New Constitutions in Latin America: Towards Participative and Pluralist Democracies? The Case of Bolivia

Introduction
The new constitutions in Latin America are part of the „Fourth Wave of Constitutional Change“, which began in the 1990s (Van Cott 2000).¹ In the last two decades, almost all Latin American states adopted new constitutions or significantly changed the existing constitutional texts. The new constitutions are more political than their antecessors and aim to have a social-integrative function. Most of the recent constitutional changes were demanded “from below” and the new constitutions can be seen as reactions to multiple crises of Latin American States, among them the representation deficit of traditional political parties, the high social inequality connected with the failure of poverty reduction strategies and social protests (see Wolff 2009; Assies/Salman 2005), in some cases culminating in forced presidential demission. With the intent to reduce the high gap between civil society and the state and in order to reestablish state stability, new constitutions were adopted that recognize the multicultural and polyethnic conditions of the states² as well as several mechanisms of participative democracy. Because of common procedural and substantial characteristics the new constitutions of Venezuela (1999), Ecuador (2008) and Bolivia (2009) are even designated as the beginning of a “New Latin American Constitutionalism” (Noguera 2008; Martínez Dalmau 2008; Gargarella 2008). All of them were compiled by Constituent Assemblies and adopted by the citizens of the states. They can be classified as ‘multicultural constitutions’, strengthen the control of the state in the economy, incorporate extended human rights (particularly social rights) and all of them give more importance to participatory democracy.³ Many authors highlight the positive characteristics and consequences of direct democracy, like improving transparency and accountability of political parties and state institutions, taking decisions with broader civil society support and increasing citizen’s knowledge about politically relevant issues (see Sousa Santos 2005, 2009; Schmitter 2000; Barber 1984). Nevertheless, there are also many examples proving that direct democracy can have negative consequences, for example when citizens are manipulated by one-sided communication media or political discourse or when certain actors primarily use direct democracy to gain power. Anita Breuer (2008 and 2010) argues that direct democracy in Latin America since the 1990s was widely a top-down affair, induced by executive-legislative conflict and that it has done little to foster accountability.

This article will describe and analyze the design of the democratic model in Bolivia according to the new Constitution and discuss the challenges when it comes to putting it into practice. The focus is laid on the political participation of long time marginalized and underrepresented sectors of society, particularly indigenous-campesino populations. I will analyze the current changes of Bolivia’s democracy, that is defined as “participative, representative and communitarian” according to the Constitution (Art. 11) adopted by

¹ All waves of constitutional changes occurred after profound crises, the first one in 1789-1799, the second one in 1914-1926 and the third one in 1945-1965 (Van Cott 2000: 11).
² In this context many authors (Clavero 2008; Martínez Dalmau 2008: 5; Chivi Vargas 2008) speak of a juridical-political decolonization process and interpret the new “multicultural” or “plurinational” (Ecuador and Bolivia) constitutions as a process of emancipation from externally imposed political and juridical systems in order to create states that are more responsive to their specific social realities.
³ Hug and Tsebels (2002) showed that worldwide direct democracy practices gained importance over the past few decades and were increasingly incorporated in constitutional texts.
referendum in January 2009. In Bolivia, particularly indigenous-\textit{campesino} organizations\(^4\) demanded a constitutional change, conceived as the "re-foundation of Bolivia". The new constitution of Bolivia incorporates many of their demands, among them the definition of Bolivia's new political system as "pluralist" and "participative". Thus, the recognition of mechanisms of direct democracy and of indigenous political views and systems are interconnected in the Bolivian case and should not be analyzed separately.

As a theoretical framework, I will apply the concept of "strong publics" elaborated by Nancy Fraser that describes an alternative, post-bourgeois conception of the public sphere (1990). Fraser questions Habermas’s concept of the public sphere, arguing that "declaring a deliberative arena to be a space where extant status distinctions are bracketed and neutralized is not sufficient to make it so" (Fraser 1990: 60). In contrast to Habermas, Fraser states that the aim should not be to establish one allegedly "universal" or "bourgeois" public sphere, but that many competing public spheres should coexist. For Fraser (1990), the existence of "strong publics" comprises social equality as a necessary condition for political democracy\(^5\), the possibility of decision-making and not only opinion-forming of civil society, the proliferation of a multiplicity of competing publics and the lack of a sharp distinction between state and civil society. Fraser’s concept of "strong publics" widely coincides with current definitions of "radical democracy" that highlight pluralism, participation and social equality as primordial characteristics (see Van Cott 2008: 8; Saward 2000: 219-220). The main question raised in this article is: Do the current politico-juridical changes in Bolivia contribute to the creation of "strong publics"?

In the context of the recognition of (pluralist) participative mechanisms, a central question is whether necessary pre-conditions of participation exist (see Fraser 2003; Wolff 2009; Sunstein 2001: 223). Particularly, the factual existence of social rights like access to information, education, alimentation and health care are of primordial importance to one’s ability to exercise civil and political rights. In Latin American states, it is a common characteristic that the "Third Wave of Democratization" (Huntington 1991) did not result in reducing social inequality and poverty. As poverty and political under-representation generally are connected in multiple ways, marginalized groups have to cope with the difficult task to introduce their visions and demands into state politics. The lack of representation is connected with the lack of economic, symbolic, cultural and linguistic capital as well as with subtle exclusionary mechanisms (see Bourdieu 2001: 12; Fraser 1990). A reflection of this interdependency in the Bolivian case was the fact that the indigenous population majority\(^6\) constituted a political minority until recently.

Responding to high levels of poverty, social inequality and contiguous social protests, the new Latin American Constitutions incorporate much more social rights and rights of hitherto marginalized sectors of society than their antecessors as well as several mechanisms to guarantee their implementation (see Noguera Fernández 2009). In Bolivia, social rights like the right to water, alimentation, information and housing were incorporated for the first time into the new Constitution. Moreover, the obligation to carry out redistribution processes and to increase the support of poor sectors of Bolivian society was inscribed.

The findings of the article are based on literature as well as field research and qualitative interviews, particularly with leaders of indigenous, peasant and unionized labor organizations,

\(^4\) Due to the specific Bolivian history and former assimilation politics (see part on the historical context in this article) it does not make sense to make a clear separation between indigenous and campesino populations in Bolivia (see Albó/Barrios 2006).

\(^5\) See also Fraser 2003.

\(^6\) 62% of the Bolivian population identified themselves as indigenous according to the national statistics of 2001 (see www.cne.org.bo).
politicians and social scientists in Bolivia. The first part of the article deals with the historical context of democracy and participation in Bolivia, the second part describes current developments under the presidency of Evo Morales (focusing on the constitutional change process), in the third part I will analyze the new Constitution focusing on participative democracy and political pluralism and in the fourth part of the article I will discuss the challenges regarding the implementation of a new democratic model.

1. **Historical context: Participation and Democracy in Bolivia**

Prior to the national revolution in 1952, a great majority of Bolivia's population was excluded from political participation due to discriminatory legislation that conceded the right to elect and to be elected only to literate and salaried men. According to García Linera (2000a: 15), from 1880 until 1951 only approximately 2-3% of Bolivian’s population had the factual right to vote. Similar to developments in other Latin American States and worldwide, the model of explicit unequal treatment of citizens according to certain characteristics was abandoned in Bolivia from the 1960s on, when a homogenizing state model in which every citizen should be treated equally was implemented (Kuppe 2002; Albó/Barrios 2006; Stavenhagen 2002). On the one hand, the new state model resulted in more social equality, as human rights like the right to vote and the right to basic education were extended (at least theoretically) to every inhabitant. On the other hand, cultural diversity was not recognized and hence structural discrimination persisted (Van Cott 2005: 147; Romero 2005a).

Unionized campesino organizations of Bolivia supported the national revolution of 1952 and afterwards established alliances with political parties as well as with the later military dictatorships (Assies/Salman 2005). However, subordination and co-option of the campesino representatives and their demands were usual and led to the disruption of the alliances as well as to the creation of new autonomous movements and organizations like the *Kataristas* in the 1960s and the CSUTCB7 in 1979. These highland organizations demanded the reduction of their economic discrimination as campesinos as well as their cultural discrimination as members of indigenous communities (Albó 2002b; Albó/Barrios 2006: 121; Rivera Cusicanqui 2003, Assies/Salman 2005), or, in Fraser’s words (2003), redistribution and recognition. Other unionized peasant organizations originated in the Bolivian valleys, as a consequence of internal migration movements connected with the implementation of neoliberal politics that resulted in the closure of mines and other state enterprises: the *Cocaleros* (Coca Growers) and the *Colonizadores*8 (Colonizers). Indigenous organizations also expanded in the lowlands under the umbrella of CIDOB and in 1997 "traditional" *Ayllu* organizations of the highlands created the superior organization CONAMAQ (see García/Chávez/Costas 2004: 210). From the 1990s on, the indigenous-campesino organizations were gaining ground in state politics due to favoring international and national developments. Since then, they have been the driving forces in challenging the existing order and demanding profound state transformations (see Tapia 2007a: 107). Still, one should bear in mind that social and indigenous movements in Bolivia should not be conceived as a monolithic bloc, but rather "[that] very different concepts of ethnic-cultural consciousness and political projects still coexist" (Stroebele-Gregor 1994: 5).

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7 Confederación Sindical Unica de Trabajadores del Campo de Bolivia (Confederation of Peasant Unions of Bolivia).
8 The organization of the *Colonizadores* until recently was designated as CSCB (Confederación Sindical de Colonizadores de Bolivia; Confederation of Colonizer Unions of Bolivia). As the term “Colonizers” has many negative associations in the Bolivian context, the name was changed to Confederación Sindical de Comunidades Interculturales de Bolivia (CSCIB; Confederation of Intercultural Communities of Bolivia) (see www.cscbbol.org).
Among the relevant international factors for the increasing importance of indigenous-campesino organizations were the amplified recognition of the rights of indigenous peoples in international human rights instruments (particularly the ILO-Convention 169 and the UN-Declaration on the Rights of Indigenous Peoples), the support of international organizations like the World Bank, the United Nations and a large number of NGOs as well as the “500-year-jubilee” of Latin American colonization in 1992, which channeled the focus on the situation of the formerly colonized populations (see Sieder 2002). At state level, Bolivia was recognized as “multicultural and polyethnic” due to a constitutional amendment in 1994, and many rights of indigenous peoples were recognized by laws and decrees (see Barié 2003 and 2005; Marinissen 1998). Despite growing legal recognition of cultural diversity, social inequality remained high and impoverished sectors, like indigenous and campesino communities and among them particularly women, could not improve their living conditions considerably. Recognition was not connected with redistribution of wealth and social resources, due to politics that can be characterized as “neoliberal multiculturalism” (Assies/Salman 2005: 272; Van Cott 2000).

Political participation of the indigenous-campesino sectors of society at the municipal level was strengthened since 1994 due to Lozada’s decentralization policies and the Law of Popular Participation (Albó 2002a; Assies/Salman 2005; Van Cott 2000 and 2008). Moreover, relevant electoral reforms were carried out: since 1995, programs were conducted to provide adults with identification documents in order to obtain the factual right to vote, in 1996 “uninominal” circumscriptions were introduced to elect half of the members of the chamber of deputies and in 1999 the “Ley de Partidos Políticos” made it possible for civil associations and indigenous peoples to nominate their own candidates (see Arnold 2004).

Applying Fraser’s criteria for “strong publics", we can state that the heterogeneous indigenous-campesino movement of Bolivia is composed by different competing public spheres and that some political-legal reforms carried out in the past contributed to give society at large a greater role in governance as hitherto marginalized groups of society could improve their representation at different state levels. However, the great social inequality persisted and the underprivileged remained underrepresented in state politics.

2. The MAS Government and the Constituent Assembly

In 1995, the MAS-IPSP was founded by an alliance of unionized peasant organizations (CSUTCB, Cocaleros and Colonizadores) and was very successful in the municipal elections of this year. In the presidential and legislative elections of 1997, parties that emphasized their indigenous identity campaigned for the first time, and since then it was possible to observe an increasing number of indigenous-campesino representatives in state politics. In 2005, Evo Morales was elected for president with 54% of votes. To explain this impressive result, it is important to recall the great social protests in 2000 (“water war”) and in 2003 (“gas war”), as well as the ability of the governmental party to form alliances with different sectors of society like indigenous lowland and highland organizations, urban intellectuals and workers, trade unions and leftist groups (Van Cott 2005). Additional factors were the lack of trust in traditional political parties and the pressing demands of the poor to improve their living conditions instantly, counting on Morales’ promises to give priority to their needs.

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9 Luis Tapia (2007a: 11) describes that in Bolivia discriminatory structures can be described as a mixture of racism and class domination, supplemented by sexism.

10 Even in the elections of 1997 81.2% of lowland indigenous populations did not have an identity card and 40% did not possess a birth certificate and, thus, were excluded from exercising their right to vote (Van Cott 2005: 76).
During the last legislative period, MAS mostly carried out a “revolution with the ballot”, but in very delicate and conflictive issues it frequently harked back to the mobilization of their basis organizations to press for common aims. As the governmental party did not possess the absolute majority in the chamber of Senators, important political changes were made by presidential decrees, by negotiations with the opposition in congress and in the Constituent Assembly. Many times the governmental party (just as the oppositional forces) overrode legal regulations and marginalized minority views (see Asbun Rojas 2008). As the Constitutional Court and the Supreme Court were disabled during long periods, the scope of action of the governmental party without being sanctioned amplified (Käss 2009; Bertelsmann Stiftung 2009). In a recent article, the Vice-President and sociologist Álvaro García Linera quotes Robespierre to justify law infringements on the part of MAS, characterizing his government as a "revolutionary government": “El objetivo del gobierno constitucional es de conservar la República: el del gobierno revolucionario es el de fundarla. La Revolución es la guerra de la libertad contra sus enemigos; la Constitución es el régimen de la libertad victoriosa y serena. El gobierno revolucionario necesita una actividad extraordinaria por estar, precisamente, en guerra. Se ve sometido a reglas menos uniformes y menos rigurosas, porque las circunstancias en las que se encuentra son tormentosas y móviles; y sobre todo, porque se ve obligado a desplegar sin respiro recursos nuevos y veloces para hacer frente a peligros nuevos y urgentes. El gobierno constitucional se ocupa principalmente de la libertad civil; y el gobierno revolucionario de la libertad publica. En situaciones de régimen constitucional basta, prácticamente, con proteger a los individuos de los abusos del poder publico; bajo el régimen revolucionario, el poder publico debe defenderse a sí mismo de todas las funciones que lo atacan” (Robespierre as cited in García Linera 2009). The main statement of the quotation in this context is that the aim to press for profound changes (and to secure governmental power) legitimizes procedural irregularities or authoritarian postures. From the perspective of the government, a certain degree of authoritarianism might have been necessary in order to secure governability and to carry out profound transformations against the will of a powerful opposition. From the perspective of indigenous-campesino organizations, overrunning democratic and legal rules also can be justified with the argument, that democracy until recently represented an exclusive and discriminatory pact of the ruling elite and the rule of law basically served the interests of the rich (“La ley es de los ricos”; see Gray Molina 2007a und 2007b). Now, many members of indigenous-campesino sectors of society may not be willing to respect governance models which in the past served to repress their aims of emancipation, and that were being perceived as externally imposed mechanisms of (neo-)colonial or imperialist power structures.

The Constituent Assembly was convoked some months after Morales assumed the presidency. The demand for a constitutional change with the broad participation of the hitherto excluded first of all had been expressed publicly by the indigenous lowland organizations in their protest march of 2002 and afterwards it had been adopted by the highland indigenous-campesino organizations. Hence, during the “gas war” the main demands (the “Agenda of October”) had been the nationalization of hydrocarbon resources and the drafting of a new Constitution. The indigenous-campesino organizations of Bolivia originally had demanded that civil society organizations and not political parties should elaborate the new Constitution (see

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11 According to Van Cott, political parties that emphasize their indigenous identity do not substitute social movements and indigenous organizations, but the parliamentary channel is complementary to mobilization, as “preserving the movement is vital to maintaining and strengthening indigenous culture, collective identity, and group cohesion, the most valuable political resources indigenous peoples possess.” (Van Cott 2005: 213).

12 Contrary to the last constitutional reforms that were carried out by a small number of experts and politicians in a rather intransparent way (see Van Cott 2000 on the constitutional reform of 1994).
Artículo Primero 2005). There also had been an agreement between MAS and the indigenous organizations (particularly with CIDOB and CONAMAQ) that foresaw that indigenous representatives should obtain 16 reserved seats in the Constituent Assembly. The agreement was broken on the part of MAS and for indigenous-campesino representatives it was almost impossible to nominate their own candidates without harking back to the MAS party. It seems to have been a strategic decision to hinder other social forces from campaigning in order to concentrate votes on MAS, avoid fragmentation and exclude dissident voices (Interviews of the author with several MAS representatives). The Constituent Assembly provided the possibility to carry out profound state reforms that would not have been possible in congress, and at the same time the governmental party managed to obtain a high number of Assembly members: 137 of 255 delegates were affiliated to MAS. Many MAS delegates (around 60, Interview with general secretary Isaac Ávalos) stemmed from its founder organizations CSUTCB, Cocaleros and Colonizadores. The indigenous lowland organizations and CONAMAQ had much fewer representatives in the Assembly (four and eight delegates respectively), particularly due to more distant relations with the government. Consequently, they were not able to introduce their demands to the same extent as the more MAS-related organizations did and frequently expressed their discontent with the constitutional change process.13 Despite frequent conflicts, the indigenous-campesino organizations were able to elaborate common documents with political-juridical demands for the new constitution that were used as the basis of the MAS party’s proposals.

Beside the criticism regarding exclusionary and homogenizing tendencies of the MAS party, a widespread criticism was that the political parties in general tried to influence and control the Constituent Assembly in order to subordinate it to their own aims. In the end, the subordination was even clearer as the draft Constitution of the Assembly was changed by congress delegates in more than 100 articles. But what does the Constitution say about the new participative and pluralist Bolivian democracy?

### 3. New Bolivian Constitution: Participative and Pluralist Democracy

In the first article, the new Constitution recognizes the pluralist composition of the Bolivian state, among other things the "pluralidad y pluralismo político". Article 7 states that Bolivia’s sovereignty is based on the Bolivian populace and exercised in a direct and in a delegate way. The type of democracy adopted by the government is elucidated in Art. 11 and characterized as "participativa, representativa y comunitaria". Mechanisms of direct and participative democracy are the Referendum, the Legislative Initiative of Citizens, the Recall Referendum for Public Servants, the Assembly, the City Council and the Previous Consultation. The representative form of democracy is exercised by universal, direct and secret elections. The communitarian form is exercised by the election or designation of indigenous-campesino representatives according to own norms and procedures. The “communitarian democracy” is a renewal of the Constitution, and the mechanisms of direct democracy were amplified considerably: the Recall Referendum (for every state functionary except the ones of the judicial branch; Art. 240), the City Council and

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13 For example, the indigenous lowland and Ayllu organizations demanded extensive rights regarding indigenous autonomies, natural resources in their territories, land rights and a higher amount of reserved seats in state institutions than the governmental party was willing to accept. There was an open conflict of interest between the MAS party striving to retain state power and the indigenous organizations that strived to obtain power and resources for their self-governing entities.
the Previous Consultation were not part of the former constitutional text. Moreover the new Constitution establishes that members of the judicial branch, after a pre-selection by the legislative branch, will be elected by (Art. 182, 188, 194, Art. 198) the Bolivian populace. Articles 240 and 241 determine that the Bolivian population, represented by the “organized civil society” participate in the design of public politics and execute social control at every state level. A “Law of Social Control” shall be passed and new spaces for participation and social control shall by created by state entities. The rights of participation and codetermination of organized society are also mentioned regarding the health system, the educational system, the (plural) economic system, the environment protection and others (Art. 40, Art. 78-93, Art. 309, Art. 343).

The exercise of the right of self-determination of indigenous peoples and communities was incorporated into the new Constitution and, like in the provisions in international instruments (particularly the ILO-Convention 169 and the UN-Declaration on Rights of Indigenous Peoples)\(^\text{14}\), it comprises two dimensions: the right to self-government executed in the framework of indigenous autonomies including the exercise of own political, juridical and economic systems, and the right to fully participate in state institutions and in dominant society (Art. 30). The new Bolivian Constitution foresees the creation of indigenous-campesino autonomies (Art. 289-296; Art. 304). The rights of indigenous peoples anchored in the Constitution were extended on campesino communities as well as on the Afro-Bolivians (Art. 32). Regarding representation of indigenous-campesino peoples and communities in the legislative branch, Art. 147 determines “\textit{que se garantizará la participación proporcional de las naciones y pueblos indígena originario campesino}” and that indigenous circumscriptions for a certain amount of representatives will be implemented. The transitional electoral law No. 4021 incorporates the election of 7 indigenous representatives, a much smaller number than the indigenous lowland and Ayllu organizations had been originally demanding (CIDOB 2001; Pacto de Unidad 2007). Article 210 establishes that the organization and the functioning of indigenous-campesino organizations, as well as of citizen associations and political parties, must be democratic and that the electoral organ will supervise the election of indigenous-campesino authorities and representatives (Art. 211). In this context the crucial question is which criteria will be applied to define “communitarian democracy”. Concepts like “communitarian democracy” and “vivir bien” (see below) also were developed to countervail Western concepts of democracy and of a “Good Life”. They shall express the ongoing decolonization process and divergent concepts from Western-liberal models. Without dealing with the differences between the (heterogeneous and dynamic) political systems of indigenous-campesino communities and Western-liberal models of democracy in detail, I just want to highlight some aspects. Generally, political decisions in indigenous-campesino communities in the Bolivian Andes and valleys are taken in community assemblies and the aim is to reach a consensus, positions are fulfilled rotatively\(^\text{15}\) and in many cases a position is assumed by a couple (a practice called \textit{Chacha-Warmi} or \textit{Qhari-Warmi}; traduced as “Man-Woman”) (see Tapia 2006b: 76 and Albó 2002b). A delicate task regarding the recognition of indigenous self-governance and its coordination with the official state systems, will be its concrete regulation. Abuses and repressive mechanisms in the name of self-governance should be prevented, but at the same time the regulations should not be imposed externally “from above”.

The new Constitution of Bolivia comprises extended human rights, particularly much more economic, social and cultural rights as well as human rights of underprivileged groups like

\(^{14}\) See Anaya, Aparicio, Kymlicka 1995.

\(^{15}\) The system of rotatively fulfilling positions which ascend in responsibility is called \textit{Thaki}.
women, children, persons with disabilities and elderly persons than the former Constitution.\textsuperscript{16} For example, women's right to equal political participation (Art. 8, 11, 26, 147 and 210)\textsuperscript{17} and other women's human rights were inscribed into the new Constitution. The mechanisms to claim for the factual implementation of human rights were also amplified: additionally to the already existing "Action of Liberty" (Habeas Corpus; Art. 125-127), the "Constitutional Complaint" (Acción de Amparo Constitucional; Art. 128-129) and the "Action of Privacy Protection" (Habeas Data; Art. 130-131), new mechanisms were introduced. Those new mechanisms are the "Action of Unconstitutionality" (Acción de Inconstitucionalidad; Art. 132-133), the "Action of Compliance" (Acción de Cumplimiento; Art. 134) and the "Popular Action" (Acción Popular; Art. 135-136). Even though there may be a great distance between the promising and utopian character of the new Constitution and social reality (see Meschkat 2008; Nolte 2009), the extended recognition of human rights is of importance. It restricts the scope of action of the ruling governments (see Sunstein 2001: 7, 221ff; Breslin 2009: 6), it can serve to criticize deficient implementation processes and it establishes long-term aims to be reached.\textsuperscript{18} Accordingly, the new Constitution of Bolivia could turn out to be the "law of the weaker" (see Aparicio 2008a: 8 for Ecuador).

The new Constitution proclaims that its primary aim was to achieve the "Good Life" (vivir bien according to the Bolivian constitution and buen vivir according to the Constitution of Ecuador). This concept incorporates elements of indigenous philosophies, but as it is still very vague, it is apt to be used in a strategic way, depending on the respective context. Alberto Acosta, former president of the Constituent Assembly, contributed a great deal to operationalize the concept of "Good Life". According to Acosta, it comprises human rights and particularly economic, social and cultural rights, rights of nature per se (in contrast to the human right to a healthy environment), cultural diversity, political pluralism and participation, and a low amount of social inequality (Acosta 2009; see also Corté 2009). We can find many similarities with common interpretations of the concept of "vivir bien" in Bolivia (La Razon, Cancilleria).

4. Legal norms and Socio-Political Realities
Constitutions are powerful instruments that shape political and social orders, also due to its effect of formalization and homologation: "By ordaining the patterns that govern behaviour in practice, prior to any legal discourse, through the objectivity of a written rule or of an explicitly expressed regulation, formalization establishes the operation of what might be a homologation effect." (Bourdieu 1987: 840-849). According to Beau Breslin (2009: 4), constitutions are "documents that use words to create worlds". Nevertheless, the implementation process of constitutions relies on many context-specific factors such as political will (Irving 2008: 23), power relations, social acceptance of legal norms, and legitimacy of the constitutional change process (Van Cott 2000; Habermas 1992). Mechanisms of participative democracy are not positive per se, but should be assessed regarding their

\textsuperscript{16} According to Sunstein (2001: 221), the most striking difference between constitutional rights in the late eighteenth and early twentieth century's and constitutional rights in the current period might be the inclusion of extended social rights: "Before the twentieth century, democratic institutions made no mention of rights to food, shelter and health care. In more recent times, rights of this kind are usually protected in the most explicit terms". Similarly to the connection between the recognition of rights of indigenous peoples in state constitutions, the recognition of social rights was spurred by international law, particularly the UN-Pact for economic, social and cultural rights.

\textsuperscript{17} But without a guaranteed quota for female representatives, that was demanded by several women organizations during the constitutional change process.

\textsuperscript{18} Cass Sunstein (2001: 224) differentiates between „preservative constitutions“ and „transformative constitutions“. The Constitution of Bolivia certainly can be designated as a constitution that strives to change the existing (political, economic, social, symbolic, juridical and economic) order significantly and is, thus, a “transformative constitution".
meaning in the specific context. In the next months in Bolivia, several laws should be passed to institutionalize and to implement the provisions of the new Constitution regarding a participative and pluralist democracy. The Constitution and the new laws should be transformed from legal norms into legal realities (see Weber 1960). In this context, I will discuss some rather critical and challenging aspects that should be taken into account. I will argue that the question whether current developments in Bolivia contribute to establish "strong publics" needs to be seen in a nuanced light.

Certainly, the MAS party has strong connections with civil society organizations and in the first legislative period it frequently used the mobilization of its bases to press for political-juridical reforms. Nevertheless, the MAS aims at establishing a new hegemony and its discourses cover the fact that it has much closer relations with some social organizations (particularly the rural trade unions that founded the party) than with others. The current government used to presenting itself as a "government of the social movements" and of the indigenous-campesino sectors of society, as if they were a homogeneous block of society with MAS at the top. With Fraser’s (1990: 67) words we could say that the MAS “masks domination by absorbing the less powerful into a false ‘we’ that reflects the more powerful”. Hence, the inclusion of hitherto underrepresented sectors of society also produced new exclusions, as not all of them have been represented equally. Examples like the Constituent Assembly described in section two of this article, as well as the adoption of the new electoral law in 2009, and other current developments show that MAS favors close-by political forces while marginalizing the representation and demands of other sectors of society (Zegada 2008: 14; Tapia). For example, indigenous lowland organizations, Ayllu organizations and feminist groups published several resolutions and statements that expressed their discontent with exclusionary and non-participative (at least not with their participation) MAS activities (see Escárzaga 2009: 90). The strategy of the MAS party to concentrate power and therefore excluding pluralism was quite obvious during the constitutional change process: The law for the election of Assembly’s members actually did not allow other social forces than political parties to participate, the electoral designs favored by MAS in the last legislative period (and the ones anchored in the new Constitution) tended to produce bipartisan more than pluralist political compositions, the new Constitution strengthened the presidential democratic system, governmental representatives tried to influence the Constituent Assembly and polarizing discourses against the “enemies of the change process” were frequent. In the last years one could observe that at times when conflicts escalated many different social forces supported the governmental party in order to fight against the conservative opposition, but afterwards they remained rather distant and critical towards MAS again. There is a tendency of co-option of civil society organizations by the governmental party, and in many cases the positions and activities of MAS-related organizations are directed "from above". Representatives from diverse social organizations and movements are forced to make agreements with MAS in order to increase their chances to accomplish their political-juridical objectives. The fact that many leading representatives of indigenous-campesino organizations (especially the unionized campesino organizations) are part of the government further contributes to the co-option of social organizations. Fabiola Escarzága (2009: 91-92)

19 See “Resolución de la II Comisión Nacional de CIDOB” (24.02.2010), Mujeres Creando;
20 Fabiola Escarzága (2009: 90) about this phenomenon: „Der MAS verwandelte sich somit zur alleinigen Instanz für die Artikulation aller sozialen Bewegungen mit der Regierung, und die Beteiligung in bzw. über die Strukturen des MAS zum einzigen Weg, auf die Regierung einzuwirken“.
21 For example, the general secretary of CSUTCB Isaac Avalos and the general secretary of CSCIB Fidel Surco additionally assumed the positions of Senators in 2010. The inclusion or exclusion of representatives of diverse social organizations as MAS functionaries is a very challenging task. From the governmental
argues that these current developments debilitate the movements significantly. Donna Lee Van Cott (2008: 208) describes similar dynamics of monopolizing power and excluding dissidents in MAS-dominated municipalities: “Governance in the cases studied is permeated by undemocratic norms: the legitimate use of violence and intimidation of adversaries; the monopolization of power and expulsion of adversaries; the subjugation and humiliation of women; social pressure to conform to the ‘consensus’ cultivated by leadership cupulas; and disregard for minority rights”. The challenges and difficulties described can partly be explained by existing tensions between power concentration, stability and governability on the one side and pluralism, participation and power sharing on the other side (see Wolff: 55).

Another phenomenon is that there are different logics between political parties and social movements and political parties frequently are forced to give up part of their principles in order to achieve strategic results (see Bourdieu 2001). These divergences could also be observed regarding the representatives of social organizations that assumed posts inside of MAS, who were in the difficult position to be loyal to their bases and simultaneously to the party they represent. Additionally, indigenous-campesino organizations generally expect that their representatives first of all press for their particular interests, what contributes to clientelistic structures and comprises the risk that they are designated as “betrayed” if the demands of the bases are not given highest priority. Clientelism on the other hand is apt to causing problems with the party leaders as the governmental party should consider the needs and interests of all sectors of society and should not privilege certain groups obtrusively. In this context of pressures from certain sectors of society, the Recall Referendum introduced by the new constitution for all public officials (except the judicial branch) is apt to create delicate situations.

Certainly in the last legislative period the political participation of civil society in state politics was much higher than in former periods, but in some cases participation was used primarily to override the resistance of the conservative opposition. García Linera distinguishes different periods regarding state crises. He explains that the “Crisis of the Bolivian state” began in 2000, in 2003 the “Catastrophic stand-off” occurred, expressed by social unrest and state instability, and in 2006 the “Renovation of governmental elites” due to presidential elections. At that time, the period of “Confictive re-conversion and restitution of a block with great economic, political and symbolic power” began, which lasted until approximately 2008. Then the “Moment of bifurcation” took place, which induced the consolidation of a new political and symbolic state order. According to this analysis of Bolivians Vice-President the question is raised of whether the relatively high amount of political participation only was of particular importance during the period of confictive re-conversion and restitution of the former elites, and if it will be reduced in the period of consolidation of a new state order. Furthermore, now that the MAS party has a two-third majority in the legislative branch and Evo Morales assigned important functionaries to the judicial branch (what might bear the risk of a politicization of the judicial branch), participative mechanisms could lose importance.22 The underlying question of these reflections is whether participative democracy is a goal per se for the Bolivian government or if it is conceived primarily as a political instrument against opposite social and political forces.

22 For example, the MAS Government Program from 2010 to 2015 (MAS-IPSP 2009) does not highlight political participation as a primary aim.
The official implementation of self-government of indigenous peoples and communities and the creation of multi- and intercultural institutions according to the new Constitution will be important tasks in the current legislative period. It is probable that at the local and regional level disputes for economic, political and economic power between different social forces will take place and shape state politics and the correlation of power. One unresolved question regarding the implementation of self-governed and autonomous entities is how to secure that the collective right to self-determination will not restrict internal participation. To what extent will the self-governed spaces reflect different and heterogeneous views, for example those of minorities and of women? This question is exceptionally relevant as indigenous-campesino communities are frequently criticized for authoritarian, sexist and homogenizing tendencies. Stroebele-Gregor describes that the political systems of indigenous-campesino communities in Bolivia that strives to reach a consensus usually exclude divergent views and, in case that opponent views are expressed, separatist processes or violent conflicts can occur (Stroebele-Gregor 2008). Apart from the indigenous-campesino autonomies and communities, democratic structures at departmental level should also be strengthened, which will be especially challenging in those departments where conservative elites with great economic resources retain power and are not willing to give up their privileged positions.

The creation of multi- and intercultural state institutions will be another challenging topic. Despite the fact that provisions of the new Constitution (and the electoral law) foresee the participation of members of indigenous-campesino peoples or communities as well as of a greater number of women in state institutions (which is already taking place), the concrete design of those institutions is not fixed by now. One obstacle is that the participation of members of different cultures or from underprivileged sectors of society in the institutions created by dominant sectors of society is not enough to provide equal structures for deliberation. Or in the words of Fraser (1990: 64): "Subordinated groups sometimes cannot find the right voice or words to express their thoughts, and when they do, they discover they are not heard […] They alert us to the ways in which social inequalities can infect deliberation, even in the absence of any formal exclusions". At this level subtle mechanisms of exclusion and discrimination will still persist in the future that should be debated and confronted explicitly (Fraser 1990: 64).

Other important aspects for political participation in the context of current transformations, related with exclusionary mechanisms, are the changing of the economic model and the social policies induced by Morales’ government that declared the “Good Life” of all citizens as the primary aim. The nationalization of the hydrocarbon resources under Morales increased the state budget significantly and the role of the state in the economy was strengthened. At the same time, social policies have been carried out: the lifting of the minimum salary, the creation of several funds (for children, women and elderly persons), the execution of literacy programs and an increased support of Bolivians health and education system. The challenge in the current legislative period will be to improve the living conditions of the poor significantly and rapidly (see MAS-IPSP 2009). However, it seems that the government will not affect the rich considerably, as the experience of the last years showed that the scope of action for redistribution processes is quite narrow without risking state instability. The priority of the Governmental Plan for 2010-2015 is to create great acquisitions out of massive resource exploitation in order to finance ambitious social policies. In this context, we can also observe decisive tensions, for example between resource exploitation and environmental protection (see Gudynas 2009; Flores Bedregal 2010) as well as between long-term economic strategies like the

23 Bertelsmann Stiftung
24 Wolff (2009: 38) describes the widespread practice to increase political legitimacy by creating economic benefits for the population. This can be done by assistentialist policies.
diversification of economy (see Gray Molina) and the demands of the poor to improve their living conditions rapidly.

Applying the theories of Fraser, in Bolivia, one can definitely find some developments that contribute to the creation of “strong publics”, like the reduction of the gap between civil society and the state, increasingly representative institutions and more mechanisms of political participation. On the other hand, the findings show that there are some current dynamics that lead to the reduction of multiple public spheres as the governmental party tends to concentrate power and to blockade the ascension of competing social forces. The government tries to co-opt diverse social forces and to create a new hegemony, many times prioritizing power concentration to pluralist participation. Additionally, MAS-affiliated organizations expect privileges in return for their support, contributing to clientelistic structures and to the exclusion of other social actors. The recognition of indigenous-campesino self-governing entities and their participation in state politics has the potential to contribute to “strong publics”. Nevertheless, many indigenous-campesino systems have authoritarian and sexist characteristics that should not be lost out of sight. The creation of intercultural and non-discriminatory institutions is another challenging task for the future that remains widely unresolved. Regarding social equality, a central condition of “strong publics”, the MAS party showed the political will to reduce poverty and social inequality in the last legislative period. The new Constitution incorporates a great number of social rights for the first time and considerable social policies have been executed to improve the quality of life of impoverished sectors of society. A difficulty in this context is the immense social pressure to obtain fast, visible results and the possibility for the MAS party to obtain voter support by assistentialist, short-term policies on the one hand and environmental criteria as well as long-term policies like the diversification of the economy on the other hand.

**Conclusions**

Since the 1990s almost all Latin American states adopted new Constitutions or changed their Constitutional texts significantly, responding to multiple state crises. Amongst them were the representation deficit of traditional political parties and the high level of social inequality connected with the failure of poverty reduction strategies. The new Constitutions and particularly the ones that belong to the “New Latin American Constitutionalism” introduced many mechanisms of participatory democracy. There were different reasons for the strengthening of civil society’s political participation, amongst them the intent to reduce the gap between civil society and the state, the intent of the executive branch to gain power by using participatory decisions against oppositional forces and the achievement of greater state stability.

In this article, I apply the concept of “strong publics” elaborated by Nancy Fraser to analyze current developments in Bolivia. Fraser’s concept comprise multiple competing public spheres, the lack of a high gap between civil society and the state, social equality and a decision-making position of civil society in state politics. In Bolivia, one can observe many processes which suggest a strengthening of participative democracy: a new Constitution was elaborated by a Constituent Assembly with many representatives of hitherto underrepresented indigenous-campesino sectors of society and many mechanisms of participative democracy as well as extended social rights were incorporated. Due to the historical context and specific socio-cultural conditions of Bolivian society, which are exposed in sector one and two of this article, the recognition of political participation and the recognition of political pluralism are interrelated in the Bolivian case and, thus, are analyzed coevally. The leading question discussed in this article is whether current developments under the government of Evo Morales contribute to the creation of strong publics in Bolivia.
In the last decades social processes and politico-juridical reforms took place, which are important to bear in mind when analyzing current developments in Bolivia. Amongst them were the national revolution of 1952, the increasing importance of indigenous-campesino organizations in political spheres, Lozada's decentralization politics since 1994, several electoral reforms that improved the representation of marginalized sectors of society at municipal and state level, the recognition of rights of indigenous peoples in state legislation and the accumulated social protests since 2000. High levels of social inequality and poverty remained unresolved and the distrust in traditional political parties and state institutions was high. In 1995, the MAS party was founded by unionized peasant organizations and the party leader Morales was elected for president in 2005. The MAS party showed a great capacity in building alliances with different sectors of society and dislocated traditional political parties and former ruling elites. Only some months after assuming presidency, a Constituent Assembly was convoked that allowed the governing party to carry out profound reforms against the will of the conservative opposition.

The new Constitution establishes that the type of democracy in Bolivia is "representative, participative and communitarian". It incorporates political participation and social control executed by the “organized civil society” at many state levels and in diverse areas, recognizes indigenous self-governing entities as well as indigenous representatives in (intercultural) state institutions and extended social rights as well as rights of underprivileged sectors of society. During the last years very important changes took place, and it was possible to observe considerable improvements of the political system like more representative institutions of Bolivian society, especially regarding hitherto marginalized sectors of society. The voter turnout in the last elections was high, public debates were vivid, political participation at different government levels increased and many new social policies were introduced by Morales government.

Despite considerable improvements, the analysis of current socio-political processes according to the concept of "strong publics" indicates that there are also many critical aspects and tensions. There are tendencies of the MAS party and its affiliates at national and sub-national levels to exclude divergent views and interests in order to impose a new hegemonic order. Many social programs have been executed, but it is unclear until what degree they will cause structural changes in the long term and whether they are compatible with environmental sustainability. The implementation of the new Constitution and political actions will show whether political participation and political pluralism are of importance per se for the Bolivian government or if they will be subordinated to other political aims like the debilitation of adversaries and the concentration of power in the name of MAS.

The reflections of this article aim to contribute to wider discussions about similar processes in the region. Many examples from Latin American states showed that mechanisms of participatory democracy were used by the executive branch to increase power and to press for changes against oppositional forces. The "New Constitutionalism of Latin America" comprises considerable emancipatory elements with the potential to contribute to social justice, but the crucial point is the concrete implementation into practice.

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