the spoils of power, the latter becoming the primary *raison d'être* of the parties. Consequently, the nature of the party was transformed from a group with a program to represent the needs of society into a machine created strictly for the purpose of winning elections. As a result, that former pillar of stability, the electoral system with its famous "*democracia pactada*", became basically an

instrument to secure lucrative government posts through pacted quotas, and the congress was content to cede all initiative and power to the executive branch. Finally, the neoliberal economic model that had displaced leftist ideology was discredited as unemployment and recession worsened and the gap between the poor and middle/upper classes increased.

During this period, whenever conflict would break out, resolution was left to the executive branch to negotiate a solution. If negotiations failed, as they often did, the government typically responded to the protests from different social groups by decreeing a state of siege with violently repressive measures. While all social protest groups were victims of this government policy, it was the “cocaleros” who bore the brunt of the violence as the armed forces or special narcotic police engaged in armed conflict with the producers. (3) From the mid-80s to the present, hundreds of coca growers and dozens of government forces died in violent confrontations. To prevent conflict with the landless, it was the executive branch again which acted, usually by making promises of reform it knew it could not keep, and then responding to the inevitable land invasions by violently ejecting the intruders from the large land owners’ estates and other private properties. In like manner, the government responded with false promises to the long lists of demands from the peasants and indigenous peoples. To the conflicts in the form of road blockages and sieges of urban areas that ensued, the government employed a variety of measures, including new promises, subornation of leaders, and selective repression.

On the frequent occasions when the conflict and violence in all of these sectors escalated to the point of threatening the stability of the government, it was the independent actors who intervened to save the day. The “People’s Defender”, (*Defensor del Pueblo*), the Permanent Assembly of Human Rights, and in many instances the hierarchy of the Catholic Church repeatedly played vital roles in either preventing conflict or mediating solutions between the government and the conflictual groups. (4)

II. CONGRESS AND THE CRISIS OF THE BOLIVIAN POLITICAL SYSTEM OF OCTOBER 2003

In preventing or resolving conflicts, the legislature was by and large passive. In one or two instances, a particular representative or chairperson of a relevant committee would actively participate in promoting a solution but this was strictly because of the personal initiative of the individual congress person, and in no way looked upon as an activity or function of the institution of the congress. (5) The proper instruments to resolve conflict was taken for granted to be the executive branch if violence was needed to restore order, or the independent actors and groups within civil society if mediation were a possibility.

In February of 2003 a serious incident occurred threatening the stability of the government. Conflict broke out between the forces of order, as the police rejected a presidential decree raising taxes. President Sanchez called out the army, and a pitched battle between the police and the military ensued resulting in 25 deaths and hundreds of injured during the 48 hours the conflict lasted. Obviously, the government could not resort to its usual recourse of declaring a state of siege, since it was the very security forces that had manifested disobedience. Instead, the President hoped to manage the situation by reorganizing the security forces and by offering government posts to the major opposition party, the NFR, which accepted the offer, thereby creating a super majority in the congress. But the President, the political parties and the congress underestimated the extent and intensity of the popular discontent which lay at the root of the police revolt and concentrated only on the immediate problems of the security forces and of assuring control within the congress, while doing nothing to address the underlying economic and social causes of the escalating anger and despair of the population.

Popular discontent reached its climax in late 2003. The peasants organized a series of mobilizations, culminating in a violent confrontation and death of several peasants in the historic site of Warisata. The final blow to the government came in October when residents of the city of El Alto blockaded the city of La Paz producing gas and food shortages. The protest now centered on the demand to recuperate Bolivia's huge gas reserves from the transnational companies by means of a national referendum and a new hydrocarbon law, as well as the demand for a new, more participatory Constitution. In response, President Sanchez called out the troops and the wanton violence that the armed forces inflicted on the protesters alienated the entire population of La Paz. President Sanchez was forced to offer his resignation and flee Bolivia.

The entire country was unsure of what would happen next. It was by no means certain that the congress, with its many Sanchez loyalists, would accept the President's resignation to enable a constitutional succession. The majority of the members, however, clearly saw that after the "massacre of the gas war", it would be impossible for Sanchez to continue as President. Therefore in a plenary session under the skillful leadership of the president of the Senate and nationally televised, despite occasional emotional outbursts from Sanchez supporters, the congress proceeded in smooth and professional fashion to approve the resignation and install vice president Mesa as constitutional President of the republic. A sense of calm and security was restored to the country, and overnight the population saw that the congress could be a useful and perhaps necessary instrument to restore peace and ensure the stability of the democratic system.

Among the many factors involved in producing this unusually smooth and rapid resolution of this crisis, several stand out:

- The conviction by many of President Sanchez's supporters that after the massacre his government had become unviable
- The opportunity afforded to the opposition to gain support both from the moderate and from the more confrontational groups in the populace by facilitating a solution that was simultaneously constitutional and that responded to a popular demand
- By far more important factors were the pressure of civil society and the threat of further and more extensive violence. After the massacre, the clamor to oust President Sanchez had spread to the middle classes, especially in the relatively rich neighborhoods of the south of the city of La Paz. We will see time and again in our analysis that it often takes strong pressure, and unfortunately too often, extreme and violent protest from the society to produce results in the congress.

Besides a modest step forward in prestige, there were other changes in the congress that resulted from the ouster of President Sanchez. First, President Mesa solemnly promised not to use repression or violence to confront social conflict. Whether or not this caused an increase in the number and character of social protests is debatable, but it did place an **increased responsibility** on parliament to produce appropriate and timely legislation. Second, the congress immediately gained a new found **independence**, as President Mesa, a former journalist and political independent, declared that he would govern on the basis of the great popular support he enjoyed without the inclusion of any political party in his cabinet. There would therefore be no "pacts", official party or quotas doled out to supporters.

But with independence came confusion within the congress. The clear message of the populace was the rejection of the traditional political parties (being relatively new, the leftist "cocalero" party of Evo Morales was the exception.) The discrediting of the parties introduced an element of chaos into the congress as many members questioned their party leaders and party discipline within the legislature was called into question. As a result, many members of the congress became confused as to what criteria they should use to make decisions. Should they continue to follow a "party line"? Should they regroup into a new division between official supporters of the new President ("*oficialistas*") and opposition? Should they reject this traditional dichotomy and go with their personal convictions on a case-by-case basis? The congress thus split into a number of groups, including the "**transversals**" who decided to stay in their different parties but to make political decisions based not on party positions but on what they perceived to be the merits of any particular issue; the "**organics**", whose goal was to recuperate the lost power of their parties; the **indigenous radicals** who promoted the creation of independent ethnic nations; and finally, the **MAS party** of Evo Morales, the second largest party with its core constituency coming from the coca growers but with a very diverse membership from moderate peasants and leftists to radical nationalists, and with the greatest discipline in support of democracy to the extent that it would favor their drive for power.

This weakening of the political parties was a major factor in the resulting ungovernability of the country that gradually reached such intensity that it ultimately led to the resignation of President Mesa. In the past, governability was achieved through pacts between the President and the parties. The latter, having a monopoly in regard to the presentation of candidates for election, could exercise discipline over their members within the legislature. But the congress would introduce in February of 2004 a reform of the electoral law that had been drafted during the government of President Quiroga in 2002. In this reform, the parties lost their monopoly over the presentation of candidates in elections, and citizens' groups and indigenous communities also received the right to field their own independent candidates. With this reform, the parties and/or their leaders could be widely questioned and in some instances repudiated by their own members within congress without fear of losing their political careers since they now no longer needed their party's approval should they wish to run for office in the future. Thus without party discipline and with no majority commitment to a presidential or party program or proposal, coming to a majority decision has become a much slower and more difficult process.

The congress has not yet come up with a viable replacement for the loss of the old system of decision-making and governability within the legislature. The guidelines that members of congress are increasingly adopting are less national concerns and more and more regional interests as defined by departmental or local Citizens' Committees. Members now tend to channel constituent demands and to group together not in the parliamentary party caucuses, but in the multi-party, bi-cameral Departmental Brigades, a situation that favors divisiveness over unity. (see below, p. 10)

Attempts to reinvigorate or reform political parties in Bolivia have yielded scant results. The problems are cultural and ideological more than technical. Parties have historically been used by the professional politicians who lead them and by the interests they represent as vehicles to accomplish personal agendas that sometimes conflict with and negate national goals. They are usually dominated by caudillo leaders who eschew internal debate and democracy and there are no emerging charismatic leaders on the horizon. (9) Furthermore, all parties are now traveling through an ideological wasteland. They have proposed no strategic vision or national project which can unite a diversity of interests and classes, beyond a few generalities such as the shift from a pure neoliberal model to a mixed public/private partnership in the economy.

Strong political parties have always been an important factor in the governability of Bolivia during its stable democratic period from 1985 to the present. There is no easy solution to the present situation, but one thing that may help is a change in the electoral system and form of government. Perhaps what Bolivia needs is to eliminate the division of powers, subject the executive to the legislative branch through the adoption of a pure parliamentarianism, suffering a revolving door

prime ministership as the lesser of many evils. Or perhaps the opposite is true, and it would be preferable to create an unequivocally strong president through an instant run-off or ballotage system and the shifting of more budget and legislative capacity to the executive, relying on popular protests to discourage despotism. There is even talk of returning to a non-elective soviet type corporative deliberative body such as was the ill-fated “popular Assembly” of 1971. The outcome of these solutions will be uncertain, but what is unconscionable is that these issues are not being raised and much less being discussed and analyzed.

III. THE CONGRESS AND CONFLICT FROM 2003 TO JUNE 2005.

3.1. Congress and the Partial Reform of the Constitution

In response to an insurgent population, the congress had thus preserved the institutionality of the democratic system through a merely formal, though important, compliance with constitutional norms, but without any role or attempt to mediate the conflicting sectors with the former government. The congress now faced the daunting task to prevent further conflict by translating the demands of the protesters concerning the fate of the gas reserves and concerning the constitutional assembly, into law. There was no provision in the Constitution for holding referendums or for convoking a constituent assembly with powers to write a completely new constitution. Thus the demands of the October insurrections required reforms that would provide them with a basis in the Constitution itself basis, and as the congress hesitated to act, the populace again became angry, with some radicals threatening to invade the congress, to shut it down or to destroy it. So, under great pressure from the populace, the congress proceeded to partially reform the existing constitution to include new forms of participatory democracy, through articles stating that citizens governed not only through their representatives, as the former constitution had stipulated, but also through participatory mechanisms such as the constitutional assembly, referendums, and through the initiation of laws that they could introduce into the legislature. In another important reform, the congress eliminated the monopoly of the political parties, allowing citizens groups and indigenous communities to present candidates for local and national elections. These reforms were passed in February of 2004.

Goaded by enormous public pressure, congress thus responded quickly and well, displaying exceptional efficiency and unity in making the constitutional reforms necessary to legalize the future Constitutional Assembly, thus preventing for a time further protest and social unrest regarding these issues. The Referendum on a new hydrocarbon law was held with great success in July of 2004. Unfortunately however, the questions posed in the Referendum were vague and allowed different interpretations which led to further social protests and to serious conflict between the executive and legislative branches. And after this

first very successful step in providing the reform necessary to hold a constituent assembly, the congress failed to pass the law to convoke the assembly. (see below, pp. 12-13) This irresponsibility of congress was and continues at this point in time (mid June) to be a major source of serious social protest, which, sad to say, ultimately forced the resignation of President Mesa on June 7, 2005.

3.2. Congress and the Conflict over the Hydrocarbon Law

President Mesa interpreted the results of the referendum as a plebiscite in support of his person and his government. He therefore felt emboldened to defy the parliament through the appointment of an attorney general and district attorneys that the congress had failed to elect during ten years of partisan infighting. This act of presidential arrogance provoked fierce criticism from the congress, and there now began a period of intense mistrust and conflict between these two branches of government centered basically on the fight over the hydrocarbon bill. First, President Mesa tried to ram through a "general hydrocarbon law" that basically would have given him a blank check to interpret the results of the referendum as he wished, which he had explained to the populace on several occasions before the voting. The congress brusquely rejected the bill proposed by the President and moved to produce a detailed law once and for all. The President now held that the referendum meant that the government of Bolivia would receive 50% of the value of the gas through both royalties (18% of production value) and taxes (32% of profit value.) Not only that, but also more importantly, that the terms of the contracts already signed by the transnationals (mainly the Spanish REPSOL and PETROBRAS, a Brazilian state company) would be respected, and that the new law would apply only to future explorations by these companies. This position was clearly unsustainable, and the President had to accept the legal opinion that all contracts "should migrate" immediately to the terms of the new law. But the President alleged that the word "should" was to be interpreted in the context of a negotiated settlement between the transnationals and the government, whereas the congress insisted that "should" meant "legally obliged", no negotiations necessary, and thank you very much. Furthermore, as the congress began to study the contracts and more importantly the performance of the transnationals they discovered that the latter had hoodwinked the government in numerous ways with regard to taxes. They therefore held that all income from the exploitation of the gas reserves would come through royalties, which were based on production and not on so-called "profits" and could be more easily monitored.

In the light of this major conflict between the executive and legislative branches, it is important to point out the loss of governability that was occurring in the country. Major factors causing this ungovernability included:

- Conflict between the executive and legislative branches. The supporters of former president Sanchez have always regarded

President Mesa as a disloyal traitor and have not wanted to deal with him. But even those willing to give the President a chance became alienated after his attempt to supplant the congress's function to appoint district attorneys and to ram through self-serving legislation on the hydrocarbon law. Further disagreements over the details of this law produced open conflict.

In part, this conflict is the result of President Mesa's conviction that he could govern on the basis of his popularity, which remained relatively high throughout this period, and prescind from the congress. He thus used the legislature as a foil to preserve his popularity, blaming all the ills of his government on an uncooperative congress. He constantly did acknowledge however that without a legislature democracy is impossible. He was thus caught in the contradictory situation of antagonizing the congress to preserve his popularity but of simultaneously depending on the congress to govern.

This situation could have been greatly mitigated by the creation of legislative/executive coordination offices in both institutions. Once the conflict of branches had grown intense in mid-2004, this measure would not have been successful, which indicates the need once again (*see above* p. 7) for a constitutional article on this subject. Also, some experts have suggested the change from a presidential to a parliamentary system, which would automatically eliminate the conflict between the two branches by eliminating the division of powers.

- The discrediting of the political parties (*see above*, pp.6-7)
- The conflict between representativity and governability. [Note: I take "governance" to be a general term that includes many aspects of governing a state, such as transparency, juridical security, appropriate laws and regulations; in contrast, by "governability" I mean that specific ability in a government to make necessary policy decisions in a timely and effective manner.] In 1995 Bolivia changed its electoral system from a strictly proportional (list) to a mixed proportional/ majoritarian system. As explained above in the Introduction, the objective was to create a congress that would maintain a balance between representing the interests of constituents through the single member district uninominal deputies, and that would simultaneously represent party interests through the district-wide plurinominal deputies.

The first experiment with the new electoral system, from 1997 to 2002, was a disappointment as the uninominals performed in much

the same way as the plurinominals and preserved their loyalty to their parties over their constituents. (10). To bolster the representativity of the congress the donor community led by USAID/Bolivia began in 2001 to devote significant resources for technical assistance, training and logistical support to the congress to develop and maintain appropriate rules changes and representational mechanisms. Special attention was devoted to the Departmental Parliamentary Brigades. The Brigades are organic units within the congress that function as caucuses uniting all the legislators within each respective Department. They are thus bi-cameral (both chambers, deputies and senators) and multi-party (all the parties from the respective Department are included). Their purpose is to develop a legislative agenda in favor of Departmental needs and supported by all members who commit to promote this agenda within the congress. Thus because of their bi-cameral and multi-party composition they seemed an apt instrument to effect the desired equilibrium. In less than three years, the majority of the nine Departmental Brigades were transformed from being inoperative units into effective mechanisms for the representation of regional interests. It is indeed ironic that this sterling success story became a negative factor complicating the governability of the country. In the question of autonomy, the Brigades have become spokespersons for regional interests, increasing the polarization between the highland and lowland populations. It is doubtful whether better program planning or design by the international donors could have avoided this unfortunate negative result. The cause rather was an unforeseeable sequence of one extreme event after the other that produced a regionalism much more virulent than was contemplated at the time and that absorbed the principal Brigades that for the first time were truly representing their regions: the largely indigenous western highlands against the oligarchical eastern lowlands.

This tension, exhibited by the Brigades, between national needs and local politics has always been somewhat of a dilemma in democracies with majoritarian electoral systems and Bolivia is no exception. For example, in the USA, should a congressperson from Georgia vote to close a superfluous military base in his state, which would be good for the general budget of the USA, but bad for the economy of his state? The fact is that the congressperson has a dual loyalty: to the general good, and to his or her locality. The present Constitution of Bolivia already implicitly incorporates this dual nature and dual responsibility of simultaneous loyalty to local and national interests of all nationally elected representatives. What is necessary is to explicitly stress and clearly emphasize in the constitution this dual aspect of a national representative's duty. (11) Also helpful would be training in coalition building and negotiation for the deputies and

especially for the congressional leadership. Training in these skills, however, would face formidable cultural obstacles. In Bolivian politics, compromise is looked upon as concession, or worse, capitulation, an unacceptable lack of political *machismo*. And over the years, offers for training in negotiation skills have met with polite indifference by the congressional authorities.

The gridlock between president and congress and the consequent failure to produce urgent legislation, raged for months, giving more radical groups the opportunity to mobilize and advance their own proposals backed by marches and strikes. The workers went beyond the demand for royalties to propose the nationalization of the transnational companies, while some radical groups of peasants went even further to demand confiscation without indemnization. Finally in the month of April 2005, the congress passed a compromise version of the law, accepting a 32% tax income that was in reality a disguised type of royalty income. Delays in approving the law, however, have produced the unfortunate situation that although Bolivia now has a forceful hydrocarbon law, it is by no means certain that the more radical groups will accept it and further social conflict continues. In the face of recent threats by peasants and workers to invade and occupy the congress, the representatives took a week off to visit their home districts, an act of reasonable self-preservation by the members of congress, but viewed by the populace as one more instance of congressional indifference and irresponsibility. Meanwhile the leader of the MAS party, a national deputy himself, has tried to reason with the radical groups without success and had to admit that the masses and some of his social base have gone beyond his control.

3.3. Congress and the Conflict regarding the Constitutional Assembly

Since January of 2004 the congress has been working on the draft of the Law to Convoke the Constitutional Assembly. The issue of who, how many, and how to elect the members of the assembly is highly complex given the regional, ethnic and class polarizations dividing the country. If the vast majority of the populace does not accept this law, the constitutional assembly will be de-legitimized from the outset, leading to an explosive social outburst and the threat of civil war. The different combinations and permutations of the variables have been studied to death, with international consultants from Latin America and Spain pouring into the country to explain their own experiences with framing new constitutions and offering advice. Universities, think tanks, business and civil society groups have proffered their own drafts, simulations have been conducted, and alternatives vetted with the public through citizens' forums and public hearings in all nine Departments. The original date set for elections to the Assembly was June of 2005, with the Assembly to begin its one-year of operation in August of that year. The expectations of the Assembly among popular groups are unrealistically high, as they look to a new and popular constitution as the magic key to solve all their problems. The delay in formulating and passing the law is causing suspicion

among these groups that the Assembly will never take place and the demand for an immediate convocation of the Assembly is behind many of the protests and spurring more unrest.

Despite the public outcry, the chairman of the commission drafting the law has on several occasions complained of absenteeism and the difficulty of getting a quorum in the commission to discuss the draft law. Why the foot dragging? The reasons advanced are many. First and foremost is the fear among many of the members of congress that to be legitimate the law must be popularly accepted, and this will inevitably mean giving the rural sectors majority and corporative representation. The result will be a majority in the Assembly that is partly radical and partly easily moved by extremist slogans issuing in a new constitution which will not be a reform of the state but a revolution, reverting to the state capitalism of yesteryear or even a socialist model. In that context, traditional parties will have no place and the professional politicians who compose them will be left without a voice or vote in the running of the country. Others, particularly the supporters of the former President, are hoping that the Mesa government will fall, leading to a restoration of politics as usual. Operating also is the fact that virtually all the members of congress, radicals, moderates and rightists, are concerned that the Assembly, once installed, will exercise its sovereignty to dissolve the congress, as has been done in various countries which have recently drafted new constitutions (6). No congressperson would like to lose a lucrative job before its scheduled termination in August of 2007. Also a factor is the fear of the oligarchy in the lowlands and their representatives in the congress that a radical assembly will place in jeopardy the land and other riches acquired by them under questionable circumstances during the dictatorship of the '70s. And then there is the most benign interpretation that attributes the delay simply to the complexity of the issue and to the care and concern of the congress to fashion the option that is best for the country. Probably all of these reasons are coming into play.

3.4. The Congress and Conflict over Regional Autonomy

As if these conflicts were not a big enough headache for the country, another serious conflict erupted in January 2005 that threatened not only the stability of the government but also the unity of Bolivia as one nation. The Department of Santa Cruz had for many years advocated a change in the form of the state from a centralized and unitary to a decentralized, autonomous state. (7). Santa Cruz considers itself the economic powerhouse of Bolivia with comparatively large income from its hydrocarbon and agro industries which it is loathe to transfer to the central government to be administered. In January, the leaders of the Citizens' Committee of Santa Cruz converted a massive demonstration protesting the rise in diesel prices into an open town meeting (*"cabildo"*) demanding a referendum on autonomy, involving an elected governor to replace the presidentially appointed prefect, and local control of its resources. Santa Cruz backed up this demand with the collection of 400,000 signatures, more than

enough to satisfy the requirements for holding a referendum, and threatened to organize its own referendum if the congress did not act quickly to approve its demands. These threats were seen by the rest of the country as a maneuver to tie the hands or worse, negate the installation, of the Constitutional Assembly and as a movement toward cessation. It was dubbed the “January Agenda” of Santa Cruz and regarded as the foil to the October Agenda of El Alto. In the face of the social unrest repudiating this agenda, the President exhorted for compromise and national unity to no avail.

At this point, a rare occurrence transpired. The president of the chamber of deputies, seeing that in the last instance it was the responsibility of congress to resolve this issue through the approval of a referendum law, and in the absence of effective leadership from the executive branch, traveled to Santa Cruz with a number of other deputies to negotiate a solution with the Citizens’ Committee of Santa Cruz. His promise to the Committee for quick action in the congress on this issue temporarily calmed the emotions of the Cruzenians. His proactive attempt at conflict resolution, however, was roundly condemned. The executive branch accused him of usurping its peace making functions; political analysts and the general public saw the action as a crass attempt to gain personal political stature; and within the legislature he was severely criticized for not consulting with the political leadership of the congress.

Despite this failure at prevention and resolution, however, the action did launch the idea that the congress might have a proactive role in conflict prevention and resolution beyond its legislative function. When President Mesa unsuccessfully called for a national consensus and then threatened to resign on two occasions, several prominent congresspersons from diverse parties attempted to turn the ineffective leadership of the executive branch to their advantage by proposing that the congress lead the movement toward a grand national consensus. But no action was taken by the congress to follow up this announcement, which thus appeared subsequently to be nothing more than rhetorical posturing. Especially since the congress is having great difficulty in formulating the laws concerning the referendum on autonomy and the convocation of the constitutional assembly in a way that will combine the two “agendas” of January and October without provoking serious regional protests.

As mentioned above (pp. 10-11), one important reason why the congress cannot decide on a course of action in this case is both fascinating and paradoxical. For years international donors have spent significant resources to help the congress represent the demands and interests of their constituents through support to the uninominal deputies and the departmental brigades (7). But in this case a rise in representativity has as its corollary a decrease in governability. Upon the collapse of the traditional political parties, regional interests have replaced party lines as the guiding principle in the politics of the congress. In the case of regional autonomy, the Citizens’ Committees are beginning to carry more weight for the members of congress than the leaders of their respective parties with the possible exception of the MAS.

These mild, failed attempts by the legislature to take a proactive stance in the prevention and mediation of conflicts have led most analysts to think that this is neither a possible nor a proper role for the congress. Not possible, because of the difficulty of the majority of members reaching agreement on how to confront particular conflicts; and not proper, because this function should return to a strong executive to perform, and in its absence, the traditional independent actors such as the Catholic Church should offer their services as they have always done.

For these reasons, we believe that the present importance of the congress's role in conflict situations is an exceptional situation in Bolivia, depending on the particular circumstance of the political weakness of President Mesa resulting from his personal decision not to use repression to control social conflict and to his decision not to include political parties in his cabinet. If a new constitution retains an electoral system fostering an excessive presidentialism and producing a rubber stamp legislature as previously was the case, the role of the congress in conflicts will be reduced to subservience to the executive branch and it is likely under these circumstances that the cycle of conflict and violent repression will continue.

However, there is an important minority opinion within the congress that supports a more proactive position. Interestingly, they note that agreement is not necessary among a majority of the members, but only among the leaders. Although the four or five party caucus heads no longer constitute the sole leadership in the congress, even in the present lack of party discipline, leadership is still exercised by a handful of members, numbering perhaps 10-15. If this is the case, then mechanisms should be explored to produce agreement and consensus among this reduced group. Furthermore, this opinion would like the mediation function to be a permanent and not just an emergency feature of the congress, as a substitute to the executive when the latter is weak and ineffective, and as a complement to a strong President

IV. POSITIVE AND NEGATIVE FACTORS

We have now considered the response of the congress to four serious social and political conflicts that have or continue to threaten the stability of the democratic system in Bolivia. Since 2003, the congress has been fulfilling one of its primary tasks in a democracy, that is, to be a forum for the discussion of important and potentially conflictual national issues for their resolution through peaceful rather than violent means. In sum, here is the report card on its performance:

A. Excellent

- The constitutional succession of Vice President Mesa to the Presidency of the Republic

- The partial reform of the Constitution legalizing the demands of the “October Agenda”.
 - The passage of the Referendum Law and the holding of Referendum
- B. Mediocre, but satisfactory
- The passage of the Hydrocarbon Law
- C. Failing
- Law to Convoke the Constitutional Assembly
 - Law on the Referendum on Autonomies.

CONCLUSIONS:

4.1. The first fact to note is that the role of the congress in its legislative function has been central and crucial in all of these conflicts. When the congress acts swiftly and effectively in producing the required legislation, conflict is avoided or at least mitigated.

4.2. The present circumstance of conflict between the branches and the past situation of complete subordination indicate that it is therefore of vital importance that the new constitution establish a proper relationship between the executive and legislative branches of government best suited to the ethnic, regional and class polarities dividing Bolivia. There is a wide range of options available, from semi-presidentialism, to semi-parliamentarism, to a full parliamentarianism. These options must be combined with alternatives in electoral systems, from proportional, mixed, majoritarian, ballotage, and instant run-offs to name a few. But none of these options are being seriously discussed. One group of experts has suggested, without debate, a pure parliamentarianism to ensure governability, but in the face of a chaotic party system this suggestion seems hardly viable. (see above, p.7).

4.3 The third fact to note is that to be effective the legislation produced by the congress must be timely and involve citizen input. This conclusion is obvious from the analysis above of the consequences of its success or failure to do so (sections 3.1, 3.2, 3.3, 3.4.) Most experts and even some prominent members of the MAS party credit the congress with preserving democracy through its timely partial reform of the constitution and implementing laws regarding the gas referendum and the de-monopolization of political parties in national and local elections (8). The list of urgent laws passed is indeed impressive, and helped mitigate or prevent some social conflicts, thus sustaining the weak government of President Mesa for almost 18 months. On the other hand, the irresponsibility of the congress for the delays in producing the legislation required to convoke the constitutional assembly and the referendum on regional autonomy was perhaps the major cause bringing about the fall of President Mesa and leading the country to the brink of civil war.

4.4. This conclusion would be incomplete however if we failed to note that good legislation is not enough to prevent conflict in Bolivia. Bolivia has long been regarded being an anomic society, where, as the proverb goes, the laws are “respected but not enforced”. This cultural trait will be difficult to eliminate, but there may be ways to mitigate its worse effects. In the congress, this would mean improving its oversight function. Mandated by the constitution this function is used and perhaps politically abused almost exclusively in censuring government functionaries. An enormous problem area where it is never used however is in the analysis and evaluation of the norms produced by the executive branch that regulates the application of the laws. This important defect could be in part corrected by a change in the constitution and the congressional by-laws stipulating this kind of oversight through the creation of appropriate mechanisms, e.g. a special regulation oversight committee.

4.5. The fourth conclusion is that there has been a serious reduction in the governability of the country since the crisis of 2003. The governability factors that have served it so well during the last 18 years have been shattered. Many politicians and a portion of the public would wish to return to the old presidentialism and quota system, whose benefits in governability outweigh its defects in representativity, in corruption and lack of transparency. Is there a more acceptable alternative? (see discussion above, p. 7)

4.6. Finally, a most important conclusion is that in the majority of cases, it is only strong pressure from civil society that is effective in getting the congress to act. However, pressure and citizen input is not enough. When the pressure comes from polarized sectors, as in the clash between protests advocating the “October Agenda” on the one hand and the “January Agenda” on the other, the congress is paralyzed and attempts to avoid its responsibility of thrashing these issues out in the congress itself. This conclusion is strikingly illustrated in the debacle produced by the inability of congress to pass the law convoking the constituent assembly. In the opinion of several analysts, if strong social protests had resulted in the rapid passage of this law, it would have removed the opportunity from the oligarchy of Santa Cruz to subsequently insist on autonomy as an alternative to the constitutional assembly. It is very possible that the succession of events that brought the country to the brink of civil war, led to President Mesa’s resignation and continues to threaten the democratic existence and unity of the Bolivian state could have been avoided by the opportune passage of the laws in question.

V. INTERNATIONAL DONOR ASSISTANCE

5.1. General Considerations

Despite the fact that Congresses and Parliaments are considered to be essential pillars of democracy, they have always been the poor cousins of international donor assistance in the area of “democracy and governance”. While oceans of resources pour into programs for judicial reform, deliberative bodies receive rivulets of funds, and when budget crunches arrive, it is invariably the congressional programs that get cut first.

Donors are generally hesitant to work with congresses because they judge, often rightly, that the conditions for successful programs and positive results are not present. Frequently congresses do not offer well-defined counterparts, durable commitments, stable work staffs to be trained, or continuity of programs, and commonly are beleaguered by unacceptably high ratios of arbitrary authorities at all levels, lack of transparency and the proliferation of personal political agendas. Given the importance of deliberative bodies, however, complete negligence by the donor community is never justified. There are always small or even large areas to be found where improvements should and can be attempted, especially if activities and small programs are carefully prepared and designed. And in some cases, such as Bolivia, both the need and the favorable conditions outweigh the drawbacks and merit a robust institutional strengthening program.

5.2. The First Round of Institutional Strengthening: CICON

The first large congressional strengthening program in Bolivia was implemented from 1992-1997, the major assistance coming from USAID/Bolivia (donation) and the Inter-American Development Bank (loan). The program was troubled by lack of agreement between the congressional authorities, the Presidency of the Congress favoring decentralized assistance through strengthening the Committee system, and the Modernization Commission promoting the creation of a central legislative services unit (CICON). Despite these differences, through good will in the congress and excellent dialogue between the donors, the two programs were adjusted to achieve complementarity, and the CICON became operational combining the functions of a streamlined Congressional Budget Office and Congressional Research Service. This program was very successful in improving both the efficiency and effectiveness of the congress, and the CICON made important contributions to the congress in the areas of budget monitoring and evaluation, bill drafting, and legal/constitutional analysis.

The program, despite its success, had three major deficiencies:

1. The improvements were strictly internal to the congress and were in no way perceived by the public;
2. They had no direct or even indirect impact on the lives of ordinary citizens; and
3. They did nothing to increase support for democracy among the population.

It is therefore easy to see why USAID, under pressure to supply the United States Congress with human interest “success stories” in order to justify its

foreign assistance programs, did not consider its legislative institutional strengthening program a priority. Thus when the President of the newly elected Bolivian congress arbitrarily decided to use the operating funds of the CICON for other purposes and in 1998 terminated the program, USAID did not protest. However, the obliteration of a program in which over four million dollars had been invested, was one more proof that working with congresses was a high risk venture for a donor.

5.3. Second Period: 2003-Present: Emergency

Although USAID bailed out of its congressional program, many other assistance agencies including the IDB, continued their support in programs to improve the administrative, organizational and technical infrastructure of the congress. The results in many cases were minimal (11: IDB civil service). However, in 2001 USAID considered that the declining support for democracy in Bolivia could be bolstered by improving the contact between representatives and their constituents through assistance to the uninominal deputies and departmental brigades. Thus in 2001 USAID joined a donor group composed of a core group of ILDIS, GTZ, coordinated by the local NGO FUNDAPPAC, with occasional attendance from the English and Spanish assistance agencies. The IDB did not attend, nor other agencies which gave only occasional support, such as the Danes (DANIDA).

The Bolivian Donor Group was an excellent example of efficient donor cooperation, coordination and mutual support. Especially significant was the response of the entire group to the institutional crisis of democracy precipitated by the insurrection of October 2003. All were able to realign their priorities and adopt “emergency” programs to assist the congress to meet the demands of the “October Agenda”. Administrative, logistic, organizational, and technical support was reoriented to members and technical staffs of the congressional leadership and committees to produce the necessary legislation concerning the referendum on gas reserves, the Hydrocarbon Law and the preparation for the Constitutional Assembly.

The loss of credibility of the congress was a critical threat to stability of the country. USAID had initiated in 2001 a program (PARC) to improve the congress’s contact with the population and its representation of the demands and interests of constituents. This program was now seen as vital in helping to preserve the institution of democracy. Three of the donors, USAID, GTZ and ILDIS began to coordinate more closely among themselves to support the uninominal deputies and the Parliamentary Departmental Brigades. FUNDAPPAC’s participation was temporarily diminished as its Executive Director was tapped to become the Minister of Government (Interior). USAID’s institutional contractor, SUNY/CID, provided individual deputies, congressional committees and brigades with technical assistance and training in planning and applying various mechanisms to contact their constituents, principally through public hearings, citizens’ forums, and interactive radio programs. GTZ provided

assistance in logistics, methodology, data recording and analysis, while ILDIS completed several important investigations and provided coordination for the group.

While this donor group was the main source of assistance to the congress, support occasionally came from other donors who were not members, and only occasionally or never at all attended meetings or attempted coordination. The most important example of isolated assistance came from the DANIDA, which in 2004 provided an important amount of funding to a project proposed by the unit created by the congress to provide assistance to the chamber of deputies, the UAGP. This unit had been a political football since its creation by the previous congress, having changed directors six times in five years. The future director of the UAGP had previously developed an ambitious project which the donor group had carefully studied and rejected as too ambitious, costly and overstaffed. Nevertheless, one important component of the project concerning the publication of a congressional newspaper was accepted and funded by DANIDA. The publication that resulted contained little hard information concerning bills, activities and events of use and interest to the public and served more as a channel for the opinions and personalities of various members of the congress. The publication had a short life and was discontinued when the executive director of the UAGP abruptly abandoned the position upon the change of the president of the chamber of deputies (new president every year.)

It should be noted, however, that the root of the problem of discoordination did not lie in the donors, but in the congress. There was no single counterpart or spokesperson within the congress despite repeated requests by the donors for the formation of an official interlocutor, such as a Legislative Modernization Commission as had functioned so well in the past. Each new president of the lower house could present whatever project he or she was interested in without vetting it with other members. Even if the project was pertinent and met a real need, there was no assurance of continuity since the presidency of the chambers changed every year and could be abandoned or cancelled by the new authority.

Another example of inappropriate assistance was the UNCTAD project to provide useful input into the debate on the formulation of a new Hydrocarbon Law. Despite the fears of the donor group that the project would be interpreted by radical and moderate groups alike as an attempt to influence the debate in the direction of a "neoliberal" model, the project was finally accepted and in February of 2004 a series of conferences given. The experts invited provided a number of interesting options and guidelines. But the latter were too general to be of any practical use in the formulation of the draft law, and by the time the congress in May of 2004 began serious debate on the issue, the general recommendations of the experts had been long forgotten and played no role in helping the congress to avoid further social unrest and conflict by promoting a swift consideration of clear cut and definite issues regarding this controversial issue.

These two examples of less than appropriate assistance, however, did not affect the overall effectiveness of donor assistance. They were minor glitches. Even had they produced the desired results, the overall impact of assistance from the international community would not have been significantly altered.

5.4. Evaluation of International Assistance

Undoubtedly the assistance from international donors had some important and significant effects in helping to strengthen the institution of the congress. First, it was instrumental in introducing awareness in the deputies and the departmental brigades of their duty to field the questions, to represent the interests and to channel the demands of their constituents, and most of all to be accountable to them through information on their activities in support of these demands. This awareness was a very significant change from the consciousness of the deputies of the previous congress, who were uncertain whether their first loyalties were to their constituents or to their parties. (12, DVS, 2004)

Second, it helped transform previously inoperative entities such as the departmental brigades and the women legislator caucus (UMPABOL) into important functional units. Mechanisms such as the “Departmental Minimum Legislative Agenda” and the “Minimum Legislative Gender Agenda” proved to be powerful planning and monitoring instruments. The fact that this strengthening of brigades may have backfired in the context of the fierce regional dispute which broke out in the Department of Santa Cruz in January of 2005 in no way detracts from the importance of this advance in democratic practice, and we have suggested above on measures that should be introduced to mitigate the worst effects of regionalism. In designing legislative assistance programs in societies plagued by a number of ills besides regionalism, including ethnic, class, economic and social divisions, most donors do not write measures to counteract these dangers into their plans unless and until conflict is imminent or has broken out. It would be very helpful to develop a sort of check list of warning signs such as exists for forecasting “failed states” that could be taken into account in such circumstances.

Despite these undeniably important gains, however, neither the assistance of the international donor community nor the capacity of the congress, were equal to the challenge of overcoming the obstacles preventing the congress from becoming an effective instrument for the prevention and/or resolution of the extremely serious conflicts that have arisen and continue to plague Bolivian society.

- 5.4.1. The first obstacle consists in the skepticism of the Bolivian public. In order to be effective in conflict resolution, an institution must enjoy a high degree of credibility and acceptance by the parties in conflict. But the congress could not overcome the conviction of

the majority of the populace that the congress was too selfish, too corrupt or too lazy to perform its functions well. The continual criticism of the executive branch simply confirmed this popular conviction. The question of how to avoid this conflict between the executive and legislative branches of government and to balance their independence with their coordination is a thorny one. Only through such coordination can solid and long lasting state as distinguished from lesser government policies be created. In Bolivia, there are two main measures designed to obtain this balance, neither of which has worked. The first, the election by congress of the President of the republic, has produced an extreme presidentialism and rubber stamp congresses. The second, the fact that the Vice-President of the country is the *de iure* President of the congress, has often meant nothing more than another instrument of control of the legislature by the executive branch. One remedy of course would be to change to a parliamentary system, which in many if not most Latin American countries with weak party systems would be doubtfully viable. Short of that, could be a constitutional provision to create a joint coordinating committee composed of the presidents of the congress and the President of the Republic, or (more weakly still) their delegates.

- 5.4.2. The second obstacle is the insufficiency of international assistance. The congress, through its uninominal deputies, brigades and congressional committees, was in fact reaching out to the public and significantly improving its representation of citizens' interests through its public hearings, forums, interactive radio and other programs. These activities, although planned to be self-sustaining in the future, in their first few years of operation, depended on donor financing. The latter, however, was sufficient to fund only a limited number of events among a reduced group of the more activist deputies. Since this was a new program, which depended on the personal initiative of the each individual member of congress it was impossible to develop an overall strategic plan. More importantly, these events were much too few to enable a significant portion of population to participate in these events, and the attempts to publicize them were also too few to capture the attention or overcome the skepticism of the public. What was needed was a vastly expanded program of assistance to these events and a much more vigorous and massive information campaign to educate and involve the public.

Also necessary is greater attention by the international donor community to the legislative and oversight functions of congress. We have concluded from our analysis that the legislative function

is the primary instrument that the congress has to prevent conflict, or to resolve it through appropriate and timely legislation. Furthermore, in a society as anomic as is Bolivia, the congress must exercise a strong oversight role in assuring that the executive branch formulate its regulations in the spirit of the laws approved, and that the institutions charged with enforcing the law are acting responsibly and fulfilling their obligations to apply the law universally. In Bolivia the “rule of law” necessarily involves three steps: the formulation of good laws by the legislative function of the congress, the creation by the executive branch of regulations that specify the conditions for the application of the law, and the enforcement of the law by executive branch or autonomous institutions. Often the regulations negate the spirit of the law, such as in the case of Agrarian Reform laws that provide for land titles that become impossible to obtain because of the regulations imposed by the executive branch that require costly paper work or technical studies as conditions. As for compliance with the law, the agencies charged with enforcement are notorious for their inefficiency, lack of transparency and internal conflicts. Careful and effective oversight of these functions by the legislature would help to promote greater respect and compliance with the laws passed by the congress.

- 5.4.3. The third obstacle resides in the congress itself. Whenever it achieved some degree of success in passing important and necessary legislation, it would invariably negate these gains by acts that would immediately lose the sympathy of the public and provoke anger. Among the actions of congress that most angered the public were the election of magistrates and district attorneys according to the old “quota” and client system, the declaring of recesses at times when urgent legislation was pending, and the constant fighting with and blocking of the legislative initiatives of the executive branch with whom the majority of the population sympathized. (13). Furthermore that loss of its two mechanisms for decision making, pacts with the President and party discipline, has left the congress in a state of ambivalence and uncertainty. This is a structural problem and it is not clear whether it can be resolved through constitutional changes or whether the reconstruction of the party system and the recuperation of party credibility in the society and party discipline in the congress are also necessary.
- 5.4.4. Finally, the deepest and most intractable obstacle of all is the economy of the country. In order to play a credible and effective role in conflict prevention or resolution, the uninominal deputies must be able to respond to the demands of their constituents and

the congress as a whole must be able to offer some solution to the conflicts generated by the protest groups. Most conflicts are linked either directly or indirectly to economic demands. (14) The demands presented to uninominal deputies in public forums always have economic and budget implications. Constituents expect their representatives to “bring home the bacon.” In the vast majority of cases, national, regional or local budgets simply do not allow the representative to comply with these demands. The same is true with even more force in the case of the demands voiced by the protest groups. To significantly remedy this situation, a series of measures would be required, such as participatory budget formulation, a reorientation of values to prioritize the demands of the most needy, the introduction of mechanisms to control corruption. Lacking that, serious consideration should be given to facilitating a kind of regulated pork barrel legislation.

VI. RECOMMENDATIONS

6.1. General

6.1.1. To improve donor cooperation (conclusion 5.4.2. above), the international donor community must eliminate the triage mentality. On occasion, there may be deliberative bodies that are sufficiently functional so as not to require any assistance. However, to write off a deliberative body as hopelessly dysfunctional is to ignore their importance in the democracy and governability of the country. There are always important improvements that can be attempted or made. Many activities that are not costly, such as the hiring of expert consultants in the formulation of important laws, the strengthening of key committees such as the ethics or budget committees, the financing of public hearings on key issues, could be very important steps not only in temporarily improving the performance of legislative bodies in their conflict prevention role but also in their institutional strengthening.

6.1.2. As for the reform of the electoral system to conform to the ethnic, class and social particularities of the country (above, conclusion 4.2.), it is necessary to encourage creativity and flexibility in the development and application of electoral models. Structures are appropriate and important not so much in themselves, but only to the extent that they support the values of tolerance, pluralism, participation, and

representation. It may be more appropriate for a particular country to introduce a pluralistic monarchy than change to a republic, or for another to provide for corporative incorporation into a legislative body than insist on a universal one- man-one-vote system.

- 6.1.3. Prioritize the functions that are strategic, starting with the legislative function (conclusion 4.1.). In many cases, donors prefer to cherry pick the legislation they want to support through providing for appropriate technical assistance or the financing of special events like forums or public hearings on the topics of interest. While better than nothing, this type of assistance often blinds the donors to the need for the institutional strengthening of the legislative function when the opportunity presents itself and conditions are right within the congress.
- 6.1.4. Analyze the needs of effective legislation according to the context. Biased and/or ineffective laws will not be useful. To avoid bias, the representational function may have to be strengthened. To ensure enforcement, the oversight function may also need attention (conclusions 4.3. and 4.4.). This recommendation is not necessarily advocating integral, expensive programs in every case. Often, an important institutional strengthening can occur through supporting just one or other of these congressional functions depending on the circumstances, such as assisting in the creation of an oversight committee or strengthening of the ethics committee. The basic idea however is that the question “how can we help to institutionally strengthen the congress” should always be present in the mind of the donor.
- 6.1.5. Assure continuity in large programs by paying special attention to and supporting the congress in the transition to a new set of members and leaders after general elections (section 5.2). This is so because often the gains of a program achieved during the constitutional period of one congress are wiped out by the successive congress that enters with a new set of members and leaders who are often not acquainted or in sympathy with those gains. Even in the face of “institutionalized” achievements that have been inscribed in formal constitutional articles, congressional regulations or memoranda of understanding, the new leaders can kill even sustainable results, as was the case in

the Bolivia CICON program. Continuity in these cases can only be assured if an insitutional contractor is present to offer assistance to the new congress to understand and adopt the changes introduced.

6.1.6. Do not impose unrealistic indicators on a program. Demand results, but be aware that not every activity will yield the immediate results of the program, and not every necessary improvement will be immediately perceptible by the general public. Be especially wary of using the indicator of public support for the deliberative bodies (section 5.2.). Second only to working with political parties, attempting to strengthen legislatures is the most difficult of development challenges. One is working in a most sensitive and unstable political area, where the change of one important authority can seriously set back the progress of a particular component or frustrate achieving a result. In a monitoring and evaluation plan, concrete and quantitative indicators must often be subordinated to qualitative proxie indicators and to trends.

6.2. In Bolivia

6.2.1. Most important, motivate and assist studies on the constitutional reforms necessary to improve the functioning and/or structure of the legislative branch. Especially vital are studies on the electoral system to be adopted and a form of government that encourages or obliges cooperation between the executive and legislative branches. Deliberative bodies, whether parliaments, congresses, assemblies, are theoretically the venues of debate, discussion, compromise and decision that should prevent or resolve violent conflict. But the present system in Bolivia is not working. Suggestions that have been contemplated so far without serious study or debate range from returning to the old quota system to changing to a parliamentary form of government, to scrapping the universal vote in favor of a corporative type of deliberative body such as the Popular Assembly which operated briefly and unsuccessfully in 1970. Perhaps some entirely new form of collective national debate needs to be crafted. Donors are financing studies on all aspects of constitutional reform except the legislative branch and the electoral system. The financial vacuum in this area is simply another indication of the indifference, skepticism and in some cases the fear of donors to touch the complicated, sensitive issues involved. Especially important is creative thinking that starts with democratic values and procedes to

systems instead of vice-versa (6.1.2. above). This will require on the part of the donors a shift in priorities and a robbing from the budgets of other programs. But these 18 months of conflict have proven eloquently and tragically that if Bolivia does not find a better way to resolve its internal conflicts, no other economic, social or political measure will work.

- 6.2.2. Strengthen the committee system both in its internal functions (training of members and staff), and external functions (public hearings), through technical assistance, training and logistical support. To date important but insufficient support has been provided to the most pertinent committees through technical assistance/training for holding public hearings and citizens' forums, and through the ad hoc contracting of experts on the vital issues being debated. Nevertheless, these same committees have complained to donors that they are still poor cousins compared to the executive branch, which receives several times the financial support. Funding needs to be increased to support more technical and administrative staff in this moment of emergence, to launch many more activities *vis á vis* the public, and to disseminate these activities through a more extensive media campaign. Beyond ad hoc assistance, however, what is needed is the institutional strengthening of the committees through the creation of permanent, professional committee staffs protected against arbitrary personnel changes. To date some progress has been made in this area. This is an issue that must be raised by donors every time ad hoc assistance is provided, until firm regulatory and procedural norms are adopted by the congress.
- 6.2.3. Strengthen the oversight function to assure the compliance of executive created regulations with the spirit and letter of the laws and to monitor the compliance of enforcement institutions. In some assemblies (the New York State Assembly for example) a special oversight committee has been created to give technical and logistical assistance to any committee that requests it. In Bolivia a technical team could be hired to provide this assistance on an experimental basis. If successful, an ad hoc commission could be launched with a deputy as chief, to move finally to the incorporation of the commission into the regulations of the congress. An experiment of this type is an example of how a simple, isolated activity could lead to an important institutional strengthening of the congress.

- 6.2.4. Train civil society organizations in advocacy so that demands can more often be channeled through conventional means of representative democracy. We have seen that in Bolivia, as in most Latin American countries, congresses act more opportunely or sometimes only under intense public pressure. Regular use of public hearings or other relational mechanisms by civil society organizations is important ways to initiate dialogue and encourage compromise between rival groups before polarization becomes fixed in non-negotiable positions. In Bolivia, training in advocacy had only begun when it was abandoned because the intense polarization between groups rendered these mechanisms ineffective.
- 6.2.5. Assist the congress in the preparation of organizational and technical aspects of the Constitutional Assembly by preparing draft regulations, a model of committee and sub committee structures and the development of mechanisms for contact with and feedback from the public. The only constitutionally mandated function of the congress relative to the constituent assembly is the formulation and passing of the Law of Convocation. After that, it is uncertain what role the congress can or will have relative to the functioning of the assembly. One important role should be assistance in suggesting an organizational structure. And since the assembly will be called upon to inform and receive feedback from the public during its operation, the mechanisms developed within the congress for these purposes should be adapted to the particular circumstances and needs of the assembly.
- 6.2.6. Support the further development, extensive application and ample information campaign concerning mechanisms of contact between representatives and their constituents. The financing provided by donors was not sufficient to involve a critical mass of deputies in the program required to have an impact in the congress as a whole. The congress gradually became more irresponsible, less effective in its representative functions and less apt as a means of conflict prevention, becoming finally a serious part of the problem of conflict instead of a solution.

Given the present polarized political and social climate of Bolivia it is doubtful whether the congress can become at this moment or in the future an effective instrument for the prevention and resolution of social conflict. The measures recommended here should help to at least to move toward that goal.