

3 *The Domestication of Indigenous Autonomy in Bolivia*

From the Pact of Unity to the New Constitution

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It is one thing when [people] themselves break the feudal yoke through their own collective impulse and quite another when they are let go through a vertical act, that is to say, by something that does not come from themselves.

Exogenetic freedom produces only formal freedom.

René Zavaleta, The State in Latin America.

The ongoing debate over the reterritorialization of Bolivia revolves in large part around the political status of indigenous territories (as a demarcated geophysical region) and territorialities (as a more networked sense of spatialized indigenous practices of daily social and economic life, political participation, and self-determination that may extend beyond particular geophysical regions). While much has been made of the turn in support of indigenous rights—a position voiced most prominently by Evo Morales—the political situation on the ground is infinitely more complex than this

rhetoric suggests. Doubtless, important gains have been made by indigenous peoples, central among these the advances in the constitution put into place in 2008 after a long and conflictive process of national debate. A central category of this new constitution is “indigenous autonomy”—a legal possibility, more than a concrete expression—which offers the possibility that indigenous peoples may establish certain territorialized modes of governance that are distinct from the wider templates of department, provincial, and municipal administration.

However, as of this writing, no actual cases of indigenous autonomy have been mobilized into processes of implementation. And, as I argue in this chapter, the analysis of the process of the Constitutional Assembly reveals a series of “domestications” of the idea and potential form and practice of indigenous autonomy—maneuvers by the government and the right-wing opposition to limit and restrict indigenous demands. For indigenous organizations, mobilized in a historic “Unity Pact” (*Pacto de Unidad*), the Constitutional Assembly was to be a foundational political moment, one that was truly *constitutional*, in which social movements, indigenous and others, rather than conventional political parties, would literally “refound” the state. This would make of the constitution an “originary” document, rather than one that was derivative of the existing system, and would open space for the remapping of state territoriality, including a robust approach to indigenous self-determination and autonomy. Nonetheless, as I explore here, various factors worked to moderate this pro-indigenous rights stance. This produced a constitution that was derivative of the current political order—that is, emerging from already constituted powers rather than those rising up through social mobilization. The process and the outcome illustrate the ways through which indigenous demands were negotiated—and sacrificed—in favor of a more conservative defense of existing state forms.¹

The Pursuit of Unity: Peasant, Indigenous, and Originary

The creation of the Constitutional Assembly in Bolivia in 2006 was the result of a long process of mobilization of distinct actors whose origins lie in a deep history of social memory and struggle, as well as more recent phenomena (Garcés 2008a). In recent history, for instance, the Water War in 2000 against privatization was followed by demands by the urban leaders of the movement for a Constitutional Assembly that would be a mechanism for the Bolivian people to claim decision-making power over their resources. The Indigenous People’s March for Sovereignty, Territory, and Natural Resources in 2002 revolved around three objectives: land for indigenous peoples (*indígenas*) and the peasantry (*campesinos*); respect for the territory

of indigenous peoples; and the installation of a Constitutional Assembly with the participation of originary (*originario*) indigenous peoples as indigenous peoples (rather than as represented by parties or labor unions). The Gas War in October of 2003 ultimately centered around hydrocarbon nationalization, an explicit and forceful demand, which was followed by the call for a popular Constitutional Assembly and the expulsion of then President Gonzalo Sánchez de Lozada.² As I describe in this chapter, another historic process, the formation of an Indigenous, Originario, and Peasant Unity Pact (*Pacto de Unidad Indígena, Originario y Campesino*), unfolded beginning in September of 2004. This pact proposed as its central objective the call for a sovereign Constitutional Assembly which would be both “participatory” and “foundational.” The creation of the pact was followed by massive collective mobilizations in May and June of 2005 demanding the immediate convocation of the Constitutional Assembly and the nationalization of hydrocarbons.

The Unity Pact articulated the demands of social organizations with various historical trajectories and revindicative platforms including issues tied to indigenous movements, but also issues not specific to them. Though converging around recent events, and representing an entirely new coalition, the Pact had its roots in movements of the 1990s. For example, even before the Water War, during which positions congealed around the rejection of the neoliberal water privatization legislation, there had been in 1998 a similar process of collective construction of a proposal for a social law on water. This effort included organizations like the CSUTCB (the Confederation of Peasant Workers of Bolivia), the FNMCB-BS (the “Bartolina Sisa” National Federation of Women Peasant Workers of Bolivia), the CIDOB (Confederation of Indigenous Peoples of Bolivia), and the CSCB (the Confederation of Unionized Colonists of Bolivia). Similarly, the same can be said about an articulation referred to as the *Bloque Oriente* (the “Eastern Block”), an alliance of indigenous and peasant organizations on one side, along with urban and rural organizations on the other, that emerged in the late 1990s to cross ethnic lines and address issues of popular concern in Eastern Bolivia. The *Bloque Oriente* was the protagonist of the 2002 march. By the same token, national indigenous and popular movement organizations had organized, as of 2002, a “National Communication Plan.” The tenor of these alliances among organizations was to respect the autonomy of each, while working together on common demands and proposals.

In September of 2004, in the city of Santa Cruz, a “Pact of Programmatic Unity” was created during another institutionalized moment of articulation, the “National Encounter of Peasant, Indigenous, and Originario Organizations.” At this meeting—preceding, it should be noted—the election of Evo Morales,

the participants wrote out a draft proposal for a *Ley de Convocatoria a la Asamblea Constituyente*, a law that would call for the creation of a Constitutional Assembly. There were over three hundred representatives of various movements present at the event. These included the peasant and colonist settlers' unions (CSUTCB, CSCB, FNMCB-BS) and lowland indigenous organization (CIDOB) mentioned above, as well as regional indigenous and peasant organizations like the Assembly of Guaraní People (APG), from the southeast; the Central of Ethnic Moxeño Peoples of Beni (CPEMB) and the Confederation of Ethnic Peoples of Santa Cruz (CPESC) from the eastern lowland departments; the National Confederation of Quechua and Aymara Ayllus (CONAMAQ), from the Andean altiplano; the Landless Movement (MST) from eastern Bolivia; the Block of Indigenous and Peasant Organizations of the Northern Amazon (BOCINAB), from the Pando region; and a Salaried Rural Workers' Union of Santa Cruz (CDTAC), which had organized laborers in agro-industry (see Pacto de Unidad 2004, n.d.; García Linera et al., eds. 2004).

Though the other movements of salaried and landless workers were instrumental in initial phases, when the later process of preparing a proposal for the Constitutional Assembly began in 2006, the channels of organizational representation were consolidated into umbrella organizations. Some organizations withdrew, leaving broadly three kinds of organizations. Although this categorization masks complexities of identity in practice, it is useful for considering how the legal category of autonomy would later arise in debate. First, there were those who emphasized their peasant (*campesino*) identity, and thus the category of social class, the outgrowth of the process of peasantization that emerged from the revolution of 1952. These would include the CSUTCB, the FNMCB-BS, the CSCB, and the MST. A second would be those who emphasized the idea of indigenous identity using the term *originaria*, a largely Andean usage that had derived from the revision of the category of peasant and its ethnicization—or indigenization—during the process of territorial transformations that had been underway during the 1990s. This included CONAMAQ. Finally, there were indigenous organizations who had long mobilized around the category of *indígena*, primarily those of the eastern lowlands. These included CIDOB, CPESC, CPEMB, and the APG.

It is in this wider context that the formation of the Unity Pact has a unique and particular importance because it made the indigenous, originary, and peasant movements one of the most important—and certainly the most representative—social actors behind the Constitutional Assembly. Yet three other points also bear mention. In the first place, the pact was an articulation of organizations that, despite sharing many common interests and

themes, did not have a tradition of common dialogue or of propositional construction of their ideas and demands. This strategy of articulation revealed both the possibilities and limits of broad-based social movement alliances in the historical moment. Second, the pact was a space that was constitutive of a new political subject that was expressed in the category—strange, for some—of “indigenous originary peasant” (*indígena originario campesino*), which presupposed a number of tensions that cannot easily be reduced to a simplified understanding of questions of indigenous rights, territorial and resource rights, or land reform, the most crucial issues for these organizations. Finally, the pact constructed a proposal that came to be after a year of debates and discussions—also full of tensions—that at times saw strong disagreements, as well as a congealing of core positions, around the core issues confronting the interests of the actors: autonomy, natural resources, political representation, and social control as the “fourth power” of the state (beyond the executive, legislative, and judicial).

In what follows I explore these debates and tensions—both within the Unity Pact and against its positions. In the first section, I describe the proposal of this new political subject. Then, in broad strokes, I discuss how the theme of autonomies took shape in the constitutional text. I conclude with some critical observations about the process of the transformation of organizational proposals into what René Zavaleta (1989) would call “state matter” (*materia estatal*), or what I refer to as the domestication of indigenous rights and demands.³

Central Themes: Plurinationalism and Autonomy

Throughout the process through which the Unity Pact developed its constitutional proposal between May of 2006 and May of 2007, the common articulatory theme of all of the various groups was the position that Bolivia be referred to as a “plurinational” country. Each organization brought this idea in their respective proposals, but none had as yet given the idea explicit meaning or form. While most sought to descriptively characterize the country as *plurinacional*—as compared to the way in which the neoliberal era had described the country as *pluricultural* in the 1994 constitution—only the CSUTCB had proposed that the official name of the state itself include the descriptor “plurinational” (as in effect, it does today). There was an intense labor of debate to this end, a process formalized in a text presented to the members of the Constitutional Assembly, in August of 2006, titled, “What Do We Understand by Plurinational State?” (in CSUTCB et al. 2006). In what follows, I examine the ideas that emerged from this labor of collective construction.

The text published by the CSUTCB begins by outlining the challenge of refounding the country through the participation of the indigenous peoples as *peoples* (*pueblos*), that is to say, as collective constructors of a plurinational state that transcends the model of the liberal and monocultural state founded on the individual citizen. This assertion relies on recognizing, and departing from the critical supposition that historically, the Bolivian state had constructed a liberal model that imposed western culture (*cultura occidental*), which had weakened indigenous political and juridical systems. In its wake, a uniform juridical system was imposed, one through which the administration of justice favored the interests of the market and deprived the peoples of their means of subsistence. In addition, the political-administrative division of the country had fragmented the territorial unity of the peoples, breaking down autonomy and control over land and natural resources. Nonetheless, despite these impositions and mechanisms of domination, the indigenous peoples had resisted and maintained their identities. For that reason, one can affirm that in Bolivia there are diverse nations, peoples, and cultures with the right to a peaceful and solitary coexistence, what we refer to as *convivencia*. The idea of the “Unitary Plurinational State” was proposed from this critical sense and historical positioning.

This foundational critique is interrelated with the establishment of the political identities being put forth within the framework of the Unity Pact. That is to say, given the historical configuration of the organizations that made up the Pact, one of the conflictive themes was the definition of the political subject. The intense debate that developed around this theme generated the somewhat unwieldy formulation of a legal category now inscribed in the constitution: “Indigenous-Originary-Peasant Nations and Peoples” (*naciones y pueblos indígena originario campesinos*, or NPIOCs). This category has its origin in ongoing debates over the past decades that re-emerged in the internal discussions of the Unity Pact. Some indigenous peoples of the lowlands pointed out the difficulty of recognizing themselves as *nations* because they had, in many cases, small populations. On the other hand, the Quechua, Aymara, and Guaraní did recognize themselves as “originary nations” (*naciones originarias*). Hence, both “indigenous peoples” and “originary nations” referred to those who embraced indigeneity as a central category of self-identification. The organizations who refer to themselves as indigenous or originary have strongly criticized the category of the “peasant” (*campesino*). Yet the “peasant” organizations—including the organizations which emerged out of settler populations and communities who had migrated from the Andes to the Chapare or to the east—argued that their communities maintained their originary cultural forms and territorial organizations despite being subjected (both in terms of land ownership and legal

discourse) to a process of peasant-ization (*campesinización*) by the state in the wake of the revolution of 1952. As such they maintained a claim to indigeneity despite their reterritorialization in new geohistorical spaces. Nonetheless, as I discuss further below, the category of class maintains centrality in discourse, in their lived experience as rural small-scale farmers, and in the wider structural position of their organizations. As such, the term “peasant” (*campesino*) reflects a historical and ideological positioning, with implications for a wider articulation in practice and policy between decolonization and the struggle against inequality.

This pluralist formation of indigenous identity, which nonetheless coalesced around a shared effort of political coalition, quite logically also demanded a pluralist model of autonomies. For this reason, the Unity Pact came to conceive of the plurinational state as a model of political organization that would have as its end the decolonization of the indigenous peoples and nations. This goal centered in large part on recovering, reaffirming and strengthening territorial autonomy to “live well” (*vivir bien*) with a “vision of solidarity” (*visión solidaria*). This phrasing was crucial in balancing the idea of plurinationalism (and indigenous autonomies) with the sense of a unitary nation-state tied to living well and in solidarity with all Bolivian citizens and peoples. Thus, it was proposed that the indigenous peoples would be the drivers of unity and well-being of *all* Bolivians, guaranteeing the full exercise of *all* rights, rather than those particular to indigenous peoples. This pluralist model also relies on the idea of juridical pluralism, which is fundamental as a guiding principle of the idea of the plurinational state. Indigenous, originary, and peasant juridical systems would coexist, within the plurinational state, alongside the western juridical system. These are envisioned as existing (eventually) within a framework of equality, respect, and coordination. This judicial pluralism would parallel territorial and political pluralism, such that a plurinational state, based in indigenous, originary, and peasant autonomies, would be a pathway toward self-determination (*auto-determinación*) as nations and peoples who would be able to define their own juridical systems.

On the other hand, the idea of the plurinational state implies thinking about an asymmetric territorial organization. Some territorial entities would still be organized around the foundational base of a colonial and republican state (the departments, municipalities, and provinces). Other territorial entities would eventually be organized around the territories of the indigenous peoples, according to their ancestral or actual uses. The conflict between these asymmetries remains central to the ongoing battle over the remapping of the country. Additionally, as argued by the Unity Pact, the exercise of the right to land and natural resources in these territories was fundamental. This

meant that the Pact envisioned the end of large-scale, speculative, and unproductive landholdings or *latifundia*, a reality, especially in the east, that had led to the concentration of land in few hands. The claim for resource control was also tied to envisioning the end of private monopoly control over resources used to benefit private interests.

Juridical and territorial pluralism would be paralleled by political pluralism. Within indigenous autonomous territories, indigenous structures of government and means of electing authorities would also be reaffirmed as part of the move toward self-determination. At the national level, the Pact proposed that the structure of the new state would include direct representation of the indigenous, originary, and peasant nations and peoples, as peoples, with representatives selected according to their own norms and modes of selection. In sum, the organizations of the Unity Pact proposed a state form in which political collectives—rather than individuals elected, for instance, by political parties—could express agreement and make decisions about the core issues of the state. These positions put into question the idea that the state has unique and absolute sovereignty over its territory and raised the possibility of the creation of plural forms of self-government (within indigenous peoples' territories) and co-government (between the indigenous peoples and the plurinational state) (Máiz 2008).

These proposals—as yet solidified in legislation or practice—revolved around central conceptual platforms that defended the idea of the plurinational state in the proposal of the Unity Pact. These included:

The exercise of the right to self-determination and the right to indigenous autonomies. The right to self-determination is the fundamental collective right that indigenous peoples demand, based on their existence as collective subjects that pre-exist the formation of modern states. It is the right from which all others derive, including the right to territory and jurisdiction over economic, social, and political issues (López 2007).

Simultaneous inclusion and redistribution to abolish exclusion and inequality. This juxtaposition of political and economic claims to equality was tied to the attempt to resolve, and overcome, both classist and culturalist (ethnicist) reductionism by recovering the theory of the “two eyes” (Sanjinés 2004). This idea of seeing with two eyes dates to the rise of indigenous movements like the Kataristas in the 1970s, who used the concept to refer to a temporal and political stance that merged issues of class inequality with ethnoraacial exclusion. The act of seeing both issues simultaneously positioned movements as articulating both a subjectivity (who we are) and a historicity (from where do we emerge and act). This also tied anticolonial struggle of a much earlier date to revolutionary nationalist struggle of more recent origins. In the context of the Unity Pact and the new constitution, seeing

with two eyes implied, according to participants, learning to move within the semantic duality of the concept of the nation. One side maintained the vision of the “national-popular” idea of class struggle and national liberation that is part of the recent collective memory of the indigenous peoples and a large segment of the Bolivian society in general (Rivera 1993; Zavaleta 1986). The other defended the historical sense and long-term memory of indigenous communities who pre-existed the state and who emphasized difference and co-government in terms of sovereign control over territory.

Collective rights as having—at the least—equal hierarchy to individual rights. To achieve equal hierarchy in relation to the liberal political system that has deemed individual rights as the supreme value of humanity, the Pact demanded the exercise of collective primary rights of indigenous peoples (De Sousa Santos 2007)—including rights to exercise internal restrictions that may not be accepted by the liberal opening described by Kymlicka (1995). Here, as below, I refer to Kymlicka’s (1995:8) argument that external protection of minorities’ rights from injustices should not preclude the overarching liberal legal system from exercising “internal restrictions” on “minorities” to control putative infractions of individual rights within minority communities. This liberal opening to collective rights in fact maintains the hierarchy described here. This position invokes the historical memory of such liberal efforts that we might recall in this regard, such as the Law of Expropriation of 1874 (*Ley de Exvinculación*), which offered recognition of citizenship rights to indigenous peoples, but only as a means of dispossessing indigenous adults of communal lands (Regalsky 2003; Rivera 2004). As the position of the Pact implied, these individual rights—as expressed in the notion of a hierarchy between liberal and collective rights—have been the guarantors of private property as a means of plundering collective, public, and family property in indigenous and originary lands and territories.

Nonetheless, the exercise of primary rights of indigenous peoples—that which they exercise as peoples—does not imply negating the development of collective derived rights that may not be limited to indigenous peoples. That is to say, such collective derived rights of the rest of—or all of—the Bolivian population would be exercised as a collectivity that still moves within the frames of the nation-state. The Bolivian plurinational state should thus articulate both kinds of collective rights as a means of exercising a kind of plural sovereignty, a sovereignty of access to determined benefits of surplus capital and circulation in the country. This is a crucial point which—like seeing with two eyes—breaks down the false dichotomy that sees collective rights as the terrain (only of) racialized and ethnicized peoples and liberal individual rights—associated with whiteness and the “west”—as

somehow more modern, such that “modern” subjects might not claim collective rights (to health, to water, to well-being) such as those tied to Bolivian nationhood.

Recognition of juridical pluralism. As discussed above, juridical pluralism would allow the exercise of juridical, epistemic, political, and economic normativity in equal hierarchies, again moving beyond the multiculturalist gaze that tolerated so-called “external protections” but not “internal restrictions” that indigenous peoples might exercise in their territories. This is the limit of liberal tolerance proposed by Kymlicka (1995). It is not possible, according to him, for there to be dissent against individual rights and a western framework of “justice” within different forms of (indigenous) self-government. Yet for the Pact—and precisely for this reason—juridical pluralism implied that the decisions of indigenous juridical systems would not be monitored by the legal norms of the central state.

Redistribution of ownership of land and territory. The Pact demanded redistribution of land and territory so that its use, control, and management—based on the practices of the indigenous peoples—could be solidified. This is one of the central platforms of the indigenous, originary, and peasant struggle in Bolivia in the past few decades. This is not only a fight for the recovery of ancestral indigenous territory, but also of land, by way of land reform, understood as a mechanism for expropriating grand concentrations of land held by the landlords of the eastern lowlands. Again—marking the fusion of “indigenous” and “peasant” positions—this did not simply refer to the acquisition of individually-held property, but also the struggle for territory, as the mechanism for exercising the indigenous right to self-determination. Admittedly problematic—and still conflictive in practice—this demand for self-determination and autonomies was made not simply with the goal of recovering land and territory but to create a framework, both conceptual and legal, to be able to make decisions about natural resources through a double perspective: as both a territorial right of indigenous peoples and as resources that belong to all Bolivians.

These conceptual orientations underpinned the overarching demand for indigenous autonomy, or, given the pluralist reality, autonomies of different sorts. Two paradigms shaped understandings. In one, autonomy exists as part of a decentralized system that proposes self-government of territorial entities within a liberal, monocultural and western civilizational paradigm. In another, autonomy would be part of a process of territorial (re)distributions of power in a plural form (Paz 2008). *Plural* in this sense refers both to numerical status (more than one) and to a diversity of civilizational paradigms (of more than one kind). In the first case—autonomies of a singular form within a monocultural state—we would be speaking of a

mononational federal model. In the second, of autonomies linked to diverse peoples and nations, we are speaking of the construction of a plurinational state (Máiz 2008). The legislative and policy implications are clear. In the first case, one might argue simply for deepening mechanisms of decentralization. In the second, transformation would require strengthening forms of self-determination within the framework of a state that recognizes the forms of governed society of, by, and for the peoples and nation(s) that make it up (Paz 2008).

The proposal of the Unity Pact was clearly aimed at the second model. Autonomies were understood as a mechanism of and for the territorial reordering or remapping of the state to suture the wounds of colonialism and to recover sovereignty of these self-named peoples and nations. The indigenous autonomies, therefore, were proposed as forms of government that opened spaces in—and ruptured existing forms of—the imaginary and practice of a nation-state in crisis. These were not simply accommodations to the liberal system that was ultimately founded in an approach to achieving “equilibrium” in state and political systems, as proposed by Kymlicka (1995) and Safran (2002).

It is probably useful here to clarify, given the frequent objections by some intellectuals (Bolivians and otherwise) to the multiculturalist character of indigenous autonomies proposed by the Unity Pact. Some liberal critics—and critics on the left—argue that plurinationalism would balkanize the country, fragmenting it into ungovernable entities while promoting ethnic conflict.⁴ Yet some who are also proponents of decolonization and supporters of indigenous peoples have argued that recognition of the indigenous territories would end up “minoritizing” indigenous peoples of Bolivia, when these are, in reality, majorities (Rivera 2008). Yet, although the indigenous peoples in Bolivia make up 62 percent of the population (according to the 2001 Census) they are not a homogeneous unit. In the eastern lowlands indigenous peoples constitute true minorities for whom self-government would be crucial to defend land and territory against agribusiness and cattlemen’s power. In the Andean western part of the country, the possibility that the Bolivian state might abandon its historical colonial form and take on, somehow, an Andean political form, would depend, not only on the correlation of forces—that is a conjuncture of conflict and power relations that is as yet present—but also on the hegemonic capacity that the proponents of indigenous government have to expand their administrative *habitus*, their distinct visions and practices of governance, into the state apparatus. Neither of these conditions as yet exists. For these reasons, defending the idea of indigenous territorial autonomies does *not* mean ignoring the risk that subaltern segments of society fragment and begin to function according

to a logic of entrenched and territorialized self-defense rather than through wider coalitions of (national) solidarity.

From Concept to Proposal: The Unity Pact and Indigenous Autonomies

In August of 2006 the Unity Pact presented a proposal to the Constitutional Assembly gathered in Sucre suggesting three types of autonomies: indigenous-originary-peasant autonomies; urban peasant autonomies; and regional autonomies. Later, after a year of work, the proposal was refined and a more complex design emerged, including: indigenous originary territories; indigenous originary peasant municipalities; intercultural municipalities; indigenous originary peasant regions; intercultural regions; and departments. Note that in both of the cases, what was being proposed was a system of autonomies *for the whole country*, distinct from the nonindigenous proposals for departmental autonomy, a vision of radical federalism supported by conservative business elites in the eastern city of Santa Cruz. This conservative vision of autonomy was unable to transcend a regionalist orientation that sought primarily to rearticulate (or remap) Bolivian territorial orders such that political power corresponded with existing departmental boundaries and their city-centric economic leadership articulated to global capital.⁵ On the other hand, it is important to note that the Unity Pact also emphasized the significance of regional autonomies—with region being an intermediary category between (or crossing) jurisdictions of department and municipality. Regional autonomies, both indigenous and intercultural (ethnically mixed), were thought of as spaces for the articulation of wider solidarities and political alliances. Such regional autonomies could be formed out of combinations of lower-level indigenous or municipal autonomies and were envisioned as a means to impede the creation of autonomies of the “trenches”—that is, those closed off to others and thus closing off the “minorities.” By the same token, the region became a spatial category that would enable a demand for reterritorialization proposed by indigenous and originary organizations, a demand which transcended the limitations of existing municipal jurisdictions.

As one might imagine, the debates within the Unity Pact were marked by tensions over points that highlighted myriad conflicted interests. For example, there was debate whether the Unity Pact should include in its proposal the category of “departmental autonomy,” since this had been appropriated by the powerful right-wing segments of the so-called “half-moon” (*media luna*), the group of four eastern departments (Pando, Beni, Santa Cruz, and Tarija) who spearheaded the radical federalist vision. Against the

idea of departmental autonomy, some argued that the departmental spaces should be drastically transformed as part of a process of reterritorialization of the country guided by the criteria of recovering ancestral territories of indigenous peoples, rather than by the logic of existing jurisdictions. There was also a debate over whether the authorities of newly created indigenous autonomies would be the same as the authorities and leaders of existing socioterritorial organizations of the indigenous originary and peasant peoples and nations. Were these merged, some argued, there would be a risk of “statizing” the organizations. Some suggested that newly created autonomous authorities be elected according to particular norms and procedures distinct from the existing communitarian or organizational authorities, so as to avoid the risk of leaders becoming both judge and jury within the state structure. Finally, there was intense debate over the control and ownership of natural resources. This confronted difficult positions, in the sense that some argued that indigenous peoples should have total control (dominion, property, and benefits derived from exploitation) and others proposed rights of use and usufruct of renewable natural resources in indigenous territories with only a binding vote—the right to veto or say “no”—over the exploitation of nonrenewable natural resources in indigenous territories. This long process of collective construction led to further conflict and dialogue as the proposal of the Pact of Unity entered into the arena of wider national debate within the Constitutional Assembly.

Autonomies in the New Constitution

The proposal of the indigenous and peasant organizations confronted a range of other actors within the context of the Assembly. These included representatives from opposition conservative parties, representatives of the ruling MAS party, and advisors of the various entities (Bolivian and European constitutional experts and NGOs). The Unity Pact proposal was virtually the only one that had a wide national, nonsectorial vision—despite its origins as an indigenous project—as compared to proposals tied to one or another interest such as agribusiness, labor, and so forth. The document thus generated a broad space of discussion, yet one which greatly complicated what activists refer to as the spaces of *incidencia*, that is, the spaces within which one might defend or negotiate their position. In the end, the MAS—the dominant force in the Assembly—adopted the proposal of the Pact, and the assembly members of the MAS took it on as an important component for the development of what were called “majority opinions”—the positions on constitutional points held by the MAS as opposed to the “minority opinions” put forth by various other political blocks. The original

constitutional text approved in Oruro in December of 2007 reflected, in large part, the proposal of the Unity Pact. However, the later text, now called the “negotiated” text,⁶ that emerged from high-level discussions between the MAS and the right-wing opposition in October of 2008, departed in significant ways from the position of the Unity Pact, significantly domesticating the issue of autonomies.

The constitutional text finally approved by national referendum on the 25th of January of 2009 proposed a territorial organization based on departments, provinces, municipalities, and indigenous originary peasant territories (Art. 269.III).⁷ With these four types of autonomy, the text specifies that each autonomous regime implies direct elections of authorities, the administration of economic resources, and the exercise of legislative, regulatory, fiscal, and executive powers (Art. 272). An important aspect of the constitution is the nonsubordination between distinct autonomies, which are all given an equal hierarchy (Art. 276). This was a blow to the elite proposal for departmental autonomy, which sought to subordinate indigenous autonomies to departmental authority.

Of the four autonomous forms, the weakest, without doubt, is regional autonomy. The category of the region was relegated to the then as yet approved passage of legislation that would put the process into implementation (the *Ley Marco de Autonomías y Descentralización*, passed in August, 2010). Such regions would theoretically consist of various municipalities or provinces that have geographic contiguity and which share culture, language, history, economy, and ecosystem, but which can surpass departmental limits. The region is conceived, fundamentally, as a space of planning and management (Art. 280.I) although it can become a regional autonomy (Art. 280.III). It is so weak that the constitution assigns it no attributes (Art. 301). As such, a category deemed crucial to articulating cross-ethnic alliances and reconstituting indigenous territorialities beyond existing jurisdictions, was significantly restricted.

With respect to indigenous autonomy, this was defined as “consisting in self-government as the exercise of free determination of the indigenous originary peasant nations and peoples (NPIOC, or *Naciones y Pueblos Indígenas Originarios y Campesinos*), whose population shares territory, culture, history, languages, and their own economic, social, political, and juridical organizations and institutions” (Art. 289). The text also affirms that the formation of indigenous autonomies will be based on ancestral territories actually inhabited by the NPIOC and will be established according to the will of the people expressed through consultation (Art.290.I). Self-government is to be exercised through their own norms, institutions, authorities, and procedures, but according to attributes and powers determined by the

constitution and the law (Art. 290.II). In addition, the constitution makes explicit the procedures to follow in case indigenous autonomies affect district or municipal limits and in the case that various autonomous territories seek to become an autonomous region (Arts. 291–295).

This formulation of indigenous autonomies is part of a political agreement that was made in the national Congress—not within the deliberative space of the Constitutional Assembly—in October of 2008. There the Congress also agreed on the law that would call for a referendum on the constitution (and on the revocation of authorities), a law signed by President Evo Morales that same month. To achieve this political agreement, a commission of senators and deputies of the four most important political parties (MAS, PODEMOS, UN, and MNR)⁸ modified the constitutional text approved by assembly delegates in Oruro, changing over one hundred articles of the document created by the Constitutional Assembly. This fact—what we now call *metiendo mano*, or sticking their hands into a finished text—meant that the constitutive character of the entire constitutional process was erased. In other words, the constitutive power, of which Negri (1999) speaks, was disarticulated. This neutralized the potential of a process unleashed by the mobilizations that began in 2000 which had opened a range of political possibilities. In effect, the entire mobilizational process was taken over by the already constituted powers—the existing structure of political parties.

It must be said that important elements were maintained which allow advances in terms of the conquest of rights in a legal sense. If one follows the letter of the constitution—we see such achievements in elements such as the recognition of the precolonial existence of the NPIOC (Art. 2), the opening to juridical pluralism (Art. 178), and the official re-designation of the state as “Plurinational” (Art. 1). All of these gestures will facilitate what De Sousa Santos (2007), refers to as the continued designing, thinking, and even experimenting with another state form. The issue, however, is not the letter of the law, but the seriousness of the fact that the process was derailed, or de-constituted. In what follows, I describe some of the more troubling changes that were introduced in the negotiated, now official, text.

For instance, though the principal of juridical pluralism was maintained, the possibility that indigenous jurisdictions would not face review and control by ordinary jurisdictions was removed (Art. 192 of the original version). This impinges directly on the establishment of mechanisms of control in the exercise of direct democracy and indigenous originary representation as peoples and nations. That is to say, the exercise of direct democracy is diminished, as it restores indirect government through the delegation of sovereignty to the state (Art. 7). By the same token, the exercise of direct

democracy (by referendum, citizen initiative, revocatory referendums, assemblies, cabildos, and prior consultations) is all derived—that is assigned not to the peoples, but to the state—since it is to be regulated by law (Art. 11). As for the election, designation or nomination of representatives of the indigenous originary peasant nations and peoples, it will be done through their own norms and procedures, but in conformity with the law (Art. 11) and under supervision of state electoral commissions (Arts. 26 and 211). The representation of indigenous peoples in the Plurinational Assembly is also restricted. Indigenous circumscriptions can not cross departmental limits and they are to be established only in the rural area and in departments where the indigenous peoples are a minority (Art. 146). This implies that some indigenous peoples will elect representatives through special electoral districts, while others will compete within existing electoral districts.

The two most complicated areas are that of autonomies and territory. In the case of autonomies, the participation of indigenous peoples in Departmental Assemblies is assured when they are minorities in these departments (Art. 278). In the case of the regions, which could in theory have become spaces for translocal indigenous autonomy projects, they are, as described above, being constituted not as entities possessing their own political authority, but as spaces of planning and management. Although the “official” text opens the possibility that regions might take on an autonomous status based on member municipalities (Art. 280.III), their functions and administrative attributions will be determined by a two-thirds vote in the Departmental Assembly (of the surrounding departmental jurisdiction). This is a virtual impossibility, as departmental assemblies are unlikely to cede territory and authority to what would in effect be seceding portions of their own territory. As for indigenous autonomy, the “consolidation of ancestral territories” is eliminated, giving way only to the ancestral territories actually occupied by the NPIOC (Art. 290). The possibilities of reterritorialization are also limited, since any claim for indigenous originary peasant autonomy that affects municipal boundaries must be subjected to approval by the (state-level) Plurinational Assembly (Art. 293). At base, indigenous originary peasant autonomy is being given the status of a municipality (Art. 303) and contained within the limits of existing TCOS (Tierras Comunales de Origen or communal lands of origin).

In relation to territory and land, the central issue was the weakening of mechanisms aimed at the redistribution of large concentrations of landholdings, the revolutionary attempt to dismantle the latifundias that I described above. In effect, the means for maintaining a highly unequal agrarian structure of land ownership were restored. In the area of land, the central state maintains the power over “general policies of lands and territory, and their

titling” (Art 298.I.17), and control of the “land regime” (Art 298.II.28) becomes one of the exclusive attributes of the central level of the state. (This was a power that departmental business elites sought to claim for themselves with their own claims for “autonomy”). However, power over land regime issues can be transferred as regulatory and executive capacities to other levels of government (including the departments). The same can be said of forest policy (Art. 2989.II.7), of water resources (Art 298.II.5), and others. This opens the possibility that future governments who are unsympathetic to indigenous and popular issues, will rapidly revert to a federalist system that undermines indigenous and peasant advances. A related theme relates to regulation in the area of the environment, in which the “official” text removed the robust designation of crimes against the environment as imprescriptible (Art 112 in the original text) and paved the way for the possibility of introducing transgenics into the country, albeit regulated by law (Art. 409).

The most serious issue of this shift in relation to land is that the limits placed on latifundia—individual holdings are now restricted to five thousand hectares—are not retroactive (Art. 399). This means that existing landholdings above five thousand hectares are not subject to expropriation and redistribution, unless they are deemed unproductive, counter to social benefits, or sites of slave-like or debt peonage labor relations. The ongoing cadastral processes involving the titling of large landholdings, as well as those latifundias deemed productive, will not be subjected to the new norms of the constitution. Even so, through a legal category known as the “agrarian business” (*empresa agricola*), a kind of corporative latifundia will be permitted, such that in theory, new latifundias may emerge despite the putative limits on property. This portion of the negotiated text was written in such a technicist language that it almost appears to be an esoteric scripture:

The state recognizes property in land of all those juridical persons legally constituted in national territory as long as this [land] is utilized to fulfill the object of creation of an economic agent, the generation of jobs and the production and commercialization of goods and services (Art. 315.I).

The juridical persons described in the prior paragraph that are constituted after the present Constitution will have a societal structure with a number of partners [socios] no less than the division of the total land surface by five thousand hectares, rounding the result to the immediate superior whole number (Art 315.II).

This article, which has been given little attention in public commentaries on the constitution, means that one can skirt the upper limit of five

thousand hectares per landholding that was established in the referendum. Thus, by creating a kind of corporation, a business with one hundred small stake holders and one large one could, for example, come to hold at least five hundred and five thousand (505, 000) hectares of land (CENDA 2009). The putative socialism and the supposed assault on private property often ascribed to the MAS are fallacies.

ConCLUSION: Domesticated Plurinationalism and the Minoritization of Indigenous Autonomies

The ongoing tensions over the remapping and remaking of the Bolivian state reflect a wider global situation in which the term nation, as a unitary, totalizing, all-encompassing term, is in crisis. Volatility, polysemy, and dispersion in relation to the concept of nation—reflecting the complex global and local social and political-economic webs into which nations are embedded in reality—are part of the so-called crisis of the nation-state and the emergence of post-national political forms (Negri and Hardt 2001). This crisis is also a reflection of the limitations of the nation-state's conventional pretensions to maintaining internal cultural and political hegemony. Scholars of Latin America have long emphasized that the state and the nation are cultural, social, symbolic, and political constructions, forms appropriated both by powerful and subaltern sectors to construct tools of domination, resistance, struggle, or change. There is certainly a clear historical imprint of a state constituted by elites according to their interests, but there are also clearly state forms constructed and contested from positions of subalternity in distinct historical moments (Lagos and Calla 2007; Smith 2003), such as the participation of peasants in the making of the nation, as a kind of popular or communitarian nationalism (Mallon 1995).

In what I have described here, in the Bolivia of today, we also see that the indigenous peoples were and are also participating in national construction. Yet distinct from the communitarian nationalism of the past, the pursuit now is of a plurinational state that has some consonance with the polysemic character of the term plural I described above. In this sense, the indigenous and originary peoples, in their constitutional proposal, were and are pushing for their own form of state-making, a significant point since this is a departure from the classical sense of the struggle against the state, or the struggle to take or capture state power. The issue is *which* kind of state the people will make, and whether and how it might be constructed—whether they can construct an Other kind of state that resolves the historical discrimination and exclusion to which they have been subjected since the creation of the colonial republic.

The proposal of the organizations of the Unity Pact was that the Constitutional Assembly would have the characteristic of a sovereign, participatory, and foundational entity (Pacto de Unidad 2004, n.d.). However, through the process I described above, the outcome as reflected in the official constitutional text created by Congress advanced a moderate or domesticated plurinationality which puts into place forms of containment to assuage the fears of a de-structuring of the nation and of liberal institutionalism. This is then, a kind of plurinationalism that establishes the limits of self-determination of indigenous peoples and sanctions only what is allowed. The plurinational seal of the new state remains, but it is a plurinationalism tamed and controlled by the already constituted powers, not determined by the originary, foundational powers of indigenous peoples. I have described how the assembly was marked by its derivative character and subjected to political games that allowed the rearticulation of a partyocracy (*partidocracia*), a system of political parties that was in crisis after the insurrectionary mobilizations of 2000, 2003, and 2005 (Garcés 2008a, b). This explains the reinsertion of the concept of the Bolivian nation (Art. 3), of Bolivian nationality (Arts. 142–143) and the reinsertion of the concept of the “Republic of Bolivia,” none of which were in the original text of Oruro (Art. 11). These are the limits and the stubborn effects of state multiculturalism of the neoliberal era, and a sign of the desperate attempt to retain the template of the nation-state.

In this context, it is worth asking: Can the state be changed? Can it be decolonized, as is often said in certain circles of the MAS government? Can its practices and routines, and its subjection to the constitutive efforts of the powerful be changed? Even if it is true that the recent constitutional labors in Ecuador and Bolivia have entailed attempts to transcend the multiculturalist gaze (Walsh 2009), the risk we now confront is that the proposal of the plurinational state be converted into an arrangement within, among, and for the political class to avoid social conflict, to achieve what is so often a triumphalist clucking and cackling about “governance” and “governability.” This is how proposals of autonomous reordering are often viewed by the powerful, as a means of institutional arrangement that allows states to surpass crises of legitimacy (Safran 2002).

In that sense, the risk is that the proposal of territorial ordering—the remapping of Bolivia—and of indigenous autonomies becomes simply what the eminent Bolivian social theorist and historian, René Zavaleta (1989), termed “state matter.” That is to say, the remapping is transformed into a state reform that deepens the mechanisms of indigenous participation in the state but does so through their subordination, without changing the

structures of the state itself, as was done with the politics of difference during the neoliberal multiculturalism of the 1990s (Garcés 2009a). The same thing can happen that happened with neoliberal multiculturalism: a domesticated plurinationalism emerges in which the state and that deemed politically correct dictate the themes to be dealt with, the allowable margins and limits, and so forth. Such a proposal remains functional to state management and not to transformative possibilities (Hale 2002). Transforming the density and complexity of demands for indigenous self-determination (*autodeterminación*) and self-government (*autogobierno*) into a primarily managerial problem allows the subtle re-establishment of mechanisms of state coloniality that continue to show signs of vigor and creativity.

For these reasons, one must insist again on the words of Zavaleta expressed in the epigraph, that there is little to be gained with indigenous autonomies and the proposal of the plurinational state if made as a condescending offer based on a negotiated arrangement to maintain political institutionalism. The alternative has yet to be achieved: that it no longer be the indigenous peoples who should seek forms of accommodating themselves more or less independently to the modernization efforts of the state, but that the state should have to accommodate itself to support forms of self-determination of the indigenous peoples without engulfing them. Given that the constitutional process has been gradually appropriated by the [elite] political class, it is necessary now to begin working again for an autonomous construction from below.⁹

The Unity Pact's proposal for a plurinational state and indigenous autonomies coincided with the idea of a republican democracy of a self-governed society that offers a series of principles related to the limits of political representation, as Máiz (2008:36) suggests: "effective popular sovereignty, political equality, equality of opportunities, equality over resources, control (that is, accountability) over those elected, and a more active and informed citizenry." With indigenous autonomy understood as the "devolution of sovereignty to the originary peoples" (Regalsky 2009), the emphasis is on the sovereign rights of the peoples rather than on the sovereign right of the nation-state. As Regalsky writes (2009:76):

[W]hat the indigenous peoples in fact propose is not simply the devolution of territory but the transformation of the concept of sovereignty, they are proposing in other words the devolution of sovereignty to the peoples, what is nothing less than the putting into practice of a more general democratic principle that one supposes was established by humanity in the 18th and 19th centuries. And we all believe that democracy supposes the exercises of sovereignty by the people.

It is clear that the plurinational state will be achieved not through the means consigned by the Constitution, but to the extent that the social mobilization that put the constitutional process into motion is maintained, and to the extent that the potentiality of this constitutive power can be maintained. On the other hand, it should also be clear that what I have discussed is not a simple plea in favor of the purity of indigenous proposals for plurinationality. We know, that, as with any political project proposed from positions of subalternity, these move in a continuous game of resistance and domination (Chatterjee 1993; Guha 1997). Nonetheless, it is important to make clear and visible our efforts of support for the recovery of power for the popular and indio civil society, rather than for the salvation of the state. This is so that, properly speaking, we can say that for the indios, “it is their time to rule” and that “the present is another time,” as was said of the insurrections of 1780 and 1781 (Thomson 2003).

Colcapirhua, June 7, 2009.

Notes

1. I was a member of the technical team of the Unity Pact during the process of the Constitutional Assembly (2006–2007), experiences on which this chapter is based.
2. On the 2002 march, see Romero (2005); on the Gas War, see Gordon and Luoma (2008).
3. These ideas draw on previous work (Garcés 2008a, 2008b, 2009a).
4. From the nationalist left, there has been a small but vocal critique of plurinationalism, indigenous rights, and the notion of indigenous autonomy, all seen as threatening Bolivian natural resource sovereignty, part of a conspiracy of American and European-backed indigenous rights NGOs (Solíz Rada 2007). From the neoliberal right, the argument against plurinationalism is less about sovereignty than about “modernity” and “governance,” assuming that legal and territorial pluralism is impossible, inefficient, and inherently unstable, and that a nonethnic decentralized federalism is ideal (Mayorga 2007). Both positions share a colonial view of indigeneity as pre- or nonmodern, and an assumption that its robust recognition is inherently divisive and dangerous. —Eds.
5. On the departmental “autonomy” project see Kirshner; Fabricant, this volume; and Gustafson (2006).
6. In Bolivian Spanish, *negociado* (negotiated) has the connotation not of mutual consensus, but of questionable business-like malfeasance, something akin to “selling out.” —Eds.
7. The original text of the constitution was approved by the popularly elected Constitutional Assembly in Oruro (November 2007), and is referred to here as the Oruro version. For the “official” version, which modified the Oruro text through the congressional pact (October 2008) and was later approved by referendum in January 2009, see Nueva Constitución Política del Estado, or NCPE (2009). References herein are to the official version unless otherwise specified. For a rich archive of documents, including various of the Pacto de Unidad, see <http://constituyentesoberana.org/>. —Eds.

8. MAS (Movement to Socialism, the ruling party); PODEMOS (Democratic and Social Power, right wing); UN (National Unity, right wing); MNR (National Revolutionary Movement, right wing).

9. Albó and Barrios (2006) speak of two forms of territorial construction: one from above and another from below. In the first case we encounter the formal, juridical and administrative version of state territorial ordering based on the interests of the managers responding to what are perceived as political, economic, social, and cultural variables. In the second we refer to the concrete social groups that control, manage, and decide over their appropriated space, beyond the presence (or not) of effective state plans of territorial control. See also García Linera (2005).