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# Can states be decolonized? Indigenous peoples and radical constitutional reform in Bolivia

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## ABSTRACT

This article critically examines the project of transformative constitutionalism implemented by the Movement for Socialism (MAS) government which aims to decolonize Bolivian society through constructing a 'plurinational' state. Based on ethnography of the political institutions of a rural indigenous community and their interaction with this new state, it argues that programs of constitutional reform are limited in their capacity to address colonial legacies. This is due to the incompatibility of the polyvalent character of postcolonial indigenous societies with the disposition of states and legal systems to bureaucratically re-order and simplify social life, even when ostensibly providing rights and recognitions to marginalized groups.

## KEYWORDS

Decolonization; peasant union; *ayllu*; indigenous; Bolivia; constitutional reform

## Introduction

Bolivia is a country where the majority population of indigenous ancestry have been excluded from power and participation in national life and subject to exploitation by culturally European elites who are the primary beneficiaries of the country's extraction-based economy. Following mass protests in the early 2000s against the right-wing government of Gonzalo Sanchez de Lozada, a nationwide coalition of unions, urban residents' associations and indigenous and peasant social movements united around demands to nationalize the gas industry and implement a constituent assembly to refund the country. The decisive election of the Movement for Socialism (MAS) government in 2005 and Bolivia's first president of Aymara indigenous ancestry in the person of Evo Morales, reflected the unified purpose of these social movements to seek profound change. The resulting 2009 constitution is one of the most radical legal documents in history, expressing full recognition of non-state systems of law, the legal personhood of the Mother Earth and indigenous values as guiding national principles. Most importantly, it codifies decolonization into law and establishes the frameworks through which the state and wider society are to be transformed to undo the systematic oppression suffered by Bolivia's indigenous majority population.

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Leading political figures within the MAS, such as Vice President Álvaro García Linera and Minister for Strategic Planning, Raúl Prada, have argued that the new Bolivian constitution sets in motion a ‘process of change’ which will progressively dismantle structural racism, construct a non-market economy based on the communitarianism of indigenous peasant peoples and promote the eventual dissolution of the state into society, as it accommodates itself to the forms of life of local communities (García Linera 2011; Prada 2010). This can therefore be understood as an especially radical version of ‘transformative constitutionalism’: a process advocated by the Critical Legal Studies scholar Karl Klare, through which the interpretation and enforcement of a constitution transforms a country’s political institutions and power relationships, producing participation, democracy and egalitarianism (Klare 1998).

Bolivia is not unique in seeking to bring about social change and to address the legacies of colonialism through constitutional reform. This is arguably a constitutive feature of much of the wider ‘Pink Tide’ of democratically elected Left governments in Latin America and of other postcolonial societies, such as India and post-apartheid South Africa (Viljoen, Vilhena, and Baxi 2013). As recently as September 2022, Chile voted on the ratification of a constitution that would recognize the culturally plural character of the nation and legally codify many positive social rights (Bartless 2022). However, Bolivia is widely regarded as the most radical example of such projects (Farthing and Becker 2022) and a country whose rural indigenous majority already practice extensive forms of local self-government (Grisaffi 2022). It therefore provides important lessons regarding the capacity of constitutional reform to accommodate states to local forms of life and to empower rural and indigenous peoples.

Nevertheless, conflict has erupted among the coalition of social organizations which brought Morales and the MAS to power (Canessa 2014; Doyle 2021a). Following indecisive election results in 2019 and widespread protests, a right-wing interim administration took power and Morales fled the country (Farthing and Becker 2022). Although the MAS returned to government only a year later, under new president Luis Arce, the future of reform in Bolivia remains uncertain (*ibid.*). Meanwhile, the broader Pink Tide has given way in many countries to a countermovement of authoritarian conservative populism (Scoones et al. 2018; Edelman 2000). This urgently demands analysis of the limitations of such progressive governments to achieve the social transformations they seek. While there exists a substantial body of academic literature on the failure of the MAS and wider Pink Tide to enact their decolonizing discourse (Goodale and Postero 2013; McNelly 2020) this work does not interrogate whether states and legal systems can be used as an instrument for radical change and if the institution of the liberal state is able to accommodate itself to the perspectives, forms of life and values of formerly colonized subaltern peoples. To do so requires an analysis of the state, its historic role in shaping the nature of postcolonial indigenous societies and how peasant and indigenous communities already interact with state governance.

This article draws on eighteen months of fieldwork studying the political institutions of the indigenous Quechua community of Kirkiawi in the Bolivian highlands and their interaction with the reforms of the MAS government. This provides an ethnographically grounded analysis of the effects of these reforms at the local level and the inherent limitations of the MAS’ project of transformative constitutionalism. Kirkiawi is made up of some sixty village communities that practice subsistence agriculture: principally animal

husbandry and the cultivation of tubers and pseudocereals. While it has existed in some form for at least 500 years and is believed to have once formed part of the Inca State and Aymara Kingdoms, Kirkiawi is distinguished by multiple overlapping forms of local authority: the traditional *ayllu* authorities, a peasant union and a municipal government. Fieldwork consisted of spending time living in different villages, participating in social life, attending political meetings and accompanying leaders to meetings of the constitutional court, government agencies, indigenous rights groups and NGOs.

This article begins by outlining the MAS' project to decolonize the Bolivian state and wider society before discussing how elements of these reforms provoked conflict among the authorities of Kirkiawi. It then illustrates how historical interaction with the Bolivian state has shaped local social and political institutions and accounts for the internally complex and polyvalent nature of indigenous societies. Drawing on James C. Scott's concept of legibility, it argues that attempts to accommodate the state to the forms of life of local communities through constitutional reform produce paradoxical outcomes, especially in postcolonial contexts, because these polyvalent complexities can never be adequately captured by the simplified schema of legal recognition (Scott 1998). In order to be eligible for rights from the state it is necessary for groups or communities to make themselves legible to it: to simplify their identities and reshape the indeterminate reality of social life. My fieldwork shows how the local authorities of Kirkiawi attempted to define separate versions of the systems of governance and custom of their community within the legal schema and bureaucratic processes established by the new plurinational state. Rather than accommodating the state to local forms of life this has instead increased its bureaucratic power and presence and provoked conflict within the very communities it seeks to empower.

## Decolonizing the state in Bolivia

Bolivia, like other Latin American nation states, became independent from the Spanish colony under the leadership of culturally European elites who understood little about its indigenous rural majority. These elites attempted to construct a modern European nation state based around a unitary culture, language and religion, while colonial economic and social structures that exploited indigenous peoples and excluded them from power remained largely intact. Nevertheless, Bolivian society has been defined by the continuation of local forms of self-government, territory and law that survived among its indigenous majority population and filled the spaces left by the discontinuous presence of the state (Barragán 2009): these include systems of conflict resolution, land tenancy and participatory direct democracy (Grisaffi 2022). The MAS government and the new constitution have therefore been hailed by scholars and activists as the coming of a 'second independence' that marks not only the formal end of colonial rule but genuine freedom and democracy for Bolivia's peoples through the 'decolonization' of the state and wider society (Santos 2010). However, it is worth noting that there is no clear consensus over the meaning of this process. In contemporary Bolivia decolonization is understood through various overlapping bodies of thought, including local 'Indianist' notions regarding the reclamation of territories and the reconstitution of ancestral self-government (Reinaga 1971); academic theories that view decolonization as a process of challenging categories of thought that devalue indigenous knowledges

(Quijano 2000); and a Marxian tradition that identifies continuities in oppressive social structures following independence connected to Bolivia's position within global capitalism (Cusicanqui 2011; Zavaleta Mercado 1986).

The 2009 constitution (which was drafted and ratified by a constituent assembly made up of representatives of Bolivia's diverse social movements and a minority of centrist and right-wing political groupings) therefore contains influences of all these conceptions of decolonization (Schavelzon 2012). Yet what remains clear is that decolonization, understood broadly as the dismantling of colonial social structures and the recognition and empowerment of the ways of life of indigenous communities, will be achieved through a project of reconstituting the state and its relationship to civil society. The constitution declares Bolivia a 'plurinational' state that admits the existence of multiple ethnic groups as part of the nation: thirty-six native languages are recognized officially alongside Spanish, indigenous social values are codified as its guiding principles and indigenous peoples' rights to free determination and self-government, control of their territories, institutions and laws are guaranteed. Crucially, it provides the basis for the 'process of change', in which the interpretation and enforcement of constitutional frameworks by government and civil society will progressively transform the institutional ordering of the state, the arrangement of national territory and the structure of the wider economy (García Linera 2011). These frameworks recognize indigenous territories, devolve governmental power to communities at a local and regional level and define the role of the state in redistributing wealth and promoting economic democracy within a mixed or 'plural' economy.

Nevertheless, various scholars have argued that the 'process of change' set in motion by the constitution has failed to substantively transform Bolivian society and provide autonomy to indigenous peoples. Much of this work focuses on how the MAS in government transitioned from a party that gave expression to the demands of social movements to one that exerts control over its movement bases and limits the realization of radical change (McNelly 2020; Webber 2017). While Marxian scholars claim the MAS constitutional reforms have not altered the underlying economic structures of Bolivian society (Mealla and Chávez 2020) sociolegal academics comment on the ambiguity of reforms as the motive for conflict between social constituencies (Canessa 2014; Goodale 2019; Schavelzon 2012). Nancy Postero, drawing on the work of Jacques Rancière, claims that the 'indigenous state' symbolically enacted by the MAS government marks a shift in the use of indigenous symbols and discourses from a counter-hegemonic politics to a new form of 'policing' that establishes the limits of participation and inclusion within society (Postero 2017).

A key issue for these commentators is the extent to which the MAS' project goes beyond the so-called 'neoliberal multiculturalism' of the 1990s (*ibid.*), referring to centrist and right-wing governments that gave special legal rights to indigenous peoples while privatizing the state and dismantling the organized left. This took place as many Latin American governments passed reforms that provided indigenous communities with limited rights to cultural recognition, bilingual education and governmental autonomy within a framework that narrowly defined them as rural occupants of ancestral territories (Cusicanqui 2015). It also limited the expression of indigenous demands to cultural democratic rights and did not permit the control of territory and material resources which would more fundamentally challenge the power of economic elites and the centralized state (Hale 2005). In this vein it has been argued that there is continuity between the

MAS government and its neoliberal predecessors, given that its project operates mainly at the level of law and formal democratic politics, while economic reforms have remained moderate: concentrated on limited redistribution of wealth via infrastructure spending and cash transfer programs (Webber 2017; Farthing and Becker 2022). Nevertheless, advocates of transformative constitutionalism, such as the sociolegal scholar Boaventura de Sousa Santos, argue that this fails to acknowledge how the interpretation and enforcement of legal reforms by civil society and a progressive government can substantively alter broader social structures through devolving power to local communities and transforming the state (Santos 2010).

To implement this process the MAS has established new branches of the judiciary, specialized government agencies, and legislation to define and regulate constitutional provisions for matters such as indigenous autonomy and justice. For example, as the constitution created a parallel legal system in which the systems of justice of indigenous communities are recognized as separate but equal to the state judiciary, the Jurisdictional Demarcation Law (*Ley de Deslinde Jurisdiccional*) defines the boundaries between the non-state legal orders of indigenous communities and the ordinary courts (Doyle 2021b). Meanwhile, the Autonomies and Decentralization Law (*Ley Marco de Autonomías y Descentralización*; LMAD), specifies the procedures through which indigenous peasant communities can become autonomous territories with their own forms of government based on traditional custom. This was accompanied by the creation of a Vice Ministry of Indigenous Autonomies which consults with local communities and provides the technical support to assist in the process of converting to an autonomous territory; this requires a consultative referendum and the drafting of a 'statute of autonomy' in an 'autonomy assembly' to define territorial boundaries and forms of government (Tockman 2017).

Yet it has been argued that these measures remain weakly implemented and underfunded (ibid.). Daniel Goldstein (2012) contends that under the MAS ambitious legal and administrative reforms have resulted in a panoply of government agencies and vice ministries that lack the power or resources to make their presence felt. Such observations suggest that the 2009 constitution and process of change are subject to the vast distance separating 'law in books' and 'law in action' that has long characterized the relationship between Latin American states and civil societies. In contrast, this article suggests that the MAS' constitutional reforms and the bureaucratic apparatus of the 'plurinational state' do in fact have substantial impacts. Yet rather than accommodating the state to indigenous ways of life, they increase its bureaucratic presence within local communities. The following section provides an ethnographic illustration of this process by exploring how interaction between the community of Kirkiawi and elements of the new Bolivian state, including its laws, judicial branches and specialized government agencies, provided the motive for conflict among its political authorities.

### **Conflict in the plurinational state**

In July 2015, I attended a meeting in the village of Vilaycayma: the capital of the indigenous community of Kirkiawi. This had been convened by two lawyers from the constitutional court in Sucre as part of a process of consulting indigenous communities on the creation of the Agrarian and Environmental Tribunal: a branch of the new Bolivian

state that would adjudicate agricultural and environmental matters. The meeting took place within the village's communal assembly hall and was attended by some fifty individuals: representatives of the traditional *ayllu* authorities, the peasant union and councilors from the local municipal government. Kirkiawi is considered an *ayllu*: a community that formed the basic unit of the indigenous Aymara kingdoms and Inca state and which still exists in some form in contemporary highland regions of South America. *Ayllus* commonly feature non-contiguous territorial organization of agricultural land, reciprocal labor exchange and rotating authority structures, all mediated by symbolic understandings of complementarity and duality (Bastien 1985). Yet due to its long history of interaction with the Bolivian colonial and postcolonial states Kirkiawi is distinguished by a system of overlapping political authorities: *ayllu* leaders, a peasant union and a municipal government with oversight of local education and development among its sixty villages and seven thousand inhabitants. Of the councilors present, two were representatives of the MAS party, while Augustina Condori<sup>1</sup>, a young woman in her early twenties, was the sole representative of POKUY: a word in Quechua meaning flourishing, chosen as the name of the *ayllu* authorities' 'political instrument' that provides them with representation in the municipal government.

The meeting began with a ceremony in which libations were offered to a pyramid formed of the *ayllu* leaders' ritual staffs of office and coca leaves were distributed plentifully to everyone present. One of the lawyers from Sucre explained that his job was to discuss how the new laws would interact with the traditional customary norms or *usos y costumbres* of indigenous communities and he invited those present to explain how they managed justice. Although he spoke entirely in Spanish, the meeting was held in a code-switching mixture of Spanish and the local Quechua language. Gregorio, the *Malku* or highest *ayllu* leader explained the role of the traditional authorities in managing disputes concerning land. He explained how this was done without money because their ancestors never paid for justice. Olker Nina, the union leader equivalent in stature to the *Mallku*, spoke immediately afterwards. He greeted everyone present and stated the following:

Well brothers, a little has been said about lands ... here in the [village] communities there are small parcels, they become divided progressively over time and as a result there are problems. More of this is arriving at the doorstep of the union ... we have to deal with these problems ... to do with inheritance ... People fight among families and the whole community. For example, there's a community where this is happening and we're looking into how to solve it.<sup>2</sup>

The village Olker referred to was Piruani where families had been physically fighting each other over the inheritance and correct demarcation of adjacent lands, to the point of some individuals being hospitalized with stab wounds. In the local village communities of Kirkiawi land is a form of usufruct right. Individual families have access to plots of arable land within communally owned and administered areas called *ayonoqa*. Although plots of land are heritable, they are not precisely demarcated or backed by title deeds and can be redistributed to other families based on need, should individuals not fulfill social

<sup>1</sup>I do not use pseudonyms in this article. Participants, who all hold political offices, gave consent to use their names. I am confident this will not cause harm to individuals' safety, livelihood, or reputation.

<sup>2</sup>Source language is Quechua. All translations by the author.



obligations, such as communal labor or participation in civic politics. The *ayonoqa* system is administered by a traditional authority or *jilanku*, who not only mediates access to land and conflicts over its use but also relationships between people, the land and nature deities through ritual exchanges.

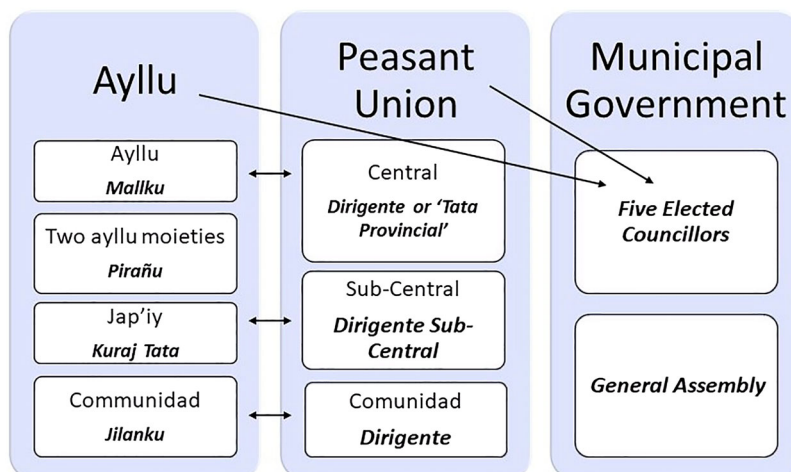
However, within each village community the *jilanku* has a counterpart in the local peasant union leader (union here does not refer to a trade union but to a form of local civic political government). Together the *jilanku* and union leader chair a monthly communal assembly that forms the democratic basis of local government and in practice their roles substantially overlap, as they are both considered valued civic political leaders. People seek their advice on numerous matters, although union leaders more typically serve as external mediators with the state and development agencies. Above this exist different levels of union and *ayllu* authorities corresponding to clusters of village communities and finally the *Malku*, highest level union leader and a municipal council made up of both MAS councilors from the peasant union and POKUY councilors representing the *ayllu* authorities. The direct democracy characteristic of Bolivian civil society, in which decisions are made by collective assent in popular assemblies exists at every scale within Kirkiawi, up to a bi-monthly general assembly, attended by all union, *ayllu* and municipal council leaders (Figure 1).

Olker explained the process through which conflicts were normally resolved within a village, stating that anything that couldn't be dealt with internally should be passed up through the local hierarchy to the leader of the *sub-central* or union authorities representing various communities, to resolve the matter in coordination with the corresponding



Picture of meeting in Vilaycayma with local authorities.





**Figure 1.** Organigram of Kirkiawi's political institutions.

*ayllu* leader, the *Kuraj Tata*. However, the fact that Olker had alluded to the case of Piruani resulted in a series of recriminations between the different authorities. Not only was Piruani the scene of bitter fighting between families but it had also become the basis of conflict between *ayllu* leaders, the peasant union and local MAS government. The different leaders had not only offered different solutions but also claimed that they had the right to judge the case according to the provisions of the new constitution that permit indigenous authorities to practice their own forms of justice and conflict resolution.

This brought up the issue of the legal status of the land, as Kirkiawi had also been designated a Native Communal Land (*Tierra Comunitaria de Origen*; TCO), which meant it was recognized by the state as the collective ancestral territory of an indigenous community. This was the result of the efforts of the *ayllu* authorities, who had responded in the 1990s to a reform known as the INRA law (named after the initials of the *Instituto Nacional de Reforma Agraria* or National Agrarian Reform Institute) to collectively title their lands. However, according to the union leaders this was fueling uncertainty over ownership of the land and the sorts of conflicts that had developed in Piruani. As land is usufruct and not privately owned there is no way of determining its precise boundaries and this, along with the custom of multigeniture and consequent successive fractioning of lands, was causing the sorts of problems exhibited in Piruani. Some union leaders suggested that the documents of the TCO should be revoked to provide 'simple individual titling' or legal commodity ownership of land for families. They claimed this would help rural-urban migrants in the cities who were at risk of losing their family lands because of failure to participate in local civic obligations, which had the added benefit of allowing them to use the land as collateral for loans from the National Productive Development Bank (BNP; *Banco de Desarrollo Productivo*).

This discussion of land led onto the question of if and how Kirkiawi should become recognized as a Native Indigenous Peasant Autonomy (AIOC; *Autonomía Indígena Originaria Campesina*) under the terms established by the constitution and the LMAD law. *Ayllu* and peasant union leaders along with councilors and technical staff from the

municipal government had attended a meeting with representatives of the Vice Ministry of Indigenous Autonomies in the city of Cochabamba to discuss the possibility of drafting a statute of autonomy. Yet the consultation had revealed there were different routes through which their community could be recognized as an AIOC: through converting the municipality into an indigenous autonomy or recognizing the area titled as a TCO. The first of these two options would centralize authority at the level of the municipal government, while the second would require recognition of ancestral indigenous structures to be determined in the drafting of the statute of autonomy. Union figures claimed that opting for the 'TCO route' would privilege the *ayllu* leaders who would become an unaccountable 'ruling caste', pointing to the quasi-hereditary nature of *ayllu* leadership in which only individuals from certain families were able to assume the role of *Mallku*. Against this claim the *ayllu* authorities argued that the 'municipal route' would simply 'put a poncho on the town hall' (referring to traditional Andean indigenous dress): denoting themselves an autonomous indigenous territory but not reconstituting their ancestral systems of government.

The discussion then focused on *la parte orgánica*, meaning the structure of civic political roles within the community and corresponding responsibilities. It was repeatedly pointed out by union figures and by the MAS Mayor of the municipal government, Francisco Delgado, that it was a very sad thing that the different authorities could not work together: all three authorities must coordinate with each other, he pronounced resoundingly, '*Kimsantinku coordinanku tiyan, kimsantinku trabajanku tiyan!*' Don Jesus, a man in his early forties from the village community of Pampajasi, who had previously assumed roles both as a *jilanku* and union leader stated the following:

I see and I know, some villages are practicing, *jilanku*, union leader, *Kuraj Tatas*, they are able to cooperate with each other ... this is the reality of our life in the [village] communities. Now, these *usos y costumbres* of ours were before, right? Who in reality is assuming [the responsibility] now brothers? The union leaders. They are assuming it. They solve problems that come from the land. So, this means that it isn't the case that here we discriminate among ourselves. No one should say 'I am truly an *originario* while that person is not ... we are all *originarios*, brothers!'

To this last remark about all those present being *originarios* there were cries of agreement from many in the room. However, this was not received well by Gregorio and the other *ayllu* authorities, who seemed angered by the repetition of the phrase.

In contemporary Bolivia *originario* is a term meaning the original inhabitants of a place that has become a form of ethnic identification akin to 'First Nations People' among highland indigenous communities, as well as featuring in the political discourse of the MAS government. By emphasizing that they were all *originarios*, Don Jesus was insinuating that the traditional authorities illegitimately claim to speak for all of them when they are only one part of the local governmental structure, that includes the union and municipal government. This was compounded by the fact that *ayllu* leaders had attended consultative meetings with the constitutional court in Sucre to define the nature of indigenous justice within their community, unaccompanied by union or MAS municipal government representatives. A criticism often leveled against the *ayllu* authorities is that they should not hold separate meetings or 'meddle in politics' as their role is to perform traditional rituals and deal with issues related to land management. Union leaders and MAS councilors point out that thanks to changes in local and national politics

the municipal government is controlled entirely by *originarios* from the village communities such as themselves, unlike the politicians of the past who were white and mixed-race outsiders from the cities, while national government investment has provided them substantial resources for local development, electrification, medical clinics and a municipal sports hall. In contrast, the *ayllu* leaders object that the union and local MAS Mayor and councilors, despite their claims to be *originarios*, are discriminatory and 'anti-indigenous'. They claim that although the peasant union criticizes the *ayllu* authorities for 'meddling in politics', they are themselves guilty of going beyond their role within *la parte orgánica* by attempting to pass judgement on matters of indigenous justice and land management. The *ayllu* are, they claim, the only political organization that had existed prior to the colonization and are therefore the true *originarios*: the authentic representatives of their community and those recognized as such in the constitution.

Why had these forms of local political authority entered into such fierce disagreement with each other? And why is it precisely their interaction with the new plurinational state – its constitution, laws, judicial branches and specialised agencies – that had provoked this dispute? To answer these questions, it is necessary to illustrate how the overlapping system of authorities within Kirkiawi were produced through historical interaction with the colonial and postcolonial Bolivian state. This involves understanding how forms of state governance that re-order local systems of law, government and custom have profoundly shaped indigenous societies.

## A history of Kirkiawi and the Bolivian state

The initial colonization of Bolivia and the Americas exploited pre-existing agrarian societies through indirect rule, allowing local ethnic nobility to retain lands and rights to community labor in exchange for tax payments and work parties for the colonial mining economy (Rasnake 1988; Klein 2021). However, in response to the decline of the native population and the need to ensure tax and labor, Viceroy Francisco de Toledo, attempted to forcibly resettle *ayllu* communities into towns, collected census data and introduced a standardized corvée labor system and head tax. These reforms were profoundly incompatible with the cultural and ecological logics of *ayllus*, in which communal territory is distributed in non-contiguous 'islands' of land across ecological zones and kinship groups practice multiple residence and seasonal transhumance. Although rural populations were 'reduced' into towns, the inhabitants later re-established their territorial structures while losing outlying valley lands (Rasnake 1988). The first appearance in the historical record of Kirkiawi in 1646 shows the authority Miguel Fernandez Mamani petitioning the colonial state to regain lost valley lands which are still spoken about to this day (Mendoza, Gonzáles, and López Mamani 2002). Meanwhile, the conversion of local populations to Catholicism and the gradual erosion of the power of ethnic elites resulted in a system of rotating local authorities who practiced civic political roles that involve the sponsorship of Catholic religious festivities and management of communal land. This system of civic political roles forms the basis of the contemporary *ayllu* authorities within Kirkiawi.

In the transition to independence after 1825 there was a continuity in colonial social and economic structures. The leaders of the new republic wanted Bolivia to become a modern liberal nation state based on the European model despite the fact that the

majority population remained indigenous. The rural indigenous majority, with its own customs, languages and forms of internal government were regarded as a separate and inferior human group that could not be integrated into the dominant culture and as such were viewed as a hindrance to Bolivia's social advancement (Cusicanqui 2011). Attempts were made to dispossess indigenous communities of their territories to create a modern private land market and system of commercialized agriculture (Platt 1986) while indigenous leaders in Kirkiawi and elsewhere resisted this via judicial means, unearthing old documents dating from the sixteenth century which designated ancestral leaders as owners of the territory (ibid.). A sheepskin scroll is kept to this day in Kirkiawi by *ayllu* leaders, who claim it shows a land purchase from the colonial state in 1564. During the yearly ceremony of *misa mast'ay* libations are offered to this document and to the six ancestral figures who completed the transaction.

In 1952, a national revolution and subsequent agrarian reform established a new state model in which indigenous peoples gained important social rights while being assimilated into a culturally mixed or *mestizo* national culture. Highland communities were encouraged to form peasant unions to act as intermediaries with the state that would integrate them into a modern capitalist economy and nation as peasant smallholders. While literacy restrictions on suffrage that had previously disenfranchised rural peoples were removed, universal education in the Spanish language was rolled out throughout the country. In Kirkiawi, while the peasant union became a form of local government it did not displace the traditional *ayllu* authorities, who continued to be responsible for administering customary law related to the management of communal lands. This situation pertained until a series of decentralization reforms in the 1990s under the 'multicultural neoliberal' government of Gonzalo Sanchez de Lozada.

Two reforms of this period, the Popular Participation Law (LPP) and the INRA law, provided the local peasant union and *ayllu* leaders with distinct political projects. The LPP created over 300 rural municipal governments and provided them with a small fraction of the national state budget to invest in basic infrastructure and public works. The peasant union adopted the role of intermediary to gain access to money for local development projects. Concurrently, the *ayllu* authorities sought the collective titling of their territory under the INRA law, that legally recognized the collective territories of indigenous communities as TCOs. These political projects provided the union and *ayllu* with roles that helped reinforce the idea that they serve separate but complementary functions. My understanding of this process is derived from approximately a dozen semi-structured interviews with peasant union and *ayllu* leaders who were actively involved in politics during this period and through conversing with the Bolivian anthropologist Nelson Antequera, who carried out fieldwork in Kirkiawi during the late 1990s and early 2000s (Antequera 2016).

In addition to collectively titling their territory, many *ayllu* figures engaged in re-establishing the ancestral customs and political structures that had been partially lost, through workshops and public meetings. Among *ayllu* leaders, this process became part of their collective narrative of fighting to defend their territory and way of life, especially the customary norms related to land cultivation, access, and management. The TCO became seen as the basis for an independent territory and the first step towards the 'reconstitution of the *ayllu*': the reconstruction of the traditional pre-conquest highland indigenous polities to which they had once belonged. Meanwhile, the

opportunities offered by the LPP represented a more complete expression of the goals of the peasant union to improve the material conditions of people's lives and seek power and inclusion within the political structures of wider society. As the union also organized politically throughout the territory of Kirkiawi and held workshops to educate people about the benefits of local development projects, it became evident that in order to fully manage the resources available through the LPP, it was necessary to take control of the municipal government directly, as political posts were occupied by white or mixed-race outsiders from the cities.

In the 2004 local elections, the union and *ayllu* authorities disagreed over the process of selecting candidates under the banner of the MAS party. *Ayllu* figures therefore stood for election separately under the title of POKUY. However, the two sides agreed a 'pact' to work together and campaigned under the common slogans '*gubiernanchik tiyan noqanchikpura*' (we must govern ourselves) and 'vote for MAS or POKUY but not for the *q'aras*' (white outsiders). The result was to eliminate the traditional parties in an 'indigenous take-over' of the local government, uniting the different forms of authority into a single system in which there exist parallel and overlapping sets of *ayllu* and union authorities at every level, including within the municipal government.

Meanwhile, both authorities are also connected to regional and national parent organizations or *organizaciones matrices*. The peasant union is affiliated to the United Federation of Peasant Workers of Cochabamba (FSTUCC) at the level of the department of Cochabamba where Kirkiawi is located and nationally to the United Syndical Confederation of Peasant Workers of Bolivia (*Confederación Sindical Única de Trabajadores Campesinos de Bolivia*; CSUTCB). Meanwhile, the *ayllu* authorities are connected to both the Confederation of Ayllus and Markas of Cochabamba (COAMAC) and the National Council of Ayllus and Markas of Qullasuyu (*Consejo Nacional de Ayllus y Markas de Qullasuyu*; CONAMAQ). The local political processes of the 1990s, not only revitalized the peasant union and *ayllu* authorities but provided them with the agency to enter into wider regional and national political circuits. Local *ayllu* leaders were instrumental in founding CONAMAQ and former *Malku*, Sabino Veizaga, served as the COAMAC general secretary. Meanwhile, many union figures were part of the emerging political project to provide representation for peasant and indigenous peoples that became the MAS. The peasant union leader, Severino Condori, who I came to know well and who lived between a peri-urban neighborhood of the departmental capital of Cochabamba and his native village of Vilaycayma, served one term as congressman under the national government of Gonzalo Sánchez de Lozada and continued to participate in the local communal assembly of his home village. Local political actors from Kirkiawi therefore played a significant role in shaping broader politics, while local politics were in turn influenced by wider national events. Several local authorities from Kirkiawi took part in the constituent assembly process which drafted the 2009 constitution, in which the CSUTCB and CONAMAQ formed rival 'blocks' that disagreed *inter alia* over the extent to which the new state should be centralized (Schavelzon 2012). Two years later, a national split between the CSUTCB and CONAMAQ over whether to support lowland indigenous peoples' protests over the government's decision to build a road through the TIPNIS protected national park, also contributed to the deterioration of relations between the local *ayllu* and peasant union.

## States, colonialism and indigenous peoples

This long history of state interaction, in which local forms of social and political life were shaped by successive reforms is at odds with the popular image of indigenous peoples existing outside of or on the frontiers of the state. Within the European social imaginary, indigenous groups are typically perceived as culturally isolated, bounded and internally homogenous communities who are the original inhabitants of a territory and exist in a special relationship with the natural environment (Hale 2005). This conception has its roots in enlightenment political thought, in which the modern state polity and its political subjects were defined in opposition to an imagined 'state of nature' (Canessa 2017). Liberal political theorists, such as Thomas Hobbes, John Locke and Jean Jacques Rousseau, all referred to the indigenous inhabitants of the Americas as an imagined stateless society, in contrast to the political subjects of centralized sovereign states (ibid.). Yet despite continuing to inform how indigenous rights are defined in international law, this conception of indigeneity does not reflect historical reality. A more accurate characterization of those peoples recognized today as 'indigenous' would be that they are precisely those most affected by the violent re-ordering of social life which took place during the emergence of capitalist modernity: that their ways of life are defined not by the survival of essential traits but by the impacts of colonialism and state governance.

Colonialism can be understood as the European imperialism that established the modern global order and restructured the totality of human social life (Quijano 2000). This imperial expansion began with the increased scale and sophistication of late medieval European warfare (Tilly 1990). In a cycle of regional conflict defined by the use of firearms and mass armies, only states capable of efficiently controlling large populations and raising capital could fund warfare and assure their survival. The need for European polities to seek greater capital resources to fund the costs of military conquest drove the centralization of power and led to a fundamental increase in states' capacity to bureaucratically govern their subjects' lives (ibid.). This growth of state power provided both the means and impetus for the conquest of the Americas, which in turn drove the development of capitalist economies and the progressive colonization of the planet by European powers (Quijano 2000). This process of conquest and dispossession subsumed the entirety of human social life within bureaucratically rational systems of power: principally the division of labor and work discipline of capitalist production (Thompson 1967) and the control of everyday life by modern states and legal systems (Merry 1998). The modern state is therefore tied to a historical cycle of violent conquest and domination.

Central to academic theorization of the modern state is the notion of a centralized form of bureaucratic power that exercises sovereign control over a defined territory, expressed in Weber's maxim that the state holds a monopoly over the legitimate use of physical force (Weber 2004). Marxist analyses also emphasize the role of the modern state in the legitimation and exercise of class power and in limiting the expansion of democratic demands within bounds that permit the reproduction of capitalism (Milliband 1969), despite also arguing that the state can be used as an instrument for revolution if seized by the working class (Lenin 2009). Recent work by David Graeber and David Wengrow has argued that it is difficult to determine how and when the state emerged in prehistory, despite voluminous literature in the Western canon on the topic, suggesting it is more productive to focus not on an abstract state concept, but on how changes to the



practice of government and exercise of power restrained key human freedoms: what is termed 'the state' therefore refers to the convergence of violent sovereign, bureaucratic and charismatic forms of domination (Graeber and Wengrow 2021). In line with this analysis, this article maintains that the distinguishing feature of the modern state is not merely an increase in the exercise of sovereign authority but a concomitant expansion of the use of bureaucratic means to monitor, control and re-order social life (Scott 1998).

While this took place both within the metropole and its colonies, the rapidity with which states attempted to render populations governable was especially transformative for those peoples we today recognize as indigenous. It is precisely the degree to which communities like Kirkiawi have constantly interacted with state authorities, which have attempted to control and re-order their ways of life, that accounts for their present composition. This process, in which colonial and native categories interpenetrated, helps explain the internally complex and polyvalent nature of indigenous societies, defined by the mutual accommodation of seemingly contradictory meanings, customs, and forms of life. This is described by the Bolivian subaltern theorist Silvia Rivera Cusicanqui through the Aymara concept of *ch'ixi*, which refers to the quality of juxtaposing traits which may seem to be in opposition but are held together as one without ever resolving into each other (Cusicanqui 2015). This is distinct from the notion of hybridity in postcolonial theory in which the mixture of distinct cultural elements creates a new entity (Candlin 1990). Instead, it describes the co-existence of multiple cultural differences which both antagonize and complement each other.

The colonial and postcolonial state attempted to render Kirkiawi and other indigenous communities governable through the imposition of alien categories of territory, social organization and government. Yet these were never straightforwardly imposed on local communities. Instead, they were accommodated into existing social forms, while indigenous peoples negotiated their autonomy within a wider state and society which impoverished them, excluded them from power and threatened their ways of life. The peasant union and *ayllu* authorities emerged through this process as the institutional embodiments of separate dimensions of the common aspirations of their community, borne out of this historical experience of marginalization: on the one hand, to protect their territory, autonomy and traditional customs, and on the other, to gain representation within the wider liberal state and society and to improve the material conditions of their lives. For centuries, the *ayllu* authorities fought by legal and other means to defend not only their territory, but the entire political, organizational, and cultural complex of practices associated with it. Meanwhile, the peasant union sought access to development projects, healthcare and education, in addition to power within local and national government. The LPP and INRA laws of the 1990s provided each set of authorities with projects that gave expression to these aspirations. Yet their frustration with the limits of the reforms led to the 'indigenous takeover' of the municipal council, which effectively united them into a single system of government, with each set of authorities regarded as the other's counterpart. While the aspiration to defend one's territory and traditional customs or to improve material conditions and gain inclusion and power within the wider state and society are not always compatible with each other, these aspirations and their institutional embodiment were held together in a complementary tension, which can be best described through the concept of *ch'ixi*. As former peasant union leader and municipal councillor, Justinano Cunurana, commented to me, during the 1990s it became apparent that the two sets of authorities,

'must always walk together': a maxim that expresses the relationship between union and *ayllu* in terms of Andean cultural logics of complementarity and reciprocity.

It is the constitutional reforms of the national MAS government that have destabilized this complementary tension and brought the local authorities into open conflict. While indigenous communities can become recognized as autonomous territories with their own forms of government, to gain this recognition they must define these governmental forms by means of bureaucratic legal processes. Although the constitution recognizes the right to practice their own forms of customary law, it treats indigenous communities as homogeneous entities: there is no distinction made between different authorities and institutions that exist in parallel. Reforms such as the LMAD law or the recognition of indigenous legal systems therefore compel the local authorities to articulate and enact a simplified version of their forms of governance, custom and social life that can be 'read' by the state bureaucracy. The result in Kirkiawi has been a struggle not only for power but to define their collective identity and the future direction of their community in terms of what it means to be highland indigenous or *originario*. While the peasant union wishes to retain the existing structure of local government and favorable relations with the national MAS party that will allow them to improve the material conditions of people's lives through development projects, *ayllu* figures seek to reconstitute their ancestral practices, and in so doing, build an alternative to the liberal state. This is a project given its ultimate expression in the goal of eventually reconstructing the territorial and political structures of the 'great *ayllus*' of Qullasuyu: the region of the Inca empire of which Kirkiawi once formed part.

## Conclusion

By ethnographically examining the interaction between the new plurinational state and the political institutions of a highland indigenous community this article has provided a critical analysis of the transformative constitutionalism enacted by the national Bolivian government. The overlapping forms of political authority of Kirkiawi owe their existence to its historical interaction with the colonial and postcolonial Bolivian state. The distinct and sometimes conflicting dimensions of the common aspirations of this community were given institutional expression and integrated into a system of local government which held them together in complementary tension. Yet a new constitution, laws, judicial branches and government agencies which recognize indigenous autonomy, territory and cultural identity have destabilized this accommodation and brought the local authorities into conflict. Each set of authorities seeks to define separate versions of the forms of governance of their community within the legal schema and bureaucratic processes established by the new plurinational state.

Glen Coulthard, writing in the context of Canadian First Nations social movements, argues that attempts to realize indigenous self-determination through legal recognitions only serve to reproduce colonial relationships of domination and subordination (Coulthard 2014). Drawing on the work of Frantz Fanon and Hegel's master-slave dialectic (Fanon 1961), he asserts that by recasting indigenous demands in the language of the liberal state, indigenous peoples accept their subordinate position and internalize a devalued self-image as colonized subjects. Meanwhile, this article argues that transformative decolonial political projects enacted primarily via legal recognitions fail because to be

eligible for rights from the state it is necessary for communities to be bureaucratically legible to it. Yet indigenous societies which are the ostensible beneficiaries of decolonization are defined precisely by polyvalent forms of governance, law and custom that are irreducible to the formulations of positive law. To gain rights they must therefore simplify their forms of social life to fit within the schema of legal recognitions. This reproduces legibility, or the simplification of social life so populations can be 'read' by state bureaucracies (Scott 1998), as a technique of governmentality (Foucault 1977): the exercise of power through the regulation of human subjectivities. Consequently, rather than liberating indigenous peoples, attempts at decolonization through constitutional reform increase the bureaucratic power of the state and provoke conflict among the very social constituencies they seek to benefit.

The use of bureaucratic means to not only collect information but to simplify the complex reality of social life so that populations can be 'read' and hence governed has been described by James C. Scott as one of the defining functions of states as systems of centralized political authority (Scott 1998). While the historical re-ordering of populations to facilitate taxation, conscription, and prevention of rebellion that have taken place in all state societies can be regarded as a form of internal colonialism against the ways of life of local communities, when these ways of life bear little resemblance to those of alien conquerors and attempts to re-order societies are performed with greater pace and violence, this produces complex and creative accommodations between radically different colonial and native systems of law, governance, custom and meaning.

The extensive systems of self-government and law within Bolivian indigenous communities are not the consequence of their existence outside of or on the frontiers of the state. These were instead shaped by continuous interaction and negotiation with colonial and postcolonial authorities, resulting in the manifold accommodation of seemingly mutually antagonistic customs and meanings Silvia Rivera Cusicanqui terms *ch'ixi* (Cusicanqui 2015). Yet this is arguably characteristic of rural indigenous and postcolonial societies more generally, in which the polyvalent character of social life has been shaped by colonization and local forms of custom exist alongside and interact with state governance and law (Scott 1998; Benda-Beckmann and Turner 2019). As progressive governments throughout the world engage in decolonial projects of constitutional reform, it is therefore imperative to question the extent to which these will genuinely empower such societies.

Contemporary discussions within postcolonial societies such as Bolivia about the role of the state in achieving decolonization in many ways echo longstanding debates within radical thought, dating back to the disputes between Karl Marx and the anarchist revolutionary Mikhail Bakunin over the role of the state in the transition to a socialist society (Bakunin 1998). The issue remains whether the state can be used as an instrument for social transformation and accommodate itself to the forms of life of subaltern peoples, in the process constructing alternatives to liberalism, capitalism and Eurocentric colonial modernity. Radical 'Indianist', figures such as the politician and former guerrilla leader Felipe Quispe, who famously called for the self-determination and secession of the 'Aymara nation', argue that indigenous peoples should struggle for complete independence from colonial states rather than attempt to change them. The plurinationalism offered by Morales and the MAS therefore represents a more conciliatory version of decolonization that reaches out to different Bolivian class and ethnic groups, while Quispe's

Indigenous Pachakuti Movement (*Movimiento Indígena Pachakuti*; MIP) was largely rejected in the 2005 national elections.

Yet among indigenous rights activists in organizations such as CONAMAQ, there existed significant hope that the plurinational constitution could offer more than just administrative devolution based on a partial recognition of indigenous territory and self-government that fits within the model of the liberal state, but instead a way of transforming the liberal state and its structures and categories from below. This view is reminiscent of the Marxist notion of the 'withering away of the state', according to which coercive centralized bureaucratic authority is replaced with the forms of social organization of the people and what remains of the state becomes merely an administrative appendage of them (Engels 2013). Such comparisons are logical if decolonization is understood as emancipation from control by bureaucratically rational systems of power established in the course of creating the capitalist market economy, centralized states and European colonies, and the strengthening of autonomous spaces of meaning and human value through a process of revolutionary transformation (Quijano 2000).

In the case of Bolivia, such a transformation is possible because of the widespread existence of alternative social structures in civil society which are parallel to the state and exist in a relationship of complex accommodation to it. Yet effecting change requires not merely providing legal recognitions from above, but comprehending local forms of life, institutions and customs and how they already interact with the state authorities and the ordinary legal system, in order that they can be expanded upwards to transform its structures from below. As Penelope Anthias has observed in the context of territorial disputes in the Bolivian lowlands, the well-intentioned exercise of legal-cartographic 'mapping' of local forms of life and territory does little to actually address colonial legacies of unequal power relations (Anthias 2018). More than 'mapping' understandings of territory or custom so they are legible to the state, it is necessary to make the state legible to communities and empower them in a two-way process of mutual accommodation. This also requires that social organizations, such as those of the indigenous peasantry, exercise control over the governing party, so that it can operate effectively as their instrument to reform the state from within – something which has arguably not been achieved in Bolivia despite the MAS' official rhetoric that it is a 'government of social movements' (Grisaffi 2022; McNelly 2020). The failure of its efforts at decolonization does not therefore suggest the impossibility of reforming the liberal state but the limitations and paradoxical outcomes of doing so through a top-down project of constitutional reform.

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