



Bolivia

FINAL REPORT

**Constitutional Referendum
25 January 2009**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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1. EXECUTIVE SUMMARY

- Despite a difficult constitutional-making process, and a campaign period which contributed to increased polarisation within the country, the Referendum was conducted in a credible manner. All key political actors have accepted the overall results. However, political divisions remain, necessitating renewed dialogue and strengthening of democratic institutions.
- A high voter turnout and a generally positive atmosphere clearly demonstrated the Bolivian peoples' commitment to participatory democracy. Even though sporadic incidents were reported, the electorate could in general freely exercise their right to vote and directly take part in the conduct of public affairs.
- The legal framework generally provides for holding of democratic referenda and guarantees the respect for fundamental rights for the conduction of polls in line with international norms. The constitution guarantees fundamental freedoms and election-related legislative provisions are in line with international standards. However, some of Bolivia's key democratic institutions cannot function properly because they have not been correctly constituted. This in turn is due to the absence of political consensus in Congress which has made it impossible to achieve the two-thirds majority required for the appointment of key personnel. Non-appointment of key personnel to these vacant posts in the Constitutional Court impedes the functioning of the same; this in turn limits the possibility of legal redress for constitutional matters and fundamental rights.
- Civil and political freedoms, such as freedom of movement, of assembly, of expression and the right to vote are guaranteed by law but were not always consistently respected during the referendum process.
- The National Electoral Court (CNE) administered the elections in a largely professional, transparent and independent manner. Logistical and technical preparations were generally carried out effectively and key components were delivered in a timely manner. However, it would have been desirable for the CNE to have been more forceful in addressing breaches in the Electoral Law during the campaign period, especially with respect to the abuse of state resources.
- The CNE relationship with some Departmental Electoral Courts (CDEs) has been characterised by continual disagreements. This is illustrative of the evident political power struggles taking place between the CNE and CDEs, despite the existing hierarchical structures of the electoral administration where the CNE is the ultimate electoral authority. Different criteria were applied by the CNE and some CDEs in decisions to suspend certain media spots. The CDE of Santa Cruz ruled some CNE educational material to be biased and refused to facilitate its distribution.
- The quality of the *padrón* (Voter Register) has been a much disputed issue particularly since the last Referendum (10 August 2008). EU EOM observations on the day of the constitutional referendum suggest that only a limited number of voters were affected. However, with the *padrón* being controversial, one of the important guarantees against double-voting was the use of indelible ink. Unfortunately, several CDEs and observers noted the differing quality in ink across the country.

- The 60 day campaign period provided an opportunity for both the ‘Sí’ and the ‘No’ campaigns to present their arguments. The campaign was generally conducted in a relatively calm atmosphere, but with underlying tensions. Opponents and supporters of the *Constitución Política del Estado* (CPE) could often, but not always, hold rallies and meetings without facing intimidation or limitations to their freedom of expression and movement.
- The media, on the whole, generally offered the electorate a diverse range of political opinions, potentially allowing voters the opportunity to make an informed choice on Referendum day. However, the private media was observed to favour the ‘No’ campaign, while the state media, with a bias towards the ‘Sí’ camp, did not always fulfil their obligation to provide balanced information.
- The electoral process was characterised by a widespread use of “institutional propaganda” mainly in the electronic media, an aspect which may be viewed as a prohibited use of state resources. While not directly soliciting a ‘Sí’ vote, paid advertisements by some public institutions have been widely perceived as supportive of the CPE, as was indicated on some occasions by the electoral authorities.
- EU EOM observers evaluated the overall process and the general understanding of the procedures by polling staff as largely positive.
- The closing and counting process was generally conducted according to established procedures, with some minor variations observed. As an important safeguard, results from each polling station were published on the official CNE website.

2. INTRODUCTION

The European Union Election Observation Mission (EU EOM) was in Bolivia from 14 December 2008 to 6 February 2009 following an invitation of the National Electoral Court (*Corte Nacional Electoral*, CNE) and the Government of Bolivia. The EU EOM was headed by Renate Weber, Member of the European Parliament, and was composed of 64 observers from 17 EU member states and Norway and Switzerland. The EU EOM was joined by a seven member delegation from the European Parliament, led by Manuel Medina Ortega, Member of the European Parliament, which endorsed the EU EOM Preliminary Statement of 27 January. The observers were deployed to all nine department of Bolivia to assess the referendum process in accordance with international principles for democratic elections. The EU EOM observed the electoral campaign, the activities of the electoral authorities and monitored the media during the campaign. On Referendum Day, 25 January 2009, the observers visited 242 polling stations to observe voting and counting. The EU EOM observed the results consolidation process and remained in the country to follow post-referendum activities. The EU EOM was independent in its findings and conclusions, and adheres to the Declaration of Principles for International Election Observation, commemorated at the United Nations, New York, in October 2005.

3. POLITICAL BACKGROUND

3.1 ROAD TO THE CONSTITUTIONAL REFERENDUM 2005 – 2009

The process of constitutional change has been a long-held demand in Bolivia, especially by many of the indigenous movements and other highland social forces. One of the campaign promises of Evo Morales in 2005 was to propose a new *Constitución Política del Estado* (CPE) which would reflect the cultures and traditions of Bolivia and equally important contribute to a more equal, just and prosperous country. Evo Morales was elected as the first indigenous president of the country in 2005 and elections to the Constituent Assembly were held in 2006.

A year and a half later, in December 2007, the Constituent Assembly approved a proposal for a new Constitution. The approval process took place amidst volatile conditions, characterised by limited respect for important rules of procedure. The main opposition forces regarded the Constituent Assembly's proposed CPE as illegitimate and illegal. A dialogue between the Government and Departmental Prefects on the issues of the proposed CPE, regional autonomy and the use of the hydrocarbon tax, proved non-productive.

In mid 2008, the departments of Santa Cruz, Tarija, Pando and Beni went ahead with referenda on specific statutes for departmental autonomy. These referenda were organised by the Departmental Electoral Courts (CDEs) despite the fact the National Electoral Court (CNE) and the Government declared them illegal. In all four departments the turn-out was around 60 percent and some 80 percent voted in favour of the autonomy statutes.

As a possible way out of this deadlock, the Government and the opposition in Congress agreed to hold recall referenda on 10 August 2008.¹ The August recall referenda resulted in the President and the Vice President being supported by 67 percent of voters. Meanwhile in the Departments, all Prefects won their elections except for the Prefects in La Paz and Cochabamba who had to leave their offices. Thus, instead of serving as a way to get out of the deadlock, these recall referenda served to deepen the conflict between the Government and the so-called *Media Luna*, representing the eastern part of the country.

The weeks following the recall referenda feature amongst the most volatile and violent in recent years. Some 20 people were killed in clashes between Government supporters and opponents. The killings in Porvenir, Pando, on 11 September have been described as a massacre in a contested UNASUR report in which the governing authorities in Pando were accused of supporting the violence. The Prefect of Pando, Leopoldo Fernández, was subsequently detained and is still being kept in detention in La Paz under questionable legal circumstances.

Political discussions between the Government and the opposition took place in Cochabamba in September 2008, in the presence of international observers, including the European Union. The different sides recognised the threat to overall stability in the country and discussions were subsequently followed up by further negotiations in Congress. To put pressure on the politicians in Congress, a number of citizens marched together from Oruro to La Paz demanding that a referendum be held on the CPE. President Evo Morales joined the march which culminated in the participation of 100,000 citizens.

¹ The recall referenda dealt with the President, the Vice President and eight of the nine Prefects.

On 21 October 2008, a qualified majority of Congress bowed to this political circumstance and social pressure and approved a revised text of the proposed CPE for submission to the electorate. The revised text included a number of substantial compromises on amendments to the previous text, facilitating arrival at an agreement to hold the referendum between an important portion of the political opposition in Congress and the *Movimiento al Socialismo* (MAS) majority.

On the other hand, scepticism soon arose, starting in regional opposition strongholds. The spirit of co-operation gradually evaporated as more and more political actors within the opposition distanced themselves from the 21 October agreement. The referendum on 25 January was held in an environment of significant distrust between the Government and the main opposition.

A worrying characteristic of the Bolivian political context is the weakness of several key democratic institutions. Congress² is heavily divided and many of its decisions are challenged on legal and political grounds. The selection of members to central institutions has been a constant issue of controversy. The absence of political consensus in Congress has made it impossible to achieve the two-thirds majority required for the appointment of key personnel within the judicial branch. The Constitutional Court does not function since January 2008 as it has only one judge. This situation seriously limits the possibility of legal redress for constitutional matters and fundamental rights. More than 3,500 cases of all kinds are currently awaiting the final decision of the Constitutional Court.

The National Electoral Court presently operates with the minimum number of members – two seats out of five are currently vacant – this limits the issues the CNE may address and the decisions it may take. The Supreme Court is functioning but there is presently one, and shortly there will be several vacancies waiting to be filled. The positions of State Attorney, Human Rights Ombudsman and State Auditor General are all presently held by *ad interims*, as no ordinary office holders have been selected. The opposition is accusing the Government of gradually monopolising power and politicising nominally independent institutions.

3.2 KEY POLITICAL ACTORS

The main proponent of the proposed CPE was the governing political party, *Movimiento al Socialismo*, which is constituted by social movements, of which the federations of coca-producers in Chapare are amongst the most influential. MAS may be seen as a manifestation of the increased strength, organisation and political awareness of social movements.

An important supporting role in the ‘Sí’ campaign was played by *Coordinadora Nacional para el Cambio* (CONALCAM), an umbrella organisation for social movements supporting the Government. Other social movements of importance in the ‘Sí’ campaign were the *Federación de Mujeres Campesinas Bartolina Sisa*, *Confederación Sindical Unica de Trabajadores Campesinos de Bolivia* (CSUTCB), *Central de Indígenas del Oriente de Bolivia* (CIDOB), *Central Obrera Boliviana* (COB), *Confederación Nacional de Juntas Vecinales de Bolivia* (CONALJUVE) and *Consejo Nacional de Ayllus y Markas del Qollasuyo* (CONAMAQ).

² The two chambers of Congress have 157 seats in total. The 2005 election gave MAS 84 seats while the main opposition party, PODEMOS, obtained 56 seats. The opposition also consists of *Unidad Nacional* (9 seats) and *Movimiento Nacionalista Revolucionario* (8 seats). MAS controls the House of Representatives while the opposition presides in the Senate.

The main actors campaigning against the proposed CPE could be found in the *Media Luna*. The *Consejo Nacional Democrático* (CONALDE) is an organisation uniting the Prefects and *comités cívicos*³ in the departments of Santa Cruz, Tarija, Beni, and Chuquisaca. CONALDE assumed an important role in organising the ‘No’ campaign: the Prefects, as the departmental heads of government, were influential figures holding powerful offices; the *comités cívicos* were important vehicles for carrying out the campaign and also for raising campaign funds. Also supporting the ‘No’ campaign were the youth organisations, *uniones juveniles*, within the *Media Luna*, and especially in Santa Cruz. The *uniones juveniles* were especially critical of the proposed CPE and were accused of using violent means to pursue their ideals.

There was no united opposition against the proposed CPE, and there was no agreed alternative to the political project represented by the CPE. Nevertheless, the opposition was united in its scepticism towards the Government of Evo Morales.

The biggest opposition party in congress, PODEMOS, has gradually disintegrated and lost much of its political power.⁴ It was split on the issue of the proposed CPE, having supporters as well as critics. The main proponent of the proposed CPE within PODEMOS was Senator Carlos Borth who was one of the architects of the changes made in October. The party president, Jorge “Tuto” Quiroga, who was against the December 2007 version of the constitution, spoke out in favour of the proposed CPE during the campaign, but announced – three days prior to the referendum – that he would vote against. Despite fragmentation of the opposition, Oscar Ortiz (PODEMOS – Santa Cruz) succeeded on 16 January to be re-elected as President of the Senate. Ortiz’s re-election may be viewed a sign of strength emanating from the Santa Cruz opposition in Congress.

The two additional political parties in Congress, *Unidad Nacional* (UN) and *Movimiento Nacionalista Revolucionario* (MNR), have little representation in Congress and played minor roles during the referendum. MNR was united against the CPE, while UN was split with the majority, including the leader, being against the CPE.

³ A “*comité cívico*” is a department level, non-governmental organisation, uniting private businesses, associations and civil society organisations, with the aim to promote the economic interests of the region towards the Government. Since MAS assumed power, the *comités cívicos* in the *Media Luna* have taken on important political roles.

⁴ On 12 January PODEMOS announced that a new alliance had been formed between themselves and the Christian Democratic Party, bearing the name *Concertación Podemos* (PDC). Through this action PODEMOS recovered the necessary legal status to run in the next elections. Former Bolivian President, Jorge “Tuto” Quiroga, is expected to be the presidential candidate of the alliance.

4. LEGAL ISSUES

4.1 LEGAL FRAMEWORK

The Constitutional Referendum is mainly regulated by:

- The 1967 Constitution (as amended in 1994 and 2004);
- The 2004 Referendum Law;
- The 21 October 2008 Laws on the interpretation of Article 232 of the Constitution and the Call for a Constitutional Referendum;
- The 1999 Electoral Law (as amended in 2005);
- Regulations and resolutions issued by the National Electoral Court (CNE) on the electoral campaign and polling day.

The legal framework appears to provide a reasonable basis for the conduct of democratic elections and referenda. The constitution guarantees fundamental freedoms and election-related legislative provisions are generally in line with international standards on electoral processes. The legislation regulates the electoral offences and the system of complaints and appeals.

However, some members of the Supreme Court have indicated that since the Constitutional Court has not functioned for more than one year, due to a shortfall in the minimum number of magistrates, the whole process to pass the proposed CPE and to call for a Referendum on the same could not be reviewed from a constitutional perspective and might be unconstitutional. Moreover, contrary to what is contemplated in the Referendum Law (No. 2769, Cap. III, Art.9), the Constitutional Court did not have an opportunity to review the referendum question for the ballot paper. However, while the legality of the overall constitutional process has been questioned by some observers, there has been a general consensus among stakeholders lending legitimacy to holding the referendum.

For the referendum, delegates from political parties, civic associations and indigenous groups may challenge the results as long as it is based on one of the legally established causes for challenge. However, as there is no separate form for challenges, they are written on the results sheet, no copy is available to the challenger which is generally not in line with best international practices. Furthermore, delegates are unable to make genuine challenges to the results or the conduct of the elections; they are instead limited to challenging under Article 169 of the Electoral Law which does not contemplate fraud or changing of the results.

Enshrined in the principle of preclusion is the notion that the polling station staff is the only authority to conduct counting at the polling station. Due to this preclusion, CDEs cannot open any ballot box. In the case of mathematical errors on the results sheet, CDEs cannot modify the results; however, according to the Electoral Law (Art. 167), if a mathematical error is discovered, the CDE can make reference to this on the results sheet which it sends to the CNE. Upon receipt of this, the CNE may subsequently change the result (Art. 179). On the other hand, if legal cause to annul the polling record under Article 169 is proved, polling can take place again at the affected polling station 15 days later.

4.2 *INTERNATIONAL AND REGIONAL STANDARDS*

International democratic benchmarks for good electoral practice mainly revolve around principles as enshrined in the Universal Declaration of Human Rights (UDHR) and Article 25 of the International Covenant on Civil and Political Rights (ICCPR) of 1966, according to which everyone has right to take part in the conduct of public affairs, directly or through freely chosen representatives. The implementation of direct participation in public affairs also involves implementation of the principles of “*universal and equal suffrage;*” “*right to vote;*” “*genuine elections allowing for the free expression of the will of the people.*” Bolivia is a member state of the United Nations and it is party to the ICCPR and to the 1969 American Convention on Human Rights, where Article 23 states the same principles mentioned above. Bolivia has ratified the United Nations Convention on the Elimination of Racial Discrimination and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In addition, Bolivia signed the 2001 Inter-American Democratic Charter which proclaims in its Article 2 that, “the effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organization of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order.”

4.3 *OTHER APPLICABLE ELECTORAL AND REFERENDA LEGISLATION*

In accordance with its general competence established in Article 29 of the Electoral Code to execute the electoral process, the CNE issued the following special regulations and resolutions for the referendum:

- On 24 October 2008, a resolution passing the electoral calendar for the referendum.
- On 5 November 2008, a resolution passing the design of the ballot paper, the polling record for the referendum.
- On 5 November 2008, a special resolution suspending the electoral calendar due to the existence of the state of siege in the Department of Pando.
- On 6 November 2008, the regulations on fines related to the electoral obligations.
- On 21 November 2008, the regulations on the broadcasting of electoral propaganda and opinion polls during the process for the constitutional referendum.
- On 23 November 2008, a special resolution resuming the electoral calendar.
- On 24 November 2008, the regulations on prohibitions and fines for the polling day, the days before and the day after.
- On 9 December 2008, several amendments to the regulations on electoral observation.
- On 13 January 2009, a resolution entitling delegates from political organisations to be present in polling stations.

4.4 THE NEW CONSTITUTION – MAIN FEATURES

Article 1 states that Bolivia is a unitarian, social, pluri-national and communitarian State, with autonomies, and in accordance with the rule of law. Democracy is exerted with the following considerations: direct and participative, through referenda, recall referenda, citizens' initiatives and special assemblies; representative, through electoral processes; and communitarian, through the native rural nations and peoples' customary rules.^[1] The new text includes the following changes relevant to electoral processes in Bolivia:

Civil and political rights The new text provides for the basic principles regulating genuine and democratic elections. The text also contains civil rights guarantees such as the rights of freedom of expression, association and assembly. The novelty refers to the acknowledgement of the indigenous identity: in those places where communitarian democracy is practiced, their electoral processes shall be executed in accordance with their own procedures, and supervised by the Electoral body when the electoral act is not subject to an equal, universal, direct, secret, free and obligatory vote. The direct election, nomination and appointment of representatives of native rural nations and peoples will be made according to their own rules and proceedings.^[2]

Election Administration The Electoral body is called a Pluri-national Electoral Body and it is independent from the Executive, the Legislative and the Judiciary. It is composed of the National Electoral Court, Departmental Electoral Courts, electoral judges, electoral juries and electoral notaries. The National Electoral Court has seven members, whose mandates last six years without the possibility of re-election. At least two of them shall be of native rural indigenous origin. Within each Departmental Electoral Court, at least one member shall be of native indigenous origin. The National Electoral Court has the responsibility to organise, administer and execute electoral processes and to announce its results. As well, it guarantees the constitutional right to suffrage and it organises and administers the voter register and the civil register.^[3]

The President is elected for a five year term and he/she can be re-elected for a maximum of one mandate in a continuous manner. The candidate who obtains fifty percent plus one of the total valid votes, or a minimum of forty per cent of the total valid votes with a difference of at least ten per cent as regards the next candidate, shall be proclaimed President.^[4]

The Pluri-national Legislative Assembly has two chambers, the Chamber of Deputies and the Chamber of Senators. The Chamber of Deputies is composed of 130 members, one half of them are elected in single-member constituencies, the other half, in multi-member Department constituencies. The distribution of seats among the Departments will be made by the Electoral Body on the grounds of the population of each of them, in accordance with the latest census, while also taking into consideration the level of economic development. Within the limits of each Department, where minorities exist, special indigenous constituencies may be created by the Electoral Body in rural areas and they shall be based on their population density. The deputies elected in these special constituencies shall be part of the 130 deputies. However, a law shall determine the special indigenous constituencies whose creation is not conditional to their population density or restricted to the limits of a Department. The

^[1] Article 11.

^[2] Article 26.

^[3] Articles 205 to 208.

^[4] Articles 166 and 168.

Chamber of Senators shall be composed of 36 members. Four Senators will be elected in each Department following the proportional system. The election of the members of the Pluri-national Legislative Assembly shall grant equal participation of men and women.^[5]

The Judiciary The members of the Pluri-national Constitutional Court and the Supreme Court of Justice will be elected by universal suffrage. The native rural indigenous jurisdiction has the same level as the ordinary justice system, it is subject to the fundamental rights stipulated in the Constitution and it is under the supervision of the Pluri-national Constitutional Court.^[6]

The right to autonomy of Departments, regions, municipalities and native rural indigenous entities is recognised by the new CPE. Their main governmental body will be an assembly elected by universal suffrage, except for the native rural indigenous entities that will be ruled in accordance with their customary institutions.^[7]

Other relevant issues include creation of a new constitutional actor, “social control,” to empower organised civil society to participate in State policy-making;^[8] the Catholic Church no longer has a special status within the Constitution;^[9] State officials must speak at least two of the 36 official languages;^[10] land property and its use in the market will be regulated by the State, and is subject to the accomplishment of its social and economic function.^[11]

The provisional dispositions establish that the current Congress, within 60 days after the promulgation of the new CPE, shall pass a new electoral code in accordance with the new text to elect the Pluri-national Legislative Assembly, the President and the Vice-president of the Republic next 6 December 2009. Once elected, the Pluri-national Legislative Assembly, within 180 days after its establishment, will pass the Law of the Pluri-national Electoral Body and the Law on the Electoral System.

The new CPE contains numerous new institutions and procedures and a new State structure. These novelties should require the constant overview of a Constitutional Court in order to ensure coherence and rationality. However, as commented elsewhere in this document, the current Constitutional Court is non-operational and it will be at least one year and half from now before the new Pluri-national Constitutional Court is elected. This means that all the laws that will be adopted for the implementation of the new CPE will not be subject to any constitutional review.

4.5 THE REFERENDUM SYSTEM

In conformity with Article 4 of the 1967 Bolivian Constitution, the 2004 Referendum Law states the possibility of holding binding referenda at national level. Article 5 of said Law stipulates the National Congress may call for a referendum when a decision to do so is passed by at least two thirds of its present members. The 21 October 2008 Law on the call for a referendum on a new Political Constitution contains provisions explaining the text to be passed by referendum and the design and questions to be included on the ballot paper. Its

^[5] Articles 145 to 148.

^[6] Articles 179, 182, 190 and 197.

^[7] Articles 269 to 296.

^[8] Article 241.

^[9] Article 21.3.

^[10] Article 234.

^[11] Article 396-397.

article 7 expressly states that the approval of the new Constitution requires an absolute majority of those who voted, meaning that blank and invalid votes are counted for the purpose of determining a positive majority.

5. ELECTION ADMINISTRATION

5.1 *STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION*

The electoral process is executed by the National Electoral Court (CNE). Articles 225 and 226 of the Constitution describe the CNE and the main bodies of the Electoral Administration as autonomous, independent and impartial. Despite this status, many opponents have shown distrust in the CNE, and some government supporters have shown a lack of trust in some CDEs. The current constitution and the Electoral Law state that the CNE should be composed of five members. Four members are elected by Congress, and one member is designated by the President. At present the CNE is operating with only three members; the minimum quorum to function. The third member was appointed on 20 December by Congress, thus solving a potential crisis in terms of holding the Constitutional Referendum. One of the three members is a woman. José Luis Exeni was appointed to the CNE by President Morales in January 2008 and was subsequently elected CNE President.

Subordinate to the CNE, but with broad operational autonomy, are nine Departmental Electoral Courts (CDEs). The CDEs are composed of five members:⁵ one is designated by the President and four by Congress. Their task is to manage the electoral process and to implement CNE regulations and resolutions at departmental level.

Other electoral bodies established by the Constitution include the electoral judges, who supervise the process at polling centre level, the electoral notaries, who act as liaison officers between the CDEs and the polling centres, and the polling station staff.

5.2 *THE ADMINISTRATION OF THE ELECTION*

The fact that there are only three CNE members limits the CNEs authority over the CDEs, since the law stipulates that four members are required to decide on electoral offences committed by members of the CDEs. The CNE found the local referenda on autonomy in mid-2008 to be illegal, but did not manifest its authority by trying to prevent them from being held.

In order to overcome past criticisms the CNE has issued new regulations aimed at improving compliance with guarantees such as polling records, transparent polling boxes, improved security measures for ballot papers and a better quality indelible ink to be used on the index finger. Before Referendum Day, some CDEs were reporting poor quality indelible ink. Unfortunately, these reports had some basis in reality as at some polling stations on Referendum Day EU EOM observers noted deficiencies in ink quality.

Logistical preparations for the 25 January Referendum were implemented according to schedule. At the same time, some technical elements were not met, such as not producing and closing the *padrón* 90 days before the Referendum (Arts. 73 and 101).

⁵ With the exceptions of the CDEs of La Paz and Santa Cruz which are composed of 10 members.

Two million booklets comparing the 1967 Constitution with the proposed CPE were issued by the CNE for broad distribution across the country. The CNE acknowledges that potentially contentious points, including religion, indigenous traditional justice (*justicia comunitaria*), the use and property of natural resources and the constitutional acknowledgement of coca were left out to avoid political polemics. Despite the fact that this booklet was approved by the CNE, the CDE of Santa Cruz ruled it to be biased and refused to facilitate its distribution. The CNE expressed its disagreement with the CDE on the matter, but has taken no further steps. This is illustrative of the evident political power struggles taking place between the CNE and CDEs, despite the existing hierarchical structures of the electoral administration where the CNE is the ultimate electoral authority. This struggle was also observed in CDE decisions to suspend certain media spots.

A cause of concern on Referendum Day was related to which actors were legally entitled to scrutinise the poll. The 2004 Referendum Law and the Electoral Law are not explicit on the participation of delegates from political parties, citizens associations, indigenous peoples and coalitions in the polling of a referendum. The Electoral Law refers to their participation in elections as opposed to referenda. The National Electoral Court issued a regulation on national election observation in December 2006, as recommended in the EU EOM 2006 final report. The new regulation also included a code of conduct. The regulation is assessed to be in accordance with international standards. On 9 December 2008, the CNE amended its own regulations on National and International electoral observation making them applicable to referenda. To clarify the position concerning doubts about the participation of delegates from political parties, citizens associations, indigenous peoples and coalitions for this referendum the CNE issued on 13 January 2009 a resolution that referred to the articles in the Electoral Code where the participation of these actors is contemplated.

Despite its contemplation for the same in the EU EOM – CNE Memorandum of Understanding, and provision in Article 23 of the Electoral Law that specifies that, CNE/CDE plenary sessions to decide jurisdictional matters or deal with the counting of election results should be public, the mission has not been successful in observing CNE plenary sessions. At the same time, most EU EOM Long Term Observers in the Departments were welcome to observe CDE plenary sessions. The CNEs transparency towards political parties and other stakeholders is open to improvement in terms of invitation to more consultations throughout the process.

The formulation of the land tenure question on the ballot paper was neutral. However, the formulation of the question regarding the proposed CPE was long and did not seem totally neutral. Moreover, and for the reasons mentioned above, the Constitutional Court is inquorate and therefore did not review the formulation of these questions.

The CNE failed to react in an appropriate manner to many apparent electoral infractions, including the alleged misuse of public resources. While the legal framework may be weak in this regard, this does not preclude reaction from the electoral authorities. On the other hand, the CNE dismissed the Director of Goods and Services due to the poor quality of the indelible ink used for the referendum.

6. VOTER REGISTRATION

6.1 THE RIGHT TO VOTE

Article 6 of the Electoral Code states the suffrage as universal, direct, free, obligatory and secret. All Bolivians over 18 years of age are obliged to vote until they are over 70 years of age, when their voting becomes optional (Article 153).

6.2 VOTER REGISTRATION PROCEDURES

It is compulsory to vote in Bolivia. One has to be 18 years of age or over, possess Bolivian citizenship and be registered in the *padrón*. There were 3,891,397 voters on the final *padrón* for this Constitutional Referendum. In contrast, there were 4,047,706 voters on the *padrón* for the August 2008 Referendum. The quality of the *padrón* has been a much disputed issue particularly since the last Referendum (10 August 2008). Reports from both domestic and international observers have indicated that there are problems with double entries and the cleansing of the register and that some legal mechanisms are insufficient. EU EOM observations on the day of the constitutional referendum suggest that only a limited number of voters were affected. The need for modernisation of the overall registration process is acknowledged by the CNE and plans are currently being developed for a new registration process, including biometric data, to be partly completed for the December 2009 elections.

The *padrón* is configured using different sources. An eligible person registers in the *padrón* by presenting either an ID issued by the Police, a passport issued by the Migration Department, a military certificate, or a birth certificate issued by the Civil Register.

The Electoral Law (*Código Electoral, Ley No. 1984, Tit. II, Cap. I, Art. 67*) identifies the Civil Register as one of the sources for developing the *padrón*. At the same time, the Civil Register falls under the responsibility of the Electoral Administration. While registration is obligatory, often poor record-keeping reveals that the Civil Register is not necessarily a reliable source of information on the population. Many people, for reasons of distance, poverty or mistrust, did not register. This may explain why since its creation in 1989 the *padrón* has had a parallel and different life from that of the Civil Register. Furthermore, civil register books are not always available in digital format, and the number of entries in the *padrón* is sometimes higher than in the Civil Register. In some cases, this may be attributed to poor transfer of data. The authorities acknowledge that a substantial number of citizens have the same ID-number.

The institution of a 2006 national programme, *carnetización gratuita*, aimed at providing free ID cards for those hundreds of thousands of Bolivians who never registered. This programme provided for an update of the *padrón* (Voter Register) prior to the 25 January 2009 Constitutional Referendum. The *carnetización gratuita* programme was independent from the Electoral Administration and was managed by the Ministry of Government. Its *modus operandi* was lacking transparency as regards data collection procedures and consolidation methods. *Carnetización gratuita* began slowly in 2006, but due to impending referenda it accelerated and soon documented around 400,000 citizens, including minors. The programme involved Civil Register brigades that passed collected information to the Ministry for quick production of IDs. Brigades operated mainly in rural areas, often employing the legal possibility to document a citizen who instead of presenting identification produced two

witnesses. The opposition was suspicious of *carnetización gratuita* as neither the CNE nor the Police had insight into the programme's activities.

6.3 OUT-OF-COUNTRY VOTING

The Electoral Law contemplates out-of-country voting and there is currently a draft law before the Senate regarding the same. Regrettably this draft law has not yet been fully developed and the substantial Bolivian diaspora was left disenfranchised as no provisions were made for out-of-country voting. In the wake of the Referendum, President Evo Morales instructed the CNE to begin the process of working towards implementing out-of-country voting for future Presidential, Vice-Presidential and general elections as well as national referenda. It is estimated that two million Bolivians live abroad.

7. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

7.1 BACKGROUND TO THE REFERENDUM CAMPAIGN ENVIRONMENT

There was no united opposition against the new CPE and there was no agreed alternative to the political project represented by the CPE. Nevertheless, the opposition (the 'No' camp) remains united in its scepticism towards the Government of Evo Morales (the 'Sí' camp). His respect for democracy, rule of law, private property, the catholic faith and family values, are questioned. During the MAS congress in Oruro 10-12 January, Evo Morales, stated that MAS "had come to the presidential palace to stay," and should Congress not be willing cooperate he would not exclude the option of ruling by presidential decrees. This statement was interpreted as a sign of authoritarianism by the opposition. In addition, a statement by the influential MAS Senator Félix Rojas, stating that Congress might as well be dissolved if it did not cooperate, caused similar reactions.

During the final days before the Referendum, an increasing polarisation between the Government and the main opposition actors was noted; the political consensus reached on 21 October 2008 had evaporated significantly. On 19 January, Vice President Alvaro García Linera threatened to imprison regional leaders who decided to implement their own regional autonomy statutes without adapting them to the Constitution. One regional leader, Branko Marinkovic, chose to interpret the Vice President's threat as a sign of desperation on the side of MAS.

On the same day, Félix Rojas, suggested it would be possible to bring forward the general elections scheduled for 6 December 2009 in the case that the CPE was approved. However, Minister Carlos Romero specified that any date change would require broad political agreement in Congress. The opposition unanimously and firmly rejects any plan to change the date of the elections, as the date was an essential part of the agreement forged on 21 October 2008.

During the referendum campaign, much political strategy and activity remained focused on the possible general elections in December 2009.

7.2 OVERVIEW OF THE REFERENDUM CAMPAIGN

The 60 day campaign period started on 23 November, providing an opportunity for both the ‘Sí’ and the ‘No’ campaigns to present their platforms. The campaign was generally conducted in a relatively calm atmosphere, but with underlying strong rhetoric. Campaigning was hardly visible in many rural areas, while much activity was concentrated in the major urban areas and through newspaper, radio and TV advertisements.

The most common campaign slogans were simply ‘Sí’ or ‘No’ to the CPE. The ‘Sí’ camp printed and distributed posters with the photo of Evo Morales accompanied by the text “Bolivia united with autonomies.” The ‘No’ camp used slogans like, “Defend your rights – Vote No” and “No to the Constitution that divides.” Among the religious arguments used figured “Choose God – Vote No.”

President Evo Morales and Vice President Álvaro García Linera participated actively in the campaign, attending rallies around the country. The President ended the official campaign period by participating in a huge rally in Cochabamba on 22 January, and later the same day, a final rally in La Paz. In his campaign, the President emphasised the need to re-found Bolivia and to put a definite end to neo-liberalism. Morales presented the new Constitution as a constitution ‘of the people and for the people.’ Furthermore, the new CPE was presented as a guarantee for the introduction of autonomies. Throughout the campaign, Evo Morales often voiced criticism against the private media, the leaders of the Catholic Church and the leaders of the opposition in the *Media Luna* – accusing them of being neo-liberals.

The opposition organised its major end of campaign rally in Santa Cruz on the evening of 22 January. The Prefects of Santa Cruz, Beni, Tarija and Chuquisaca all participated. A giant ‘No’ t-shirt, measuring 3,500 square meters, was on display at the rally. According to ‘No’ campaigners, the t-shirt boasts some 300,000 signatures gathered from ‘No’ supporters across the country.

The close of the ‘No’ campaign in La Paz was held at Plaza Avaroa on the evening of 22 January and was attended by some 500-700 supporters. This rally was organised by *Basta Ya*, UN and MIR. The main message was that Bolivia is lead by a dictator and that the proposed CPE would turn Bolivia into a communist state. The participants used slogans such as “No more killings - no more communism, Bolivia YES – Venezuela NO, Yes to democracy – NO to dictatorship.”

7.3 REFERENDUM RELATED INCIDENTS

Opponents and supporters of the CPE could often, but not always, hold rallies and meetings without facing intimidation or limitations to their freedoms of expression and movement. However, in many Departments campaigners on both sides and the general public were subject to intolerance and social pressures, instilling in them a sense of insecurity. In Pando, EU observers received reports from citizens who were fearful of openly expressing their political opinions; public employees were allegedly pressured to attend campaign activities in favour of the CPE at the risk of losing their jobs. It was reported to EU observers that some had lost their jobs at the *Prefectura* for taking part in the ‘No’ campaign. In other Departments, public employees were under similar pressure to support the ‘No’ campaign.

At the same time, minor clashes between supporters and opponents of the CPE sometimes occurred during campaigning in the city centres of La Paz, Santa Cruz, Sucre and Cochabamba. In areas of strong opposition to the CPE, supporters of the ‘Sí’ vote hesitated to campaign due to perceived personal risks. And in areas under strong MAS control, opponents of the CPE hesitated to campaign for the same reason. Vice President Alvaro García Linera (‘Sí’ campaigner) as well as Chuquisaca Prefect, Savina Cuellar (‘No’ campaigner), were both hindered from travelling freely by protestors who did not agree with their political ideas.

As polarisation between the different camps increased, and as the campaign intensified, an increased use of derogatory campaigning and inflammatory language was observed. Representatives from both camps called their opponents liars, terrorists, and enemies of the Bolivian people. Arguments regarding confidence in political leaders frequently overshadowed rational discussion of the content of the proposed CPE, turning the referendum into a vote of confidence in the Government of Evo Morales.

Many civil society organisations, from both sides, contributed to spreading information about the CPE, informing the public about the upcoming referendum. Several influential organisations pressured their members to attend campaign rallies and issued direct instructions informing them how to vote. Most of these organisations were campaigning in favour of the CPE. EU observers noted that such instructions often implied social pressure intended to affect voters’ behaviour on referendum day.

7.4 USE OF PUBLIC RESOURCES

The EU EOM observed that public resources were widely used in the campaign, by both supporters and opponents of the CPE.

Several Governmental Ministries openly made propaganda for the CPE through radio and TV spots and through newspaper advertisements. TV spots favouring the ‘Sí’ campaign were sponsored by the Ministry of Water, the Ministry of Mining, the Ministry of Health and Sports, the Ministry of the Presidency, and the Ministry of Rural Development and the Environment. On 16 January, a full page pro-‘Sí’ advertisement paid for by the Ministry of the Presidency, with the title “The Ten Truths of the New Political Constitution” (*Las diez verdades de la Nueva Constitución Política del Estado*) was published in *La Razón*.

The state institution REPAC (*Representación Presidencial para la Asamblea Constituyente*), with a mandate to raise awareness about the CPE, showed bias in favour of the CPE. On Referendum Day, REPAC spots favouring the ‘Sí’ campaign were broadcast on TV, this in clear violation of campaign silence.

The EU EOM observed that public employees were coerced by their employers to promote either the ‘Sí’ or the ‘No’ campaigns or to attend rallies in support of the same. EU observers noted that staff of the Ministry of Health was pressured to campaign for the ‘Sí’ in La Paz on January 22. In Oruro, staff of the *Prefectura* was observed working in the ‘Sí’ campaign. In Pando, staff from different public institutions, including the *Prefectura*, was observed participating in the ‘Sí’ campaign. In Pando, public employees were also pressured to attend ‘Sí’ rallies at the risk of losing their jobs.

In Chuquisaca, staff of the *Prefectura* was observed supporting the ‘No’ campaign during office hours. Similar observations were made in the Department of Santa Cruz (*Sub-prefecturas* of Velasco, Ñuflo de Chavez and Ichilo), and in the Department of Tarija (*Sub-prefectura* of Padcaya). In Chuquisaca, the *Prefectura* funded a TV spot which was subsequently stopped by the CDE for being considered ‘No’ propaganda. In the same Department, staff of the *Prefectura* reported to the Human Rights Ombudsman (*La Defensora del Pueblo*) that part of their salary was held back as involuntarily contributions for the ‘No’ campaign.

In Cochabamba, cars belonging to the *Prefectura* were observed to be used in the ‘Sí’ campaign.

Political leaders also used the inauguration of public works to campaign in favour of or against the CPE.

7.5 CAMPAIGN FINANCE

A law of August 2008 abolished all state funding for political parties.⁶ However, much campaign funding for the referendum was raised by and through civil society organisations and both sides seemingly enjoyed access to funding. A major issue related to this type of fundraising is that while political parties and *agrupaciones ciudadanas* are obliged to disclose annual reports on financing, no such regulations exist for civil society organisations, this seriously limiting transparency of campaign funding.

7.6 VOTER EDUCATION

Voter education activities conducted by the electoral authorities concentrated on describing electoral procedures, rather than informing on the contents of the proposed CPE. The CNE produced a booklet outlining the similarities and the differences between the existing and proposed CPE. Some CDEs considered the booklet pro-‘Sí’ propaganda. Electoral authorities diffused procedural indications to the electorate through the various media, but put little effort towards motivating them through public outreach programming.

EU EOM observers noted that the electorate experienced a great deal of confusion with two separate questions on the ballot paper.

The *voto comunitario* has been highlighted by several interlocutors who indicate that the principle of the secrecy of suffrage may be violated in that the vote of some rural communities is decided upon in advance by assembly or by the union and during polling a control is established to ensure community members vote accordingly. EU EOM observers did not witness this practice.

⁶ This decision may be seen as contradictory to the Inter-American Democratic Charter of 2001. Article 5 of the Charter reads: “The strengthening of political parties and other political organisations is a priority for democracy. Special attention will be paid to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing.”

8. MEDIA AND THE ELECTIONS

8.1 MEDIA ENVIRONMENT

The referendum campaign revealed strong polarisation between the ‘Sí’ and ‘No’ campaigns; this division was reflected in both the private and state media which displayed clear bias. The absence of a truly independent media system had the potential to impede citizens in their ability to adequately assess the campaign. At the same time, and throughout the electoral process, the media, taken as a whole, generally offered the electorate a diverse range of political opinions, allowing voters to compare the two political options and make an informed choice on referendum day.

The media in general, are not only reflecting the profound polarisation that characterises the Bolivian political scene, but they are becoming active parts of this polarisation. The media, and particularly electronic media, appears to be the battleground of the next political phase, and the preparations of this battle can be seen in some recent events.

According to information from the *Comisión Nacional del Mercado de Valores de España (CNMV)*, the Spanish media group Prisa (owner of the Spanish daily *El País*) would have sold on 20 January its 25% share in *Inversiones en Radiodifusión* (owner of the Bolivian TV channel *ATB*) to the group *Akaiski Investments*, which is allegedly backed by *Petróleos de Venezuela SA (Pdvs)*, the state-owned Venezuelan oil company. Unconfirmed allegations made in the media indicate that Prisa would also soon be selling the newspaper *La Razón* to *Akaiski Investments*.

The newspaper close to MAS, *El Cambio*, had its inaugural publication on 22 January, and is now working towards gaining readership by pricing its newspaper competitively.

8.2 LEGAL FRAMEWORK FOR THE MEDIA AND ELECTIONS

The Election Law (*Código Electoral*, from Art.114° to Art. 124°), states in general that candidates and political parties shall be guaranteed equal conditions of access to the state owned media through the broadcasting of free air time. In an unwelcome initiative, this guarantee of equal access was suspended. CNE Resolution N° 0201/2008, Art. 7° (21 November 2008) states that, “due to the nature of the Referendum [...] free of charge airtime in the state electronic media is not foreseen.” The Electoral Law does not foresee the creation of *ad hoc* ‘Sí’ and ‘No’ committees for referenda, and so does not foresee any entity which would be entitled to free of charge airtime. The Election Law also provides rules governing paid airtime or space both in state funded and private media. Nonetheless, the Law fails to provide clear indications governing balanced access to News editions and informative programmes in state and private media during the campaign period.

Decisions taken at the departmental level by CDEs have sometimes contrasted with decisions taken at the national level by the CNE. For example, in Santa Cruz most of the ‘institutional propaganda’ spots sponsored by some of the Ministries were suspended by the local CDE. The CDE considered these spots as supportive of the ‘Sí’ campaign and impeded them as they were paid for using public resources. The CNE took the opposite view and allowed the spots at the national level.

8.3 CONDITIONS FOR JOURNALISTS

The referendum campaign was significantly impacted by the continuous tensions and verbal struggles between the Government, and President Evo Morales in particular, and the private media. Consequently, many journalists have encountered difficulties in carrying out their professional activities.

During the months preceding the campaign, relations between the media and the Government of the President Evo Morales had been steadily deteriorating. The first tensions started a few months after Morales' assuming the Presidential Office. On the one hand, Morales has been severely critical towards some private media. On the other hand, many private media strongly criticised, often aggressively, the politics of Morales' Government. This conflict has produced a change of perception of the media by many citizens, particularly among Morales' supporters. In some instances, this change in perception resulted in *comités cívicos populares* or citizens close to MAS engaging in verbal and physical attacks towards journalists perceived as close to the opposition. In March 2008, the newly appointed president of the authority on the media (SITTEL), Jorge Nava, in a letter to the media, threatened to close or sanction those media that made public information which "could frighten the population." The immediate withdrawal of the circular did not stop journalists from contextualising it as an attempt at censorship. More recently (9 December), President Morales publicly humiliated a journalist from the newspaper *La Prensa*. In Morales' opinion the journalist was guilty of misinformation. On the same occasion, Morales declared that only 10% of Bolivian journalists were "worthy." As a consequence, on 15 December, Bolivian journalists went on strike for 15 minutes. On the same day, Morales declared he would not be inviting Bolivian journalists to press conferences. Instead he would invite only foreign correspondents, who in his opinion were "more responsible in handling the information."

On the other hand, working conditions for pro-Government journalists working in the *Media Luna* have been similarly difficult. These journalists have experienced attacks and violent encounters, particularly in Santa Cruz and during the months before the campaign.

In the smaller Departments, where the local media market is limited or poor, the *Prefectos* and local authorities have wielded a strong influence over the media. Through the purchase of institutional advertisements, these actors have been the main contributors to the economy of many small media.

8.4 MONITORING OF MEDIA COVERAGE OF THE REFERENDUM

State and private media have been sharply divided along two lines: those supportive of the 'Sí' campaign and those supportive of the 'No' campaign. In this polarised environment, the state media were widely viewed by the citizenry as being supportive of the government, while the majority of the private media were generally perceived as being supportive of the opposition. The findings from the EU EOM media monitoring activities confirm this pattern while revealing some particular characteristics.⁷

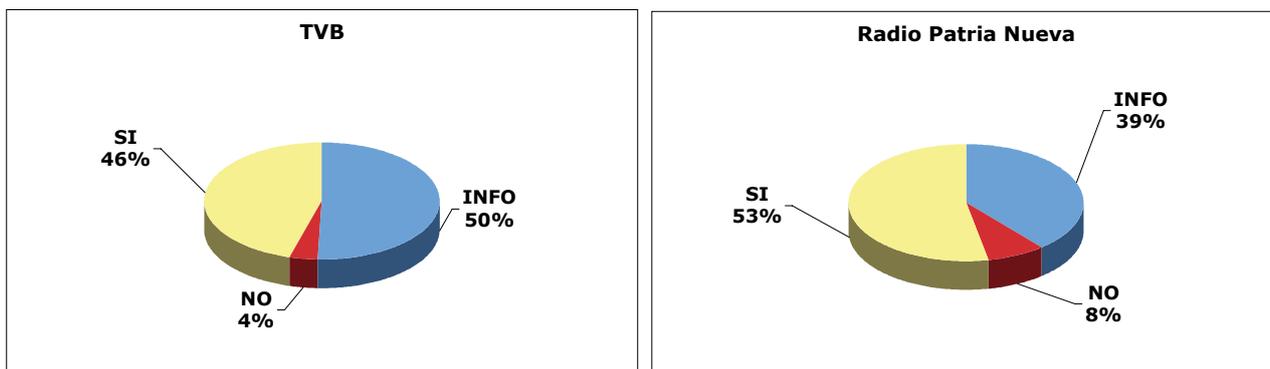
⁷ The EU EOM Media Unit started its monitoring activities on 19 December. EU EOM monitored the campaign during the *Prime Time* period (from 6 p.m. till midnight), on six TV channels with nationwide coverage: *TVB - Canal 7* (the state TV), *Unitel*, *ATB*, *Red Uno*, *PAT* and *RTP*; on four radio stations: *Patria Nueva* (the state Radio), *Panamericana*, *San Gabriel* and *Radio Fides*, during their main evening news editions; and in four newspapers (*Los Tiempos*, *La Razón*, *La Prensa*, *El Deber*). The media monitoring, which was conducted by

Media coverage of the proposed CPE was lukewarm to begin with, but gained momentum at the beginning of January, from which time the main media outlets presented substantive information on the proposed CPE and its possible consequences for the country. Taking a positive approach, both state and private media facilitated public debate on the main innovations presented in the New Constitution.

On the other hand, the campaign was characterised by the widespread use of “institutional propaganda,” particularly in the electronic media. This may be viewed as an abuse of state resources as outlined in Art. 5° *Resolución de la CNE N° 0201/2008*. While not directly soliciting a ‘Sí’ vote, paid advertisements by some Government Institutions (including Ministries) have been widely perceived as supportive of the CPE.

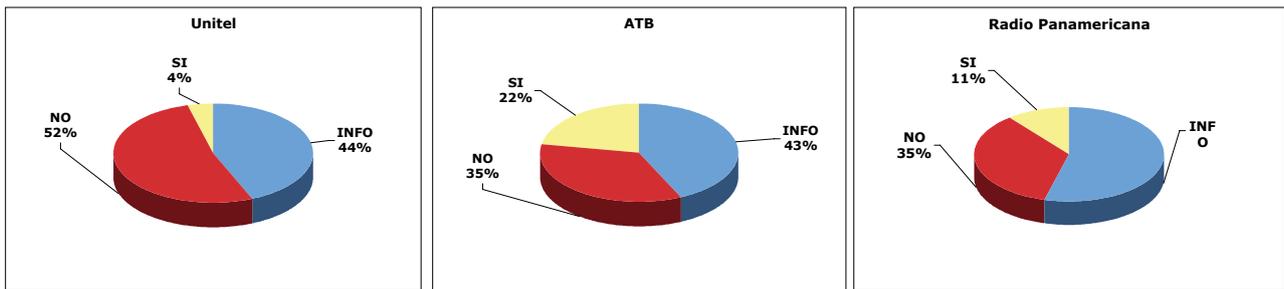
State owned media

The state-owned television channel, *Televisión Boliviana (TVB)*, and radio station, *Radio Patria Nueva*, fell short in fulfilling their obligations as public service media, and showed a clear bias in favour of the ‘Sí’ campaign. *TVB* awarded 46% of its referendum information during the main prime time news editions to the ‘Sí’ campaign and only 4% to the ‘No.’ The remaining 50% was taken up by informative space regarding the proposed CPE. A comparable pattern was observed in all the monitored programmes of the TV channel, where the ‘Sí’ campaign obtained 29%, and the ‘No’ 4%. *Radio Patria Nueva* showed a similar reporting tendency during news editions, with 53% of its referendum information covering the ‘Sí’ position, 8% covering the ‘No,’ and 39% comprising informative space on the CPE.

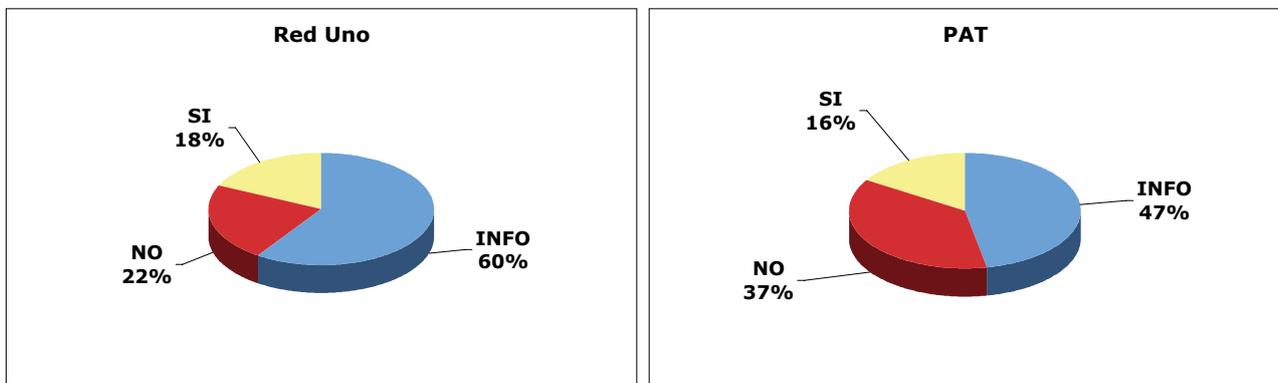


Private electronic media

On the other hand, the main and most diffused private media openly supported the ‘No’ campaign. In contrast to the state media, two of the main private TV channels, *Unitel* and *ATB*, presented a different coverage during their news editions. On *Unitel*, the ‘No’ campaign received 52% of news airtime, whereas the ‘Sí’ campaign received only 4% of airtime. In all the other monitored programs the percentages are exactly the same, since the TV channel mainly concentrated the referendum coverage during the prime time on News and paid propaganda. On *ATB News*, the ‘No’ campaign received 35% and the ‘Sí’ 22%. Data referring to all the other programmes on this channel confirm this tendency: with the ‘No’ receiving 26% and ‘Sí’ 18%. A similar analysis can be made for *Radio Panamericana’s* news editions, where the ‘No’ campaign received 35% of airtime, the ‘Sí’ received 11%, and the remaining 54% of news edition airtime was dedicated to general information about the CPE.

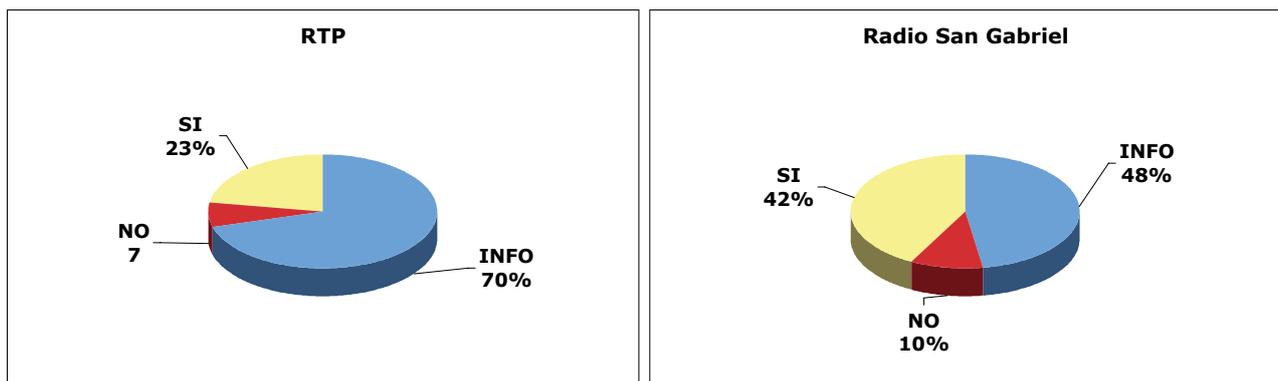


Two other private TV channels, *Red Uno* and *PAT*, seemed to be slightly less biased from a quantitative perspective, although both favoured the ‘No’ position. In its news editions, *Red Uno* gave 22% of airtime to the ‘No’ campaign and 18% to the ‘Sí’ campaign. *PAT* respectively gave 37% to the ‘No’ and 16% to the ‘Sí.’

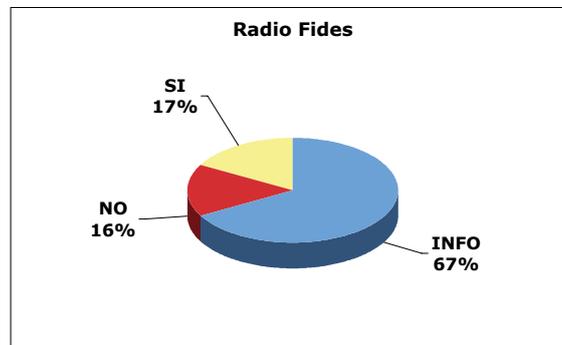


However, it is worth noting that since the beginning of January both TV channels have broadcast informative debates on the CPE during the prime time broadcasting period. During these debates, that on average represent more than 50% of the total airtime given by these channels to the referendum, exponents from the two options received equal amounts of air time. In all the monitored programs on *Red Uno*, the ‘No’ received 31% of air time, while the ‘Sí’ 28%. On *PAT*, the ‘No’ received 32% of air time and the ‘Sí’ 29%.

In contrast, the private TV channel, *RTP*, had positions clearly close to those of the Government. In its news programmes the ‘No’ campaign received 7% of airtime, while the ‘Sí’ received 23%. In all the monitored programmes, the ‘Sí’ received 18% and the ‘No’ 5%. Likewise, in news programmes presented by the private *Radio San Gabriel*, the ‘No’ campaign received 10% while the ‘Sí’ received 42%.

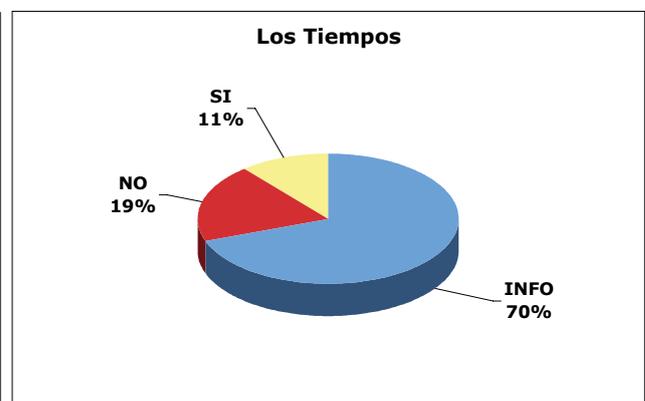
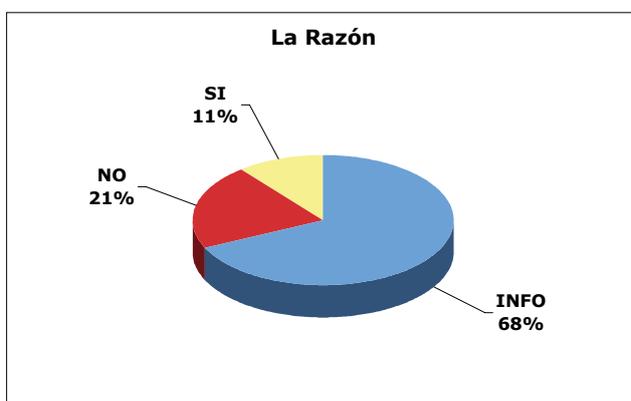
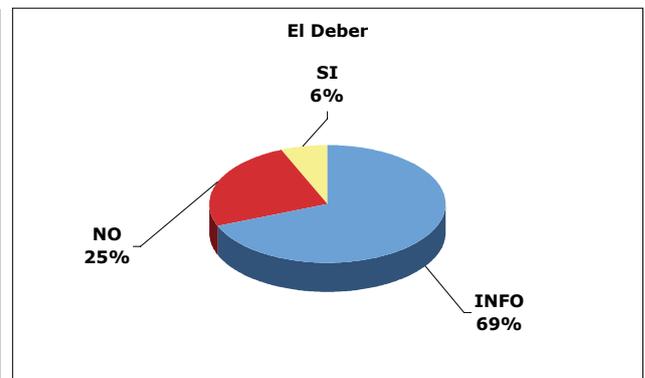
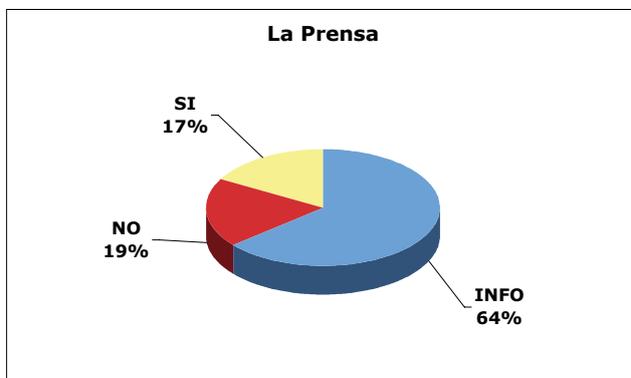


EU EOM media monitoring found Jesuit-owned *Radio Fides* news editions to be the most balanced, providing an equitable coverage; 67% of airtime comprised an informative space on the CPE, 16% was dedicated to the ‘No’ campaign and 17% to the ‘Sí.’



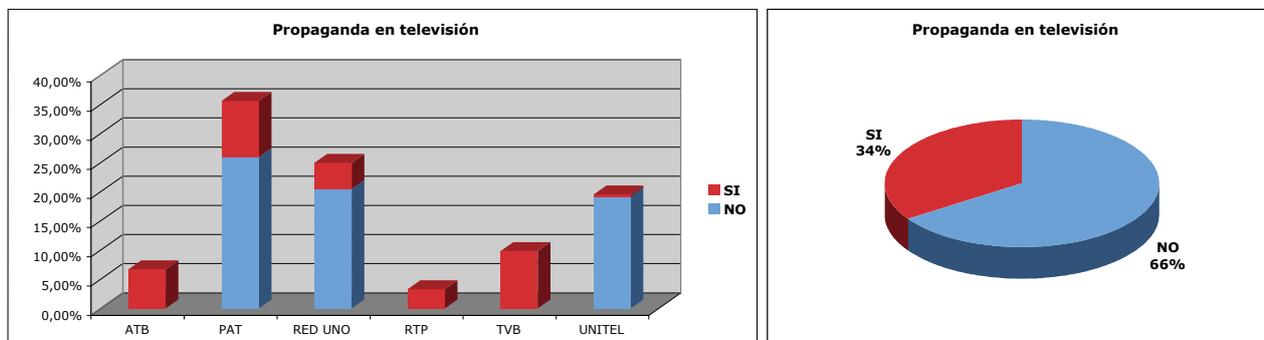
Print media

The four monitored newspapers all offered coverage favourable to the ‘No’ campaign. Within this coverage, which does not consider paid propaganda and includes articles, editorials, and so on, *La Prensa* was the most balanced (‘No’ 19%, ‘Sí’ 17%), while *El Deber* the most unbalanced (‘No’ 25%, ‘Sí’ 6%). *La Razón* gave 11% to the ‘Sí’ campaign and 21% to the ‘No,’ while *Los Tiempos* gave 11% to the ‘Sí’ and 19% to the ‘No.’ At the same time, it is worth noting that an average of 67% of the space in the four newspapers was dedicated to information on the proposed CPE.



Paid propaganda

During EU EOM monitoring of six TV channels, the channels that broadcast the highest amount of paid propaganda on the referendum were *PAT* (36% of the total propaganda), *Red Uno* (25%) and *Unitel* (20%). Almost two thirds of paid space during the prime time period on the six monitored channels was paid by the ‘No’ campaign.



Opinion polls

The only opinion polls to be made public in the monitored media during the campaign period were those conducted by the *Observatorio de Gestión Pública*. These polls were paid by the *Dirección Nacional de Comunicación Social* (from the Ministry of the Presidency). The last survey was made public on 21 January in the newspaper, *La Razón*, it gave 66% to the ‘Si’ campaign, 31% to the ‘No,’ and 3% to undecided voters.

Campaign silence

The campaign silence was generally respected with minor inconsistencies. For example, on the day of the referendum almost all electronic media broadcast information on the final results from polling stations that closed early. The first results were already broadcast at around 10:00. This is in clear contradiction of Article 8° of the CNE Resolution N° 0201/2008 (21 November 2008), which states results should be made public only after 18:00 on referendum day.

9. PARTICIPATION OF WOMEN AND TRADITIONALLY MARGINALISED COMMUNITIES IN THE ELECTORAL PROCESS

9.1 PARTICIPATION OF WOMEN

Women in Bolivia show higher levels of poverty and illiteracy than men. Women’s salaries are almost 50% lower than men’s salaries for the same work. Women are more likely than men to be undocumented, thus having no right to vote. Structural discrimination results in women being less represented in political bodies and having less possibilities of political influence. The Global Gender Gap Report (2008) shows that Bolivia ranks as number 51 out of 130 countries in terms of women’s political empowerment.⁸

⁸ Bolivia scores 0,145 where 0 stands for inequality and 1 for equality (www.weforum.org/en/communities).

All Bolivian women were not given the right to vote until 1952. Today 17% of Bolivia's MPs are women and around 20% of the Ministers in the Government are women. Of the three CNE members, one is female while 39 % of CDE members are female.

The Constitutional Assembly, which wrote the original version of the new Constitution, was quite exceptional as it consisted of 34% women, one of them being the President of the Assembly. This is the highest percentage of women in the history of national elections for representative bodies in Bolivia. According to the new constitution (Article 147) women and men will be awarded the same number of seats in the new legislative assembly.

The Bolivian legal framework contains no legal barriers for the participation of women in electoral processes. No intimidation specifically directed at women was observed during the campaign.

9.2 PARTICIPATION OF TRADITIONALLY MARGINALISED GROUPS

Around half of the Bolivian population belongs to indigenous groups such as Quechua, Aymara, Guaraní, Chiquitano or Mojeño. The indigenous segments of the population typically suffer more from poorer health conditions, lower levels of education, and lower levels of income. They have traditionally been discriminated economically, socially and culturally. The indigenous population was given voting rights for the first time in 1952. With the general elections in 2005 and the election to the Constituent Assembly in 2006, the indigenous population gained an increasing representation in political bodies.

Indigenous participation in the 25 January 2009 referenda was high. However, poverty, literacy levels, and geographical distances limit the possibilities of many indigenous people to fully exercise their democratic rights. Furthermore, among Bolivians without ID-cards, indigenous groups and especially women, are likely overrepresented.

One measure to increase the democratic possibilities of indigenous groups at times of elections and referenda is to publish and transmit more election-related information and material in minority languages.

Other marginalised groups include Afrobolivians, homosexuals and the disabled. Homosexuals are discriminated in the labour market, in education and in health services. Even some of the campaign spots used in the referendum campaign expressed prejudices against homosexuals. Prejudices also exist against the disabled, many of whom are locked away in institutions or otherwise kept from public – including political – life. According to a law from 1995, all public buildings should be accessible for wheelchairs. EU EOM observations showed that much remains to be done in order to facilitate voting for the disabled.

10. PARTICIPATION OF CIVIL SOCIETY

Strong social movements are a characteristic feature of Bolivian society and their role in present Bolivian politics can hardly be overemphasised. Civil society organisations (CSOs) in Bolivia have contributed greatly to the empowerment of citizens previously excluded from political influence. Gender inequality is still a problem within many CSOs. The *Comités Cívicos* are composed of a great number of local and regional CSOs among which the business organisations are dominating. They often have important political clout.

Tensions between supporters and opponents of the proposed CPE increased over the last few days of the campaign period, which ended on 22 January. On 15 January the highest authority of the Catholic Church of Bolivia – *La Conferencia Episcopal Boliviana* – issued a statement entitled “*LLlamados a ejercer un voto consciente, libre y responsable.*” In this document the Church lists ten positive and ten negative aspects in relation to the proposed CPE. The Church found that the CPE included, “various contradictions and ambiguities” and feared that this “could complicate its application and generate more controversies that would disturb political and social peace in society.” Even if the number of positive arguments equalled the number of negative arguments, the document gave the impression that the Church clearly favoured a ‘No’ vote. The entrance of the Church into public debate on the proposed CPE, during the last week of campaigning, likely affected some voter behaviour, decreasing support for the ‘Sí.’

The major domestic observer organisation, *Bolivia Transparente*, limited its observation of the referendum process to monitoring the campaign. They are rather focussing efforts on lobbying for the new electoral legal framework to be put in place for the possible December 2009 elections. A few national and local level civil society organisations had a limited number of domestic observers accredited for referendum day. These actors were not individually accredited by the electoral authorities; rather they presented a letter from their sponsoring organisation directly at the polling station level.

Women groups in some parts of the country also became involved in politics and many groups actively and forcefully campaigned for the ‘Si’ or the ‘No’ depending on their stance. In the case of advocating for ‘No,’ many women’s groups tended to align themselves with a religious mindset and in some cases openly advocated against the new Constitution with the backing of religious leaders.

11. COMPLAINTS AND APPEALS

11.1 ELECTORAL PROPAGANDA

The Electoral Code states that the first competent authority to decide on the legality of media spots is the CDE followed by the CNE in appeal (Art. 121). However, the CNE issued campaign regulations stipulating that it had the right to directly supervise political media spots at the national level and that its decisions were final and not open to appeal to another body. The CNE supervised broadcasting of political spots for the referendum campaign, effectively acting *ex officio* or after a formal complaint by a political party, citizens association, indigenous group, or coalition.

During the campaign period the CNE suspended 22 media spots, 19 of which belonged to the ‘No’ campaign. Eleven were suspended for being considered anonymous, three for using public funds, five for using images of children, two for being considered immoral as they portrayed images of a lynching and one for staining the dignity of the President of the Republic by stating he was led by President Chávez of Venezuela. All of the above constitute legal reasons for suspension of a media spot. The CDE of Santa Cruz suspended eleven spots promoting the ‘Sí’ campaign as they were paid for with public funds.

The CDE of Santa Cruz suspended a total of 25 spots: 17 spots promoting the ‘Sí’ campaign as they were paid for with public funds; two spots promoting the ‘Sí’ campaign and three promoting the ‘No’ for using images of children; one spot promoting the ‘Sí’ and two spots promoting the ‘No’ for being considered anonymous.

The CDE of Chuquisaca suspended two spots funded by the *Prefectura de Chuquisaca* as they promoted the ‘No’ campaign using public funds. In appeal, the CNE confirmed these suspensions.

There are several issues of concern regarding these suspensions: 1) The CNE suspended two spots produced by REPAC, a presidential agency to inform on the proposed CPE, due to misuse of public funds. However, these spots continued to be broadcast without the *ex officio* intervention of the CNE; 2) throughout the entire campaign period some Ministries (Water, Public Works) promoted their activities through spots paid for with public funds, which included references to articles of the proposed CPE. The CNE considered these informational and not propaganda; 3) Six formal complaints relating to the use of state resources to fund the ‘Sí’ campaign were rejected by the CNE on the basis that that the complainants were not official delegates accredited before the CNE. Five of these complainants belonged to a citizens association, *Alianza Autonómica Ciudadana (AAC)*, formally accredited by the CDE of Santa Cruz, and the sixth complaint was presented by a member of Congress.

11.2 ELECTORAL OFFENCES

Following the completion of polling, the civic association, *Movimiento Poder Ciudadano (MPC)*, challenged 26 results forms before the CDE of Chuquisaca. Polling station results were challenged on the grounds that they did not contain the signatures of appointed electoral juries. The MPC argued that they did not have the opportunity to lodge a formal complaint in the challenged polling stations on the day of the referendum as their delegates were prevented from being accredited in these locations. The CDE of Chuquisaca decided not to annul results from these polling stations. The MPC appealed the decision to the CNE. This appeal was rejected and polling station results were confirmed. Disregarding the idea that there was an alleged hindrance to the presence of MPC delegates, the CNE indicated that the MPC should have made the formal complaint at the polling station level.

The CNE brought charges before the courts against an electoral notary who manipulated more than 200 individual entries in the *Padrón* in the Department of La Paz. The person in question was immediately detained by the police; the CNE subsequently annulled all manipulated entries.

11.3 OTHER COMPLAINTS

Last July, a Congress member of *Unidad Nacional* brought a lawsuit against three CNE members, accusing them of having committed electoral offences and manipulation of the *padrón* during the recall referenda. The CNE subsequently ordered the nine CDEs to hand their databases for the *padrón* and Civil Register over to the Supreme Court. Seven CDEs complied and handed the documents over to the police without any problem. However, in the case of the CDEs of Potosi and Oruro, the police had to seize them by force. The case is ongoing.

12. ELECTION DAY

12.1 OVERVIEW

Referendum day was generally peaceful and calm. Voting, counting and tabulation were by and large conducted in an orderly manner in the observed polling stations. Procedures were not always properly followed in the closing of the polling stations. The EU EOM did not receive reports of major incidents and very little campaigning was reported on Election Day.

The EU EOM deployed a total of 64 observers to all 9 departments of the country and to a total of 243 polling stations (56% urban and 44% rural). EU EOM observers evaluated the overall opening and polling processes as ‘very good’ or ‘good’ in the vast majority of observed polling stations. However, the closing and counting process was judged to be ‘bad’ or ‘very bad’ in 25 percent of the cases. Observers followed the tabulation process at the CDE level, and found it to be largely satisfactory. Voter turnout at observed polling stations was almost 91 percent; this was in line with the official national voter turnout figure.

12.2 POLLING PROCEDURES

Consistent to established procedure, voting activities started at 08:00 in the majority of polling stations. Polling was conducted in a calm, orderly manner, free from tensions, and with a high voter turnout. Polling stations generally opened on time, however, in nearly 11 percent of polling stations there was an observed lack of materials, including indelible ink and other non-essential materials. In very few cases the start of polling was delayed due to shortage of polling station staff.

EU observers noted that 53 percent of those who had been removed from the *padrón* were not adequately informed by polling station staff on why they were removed and what their next course of action should be. Despite a general perception that voters were aware of how to fill out the ballot, it was observed that only 64 percent of the ballots for the question on maximum land holdings were considered valid as opposed to 98 percent of the ballots for the proposed CPE.

The layout of polling stations was sufficient to protect the secrecy of the vote, nonetheless, the electorate was observed to be intimidated in 3 percent of polling stations. Secrecy of the vote was generally respected in 91 percent of observed polling stations, with few exceptions relating to voters who were either accompanied by non-authorized persons or were instructed by either delegates or polling station staff on how to vote. At visited polling stations 86 percent of originally selected staff had received training. Nonetheless, in approximately 18 percent of observed cases, the indelible ink was applied incorrectly or to the wrong finger. In general, polling procedures were followed to a lesser extent in rural areas. Security at polling stations was not always guaranteed through the presence of police. In nearly 24 percent of visited polling centres EU EOM observers did not notice a security presence and in the majority of the cases a security presence was lacking in rural areas. Nonetheless, polling still took place in a calm and peaceful atmosphere.

The participation of party delegates was much more prominent in urban areas than in rural areas, with delegates observed at 71 percent of urban polling stations as opposed to 49 percent of rural polling stations. Women delegates tended to be more present in rural polling stations than in urban ones. The overall presence of delegates at observed polling stations amounted to only 62 percent. MAS representatives accounted for 48 percent of delegates and 61 percent of delegates represented the 'Sí' vote. Citizen's organisations represented the second largest presence in polling stations, being observed at 19 percent of polling stations. There were no representatives from indigenous groups in polling stations observed by the EU EOM.

As compared to polling, EU observers noted an increased presence of delegates during closing and counting procedures. Delegates were observed in 91 percent of visited closings. The most represented party was MAS, with a stronger participation in urban areas.

12.3 DOMESTIC OBSERVATION AND COMITÉS CÍVICOS

EU observers noted the presence of domestic observers and *comités cívicos* in only 4 percent of visited polling stations. These normally consisted of smaller social groups, including women's and religious organisations. The EU observed that the presence of domestic observers increased to 23 percent during closing and counting procedures. This may be explained by the fact that, at that stage of the process, domestic observers as well as EU observers were observing at the polling centre rather than polling station level.

12.4 CLOSING AND TRANSMISSION OF RESULTS

In the majority of the observed polling stations closing commenced according to schedule. The voters were able to exercise their right to vote with only minor instances of intimidation reported. EU EOM observers rated the closing and counting procedures as 'bad' or 'very bad' in 24 percent of visited polling stations. This figure rose to 40 percent in rural areas. Overall, in nearly 32 percent of observed closings, polling staff did not follow proper procedures, especially with regard to ballot papers and *certificados de sufragio* which were not annulled in 41 percent and 55 percent of cases respectively. These figures reached 70 percent and 90 percent respectively in rural areas. The number of cast ballots did not match the total number of signatures in the *lista indice* in 18 percent of observed closings. This was normally due to minor errors and did not affect the overall result.

EU observers followed the count at the CDEs. In polling stations observed by the EU only 27 percent of results forms leaving polling stations were accompanied by a security presence. However, the presence of party delegates was noted at over 80 percent of visited CDEs and all CDEs had a good security visibility. Observers rated the process as either ‘good’ or ‘very good’ in most cases and no major problems were reported. EU observers also had access to observe the tabulation of results at the CNE level. Results from each polling station were scanned and placed online for public perusal, as were the *listas indices*, lending transparency to the consolidation process. Only minor procedural breaches in reception of results forms were observed.

12.5 POLLING COMPLAINTS

There were almost no official complaints lodged at the polling station level. However, this does not necessarily indicate that there were no problems experienced at this level. An explanation may be that there was limited presence of political party delegates and domestic observers and many polling station staff did not receive any training on this aspect. The CNE did not call for re-polling at any of the 22,049 polling stations.

13. RESULTS

13.1 COUNTING AND THE ANNOUNCEMENT OF RESULTS

The 25 January referendum marked a record participation in Bolivian electoral processes, with 90.26% of the registered electorate casting their ballot. The proposed CPE was passed with 2,064,397 of valid ballots (61.43%). Valid ballots cast against the proposed CPE amounted to 1,296,175 (38.57%). The new Constitution was supported by the Departments of La Paz (78.12%), Oruro (73.68%), Cochabamba (64.91%) and Chuquisaca (51.54%), and it was rejected in the Departments of Tarija (56.66%), Santa Cruz (65.25%), Beni (67.33%) and Pando (59.04%).

The option for 5,000 hectares as the maximum land property was passed by 80% of the valid voting.

On 6 February, the CNE will issue the National polling record and it will send it to the Congress. Then, the Congress will insert the approved limit on land property in article 398 of the draft Political Constitution, and finally, on 7 February, the President will promulgate it.

BOLIVIA
CONSTITUTIONAL REFERENDUM – 25 JANUARY 2009

| <i>Departamento</i> | Yes | No | Blank votes *) | Null votes |
|---------------------|----------------|----------------|-----------------------|-------------------|
| NATIONAL | 61.43 % | 38.57 % | 1.70 % | 2.61 % |
| Chuquisaca | 51.54 % | 48.46 % | 2.25 % | 2.88 % |
| La Paz | 78.12 % | 21.88 % | 1.47% | 2.40 % |
| Cochabamba | 64.91 % | 35.09 % | 1.74 % | 3.07 % |
| Oruro | 73.68 % | 26.32 % | 2.34 % | 2.92 % |
| Potosí | 80.07 % | 19.93 % | 2.70 % | 3.42 % |
| Tarija | 43.34 % | 56.66 % | 2.00 % | 2.85 % |
| Santa Cruz | 34.75 % | 65.25 % | 1.32 % | 2.21 % |
| Beni | 32.67 % | 67.33 % | 1.82 % | 1.79 % |
| Pando | 40.96 % | 59.04 % | 1.29 % | 1.94 % |

Source: Corte Nacional Electoral (www.cne.org.bo)

*) It is interesting to note that even if blank votes would have been counted as valid, this would not have changed the result in any Department. In Chuquisaca, for example, the Si side would still have won, but with 50,35% against 47,33%.

REFERENDUM ON THE MAXIMUM SIZE OF LAND HOLDINGS

| <i>Departamento</i> | 5.000 Hectares | 10.000 Hectares | Blank votes *) | Null votes |
|---------------------|-----------------------|------------------------|-----------------------|-------------------|
| NATIONAL | 80.65 % | 19.35 % | 25.46 % | 5.38 % |
| Chuquisaca | 79.62 % | 20.38 % | 35.70 % | 5.94 % |
| La Paz | 86.25 % | 13.75 % | 14.73 % | 4.68 % |
| Cochabamba | 82.44 % | 17.56 % | 19.24 % | 6.82 % |
| Oruro | 83.54 % | 16.46 % | 20.34 % | 4.04 % |
| Potosí | 86.66 % | 13.34 % | 19.57 % | 3.39 % |
| Tarija | 68.63 % | 31.37 % | 34.55 % | 5.11 % |
| Santa Cruz | 65.91 % | 34.09 % | 41.58 % | 6.55 % |
| Beni | 69.72 % | 30.28 % | 55.91 % | 2.72 % |
| Pando | 67.10 % | 32.90 % | 35.88 % | 3.68 % |

Source: Corte Nacional Electoral (www.cne.org.bo)

*) It is interesting to note that if blank votes would have been counted as valid, the result would have been quite different in many Departments. In Beni, for example, the option 5.000 hectares would have got 29.64%, the option 10.000 hectares 12.88% while the option blank would have got as much as 57.47%.

13.2 POLITICAL OVERVIEW OF THE REFERENDUM RESULTS

The new CPE was approved by a clear majority of Bolivians; with 61.43% casting their ballot in favour. However, the referendum did not manage to bridge the rift between the Government and the opposition and the country remains divided. As shown in the table above, the Constitution was approved in five of the nine departments (Potosí, La Paz, Oruro, Cochabamba and Chuquisaca), while it was rejected in four departments (Beni, Santa Cruz, Pando and Tarija). Even if it is clear that this was a national level referendum, and that approval was not necessary in all departments for the result to be valid, the fact that the country is split on the issue of the CPE decreases its authority and thus the chances for its smooth implementation.

The Government sees the approval as a clear mandate to re-found Bolivia. However, the Government has stated that it is ready to negotiate a “*Pacto Social*” with the opposition. Such negotiations may detail which parts of the CPE are to be first implemented and the method for such implementation. The Parliamentary opposition, including representatives of PODEMOS, UN and MNR, have accepted the results and are ready to discuss implementation with the Government.

The most critical opposition, represented by the Prefects in Santa Cruz, Tarija, Beni and Chuquisaca, and the *comités cívicos* in these departments (and Pando), demand that the rejection of the CPE in several departments is respected. Referring to the 65.25% vote against the CPE in Santa Cruz, the Prefect of this department claims that this should be interpreted as support for the validity of the department’s autonomy statutes. The Prefects of Beni and Tarija have voiced similar interpretations, arguing that the Government has no mandate to impose the CPE in their departments prior to negotiations and agreements. The President of the *comité cívico* in Santa Cruz has suggested transforming Bolivia into a Confederation, a proposal which is contradictory to the new Constitution.

The election result in Pando, with as many as 59.04% voting ‘No,’ came as a surprise to many. With this ‘No’ win, the Government lost in a department which is headed by a Prefect nominated by the President. A series of factors, including the killings in Porvenir, the detention of the former Prefect, the imposed state of emergency and the militarisation of the region, have likely contributed to a certain fear among the population and the rejection of the political project of the Government.

The Prefect of Chuquisaca refused to accept the result in this department, which confirmed a narrow win for the ‘Sí’ campaign. She called for civil disobedience and claimed that the referendum had been fraudulent.

Due to the regional differences in referendum results and diverging opinions about the legitimacy of the new Constitution, political dialogues and agreements, within as well as outside Congress, will be necessary in order for smooth implementation of the CPE.

In the referendum on the maximum size of land holdings, the option of 5,000 hectares won in all nine departments. While the number of blank and void ballots in the constitutional referendum was fairly low at the national level (1.70% and 2.61% respectively), the figures in the referendum on land were notably higher. On the national level, 25.46% of all cast ballots were blank, while 5.38% were void. In the Department of Beni the number of blank ballots was 55.91%, while the figure for the Department of Santa Cruz was 41.58%. The high number of blank votes is likely a result of widespread discontent with the question and/or unawareness of or disinterest in the issue, combined with a degree of voter discipline as a blank vote had been requested by the major 'No' campaign.

14. RECOMMENDATIONS

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|---------------------------------------|--|---|------------------------------------|--|---|---|
| <p>LEGAL FRAMEWORK</p> | <p>A new permanent comprehensive electoral law should be developed as the valid reference for all future elections, including referenda.</p> | | <p>CNE, Legislative Branch</p> | <p>The new law should endeavour to include:</p> <ol style="list-style-type: none"> 1. Provisions for out-of-country voting; 2. An exception to the principle of preclusion. In addition to re-holding elections, CDEs should be allowed to recount and change a result if valid votes were considered void, or <i>vice versa</i>; 3. Provisions for participation of delegates from all political organisations in all types of elections; all delegates should receive a copy of results form at the end of polling; 4. More extended and detailed rules on campaigning; 5. Introduction of an article outlining a new electoral crime against those who intimidate, coerce or control electors into voting a certain way. | <p>EC should be ready to offer legal and electoral expertise if requested to do so by Bolivian authorities.</p> | <p>Over the next 8 months – in time for the start of the electoral campaign for the December elections.</p> |
| <p>ELECTION ADMINISTRATION</p> | <p>Unused ballot papers and <i>certificados de sufragio</i> must always be annulled at the polling station level.</p> | <p>A reasonable <i>per diem</i> should be provided to PS members.</p> | <p>CNE</p> | <p>If PS members are provided a <i>per diem</i>, those who have to travel distances or those who have other responsibilities will be provided a greater motivation to attend training sessions and carry out their duties on election day.</p> | | <p>In time for the next elections.</p> |
| <p>ELECTION MATERIAL</p> | <p>Unused ballot papers and <i>certificados de sufragio</i> must always be annulled at the polling station level.</p> | | <p>CNE</p> | | | <p>In time for the next elections.</p> |

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|---------------------------|--|-----------|--------------------------------|--|--|--|
| ID CARDS | Responsibility for issuing ID Cards should lie with the CNE. | | Government, Legislative Branch | The CNE should also execute the <i>carnetización gratuita</i> programme. | | Upon establishment of new Tribunal Supremo Electoral |
| VOTER REGISTRATION | The mission welcomes the decision of the CNE to produce a new simplified voter register with biometric data and recommends that international standards for producing a transparent and efficient voter's register should be followed. | | CNE | In line with international standards, the CNE must both facilitate and remove obstacles to registration. According to best international practices, the CNE should ensure the method of registration is simple and accessible and that there is an effective voter education campaign. Voter registration should be intensified for groups less likely to be registered (e.g. first time voters, women, minorities etc.) Procedures must be put in place in order to facilitate the right to challenge any inaccuracies or omissions in the voter register. It is essential that a preliminary voter register is made available for public inspection, permitting voters to confirm their inclusion and the register's accuracy. | EC should be ready to offer legal and electoral expertise if requested to do so by Bolivian authorities. | To be executed over the next 8 months. |
| | Provisions should be made to ensure that out-of-country voters are able to register and vote. | | CNE, Legislative Branch | The CNE and the Legislative Branch must take effective measures to ensure that all persons entitled to vote are able to exercise that right. | | In time for the next elections |
| | Introduce an effective audit of the civil registry and ensure that duplicates and double entries are deleted. | | CNE | Ensure that the civil registry is up to date, reflects the data provided and is free to all future registrants. | | Over the next 2 years |

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|---|-----------|--|--------------------------------|--|--|--|
| VOTER REGISTRATION CONTD | | Provision to abolish the automatic removal of voters from the register should they not vote. | | In line with international best practices, all persons entitled to vote should be able to exercise their right to vote. Given the fact that the new voter register will be more transparent and efficient, the CNE should only impose fines on those who do not vote in a particular election and not remove them from the voter register as this will lead to confusion given that they will have a permanent voters card and it will be difficult to cancel this card should they not vote. | | To be implemented once new voter register is in place. |
| MEDIA | | The non-release of election results prior to closing of polling around the country. | CNE/Media | Expansion of article 120 to prohibit diffusion of results from any polling station by any type of media before 18:00 on the day of the elections. | | To be included in the new electoral code. |
| 1. The CNE should be provided with extra resources in order to be able to effectively monitor the campaign and take action on media spots that contravene the law. These resources should be available throughout the country and apply at both CNE or CDE level. The possibility of the suspension of spots should be open to appeal at any level. Or alternately; 2. A Media Commission should be established under the umbrella of the CNE. | | | CNE, Legislative Branch, Media | 1. The CDEs and the CNEs should have better access to resources in order to effectively monitor media campaign coverage and hold the ability to approve or suspend spots that contravene the law. In the instance of a possible suspension of a spot, the person(s) responsible for said spot should be notified and have the opportunity to defend the legality of the spot. All decisions, whether at CDE or CNE level, should have the possibility of appeal. 2. Alternatively, a Media Commission could be established to monitor reporting. It should have the power to approve or suspend spots and deal with complaints concerning any breaches (according to the electoral law) of reporting, coverage of political campaign, or other violations. The last instance of appeal should be the CNE. | EU or UNDP should be ready to offer training if requested by Bolivian authorities. | If possible, within the next 6 months |

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|------------------------|--|-----------|---------------------------|---|----------------------|---------------------------------|
| MEDIA CONTD | Introduction of a new article regarding the regulation of balanced access to News Editions and informative programmes. | | | A more comprehensive and detailed article within the Electoral Law, stipulating balanced access to the media during the electoral campaign. Clear indications on governing balanced access to News editions and informative programmes, both on state-owned and private electronic media should be established. | | In time for the next elections. |
| | Incitement to violence should be included as one of the reasons for a spot's suspension (article 120) | | | Article 120 should be expanded to include "Incitement to Violence" as a reason to suspend a spot. | | In time for the next elections. |
| | Establishment of free air time during referenda. | | | The Election Law generally states that candidates and political parties shall be guaranteed equal conditions of access to the state-owned media through the broadcasting of free airtime. According to CNE Resolution No. 0201/2008 Art 7 (21 November 2008) this right was suspended "due to the nature of referendum (..) free of charge airtime in the state electronic media is not foreseen." There should be free air time on state-owned media during referenda. | | In time for the next referenda. |
| | Electoral Law and subsequent CNE resolutions should be amended in order to impede any kind of "institutional propaganda" in the media during the campaign. | | CNE Legislative Branch | This should also apply in circumstances where propaganda is not directly supporting one option (for referenda) or one party (for general elections). The Government and State institutions propaganda should stop before the beginning of any electoral campaign. | | In time for the next elections. |

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|--|--|---|--|--|----------------------|--|
| CIVIC & VOTER EDUCATION | Training booklets on election procedures need to offer the same basic information across the country, and should be offered in different languages. | Put out tenders for civil society organisations to carry out voter education. | CNE, Civil Society | A comprehensive guide on election procedures should be produced by one organisation, approved by the CNE, and distributed nationally for training. | | In time for the next elections. |
| | | | CNE, Civil Society | According to international standards, voter education campaigns are necessary to ensure the effective exercise by an informed community on their electoral rights. A best international practice is for electoral authorities to undertake widespread voter education campaigns with the support of civil society. | | In time for the next elections. |
| | An intense campaign on the secrecy of the vote and freedom of expression should be conducted in order to discourage coercive community voting and to deter government officials or other community leaders from unduly influencing the freedom of expression and the right to a secret ballot. | | CNE, Civil Society | According to international standards, persons entitled to vote must be free to support or oppose the government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. | | To be executed 3 months before the next elections. |
| POLITICAL PARTIES AGRUPACIONES CIUDADANAS, OTHER POLITICAL ACTORS | Develop a code of conduct for political parties and other groups with regards to campaigning and the general electoral process | | Political Parties and other political actors | Code of Conduct should ideally follow best practices in the field, including: 1. Commitment to a free and fair, peaceful and non-violent campaign; 2. Commitment to let authorities know where they will be campaigning, in order to ensure equal access to land and assurance of the provision of security, should it be needed; 3. Commitment to ensure freedom of association and expression of any political party; 4. Good conduct. | | To be implemented in time for next elections. |

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|--|--|---|---------------------------------------|--|----------------------|---|
| POLITICAL PARTIES AGRUPACIONES CIUDADANAS, OTHER POLITICAL ACTORS CONTD | Introduction of an article with reference to the holding of political rallies and the provision of security. | | CNE, Security Forces | International standards recognise the right to peaceful assembly. No restrictions may be placed on the exercise of the right to peaceful assembly other than those imposed in the law. Political parties and candidates should notify the relevant authorities of rally locations and times in order to ensure adequate and equal access to security if needed and to avoid clashes between parties or candidates. | | In time for the next elections. |
| | Re-introduce public funding of political organisations participating in elections. | | Legislative Branch | | | In time for the next elections. |
| | Introduce requirement for transparency in campaign funding. | | Legislative Branch | Regulations should be compulsory for parties, <i>agrupaciones</i> and other campaign actors. The origin, amount and – if applicable – any conditions imposed for the funding given, should be made public. Exemptions may be made for donations under a certain amount. | | In time for the next elections. |
| | | Introduce funding for referendum campaigns. | Legislative Branch | Funding should be equal for both or all sides. | | |
| | Introduction of an article within the new permanent electoral law outlining conditions for election and referendum campaign funding. | | Legislative Branch, Political Parties | According to international standards, reasonable limitations on campaign expenditure may be justified to ensure that the free choice of voters is not undermined or the democratic process distorted by disproportionate campaigning on behalf of any candidate or party. Campaign financing regulation promotes transparency and requires details on the sources of funding and items expenditure. Restrictions on campaign spending are reasonable and allow for adequate campaigning. | | With introduction of the new electoral law. |

| EU EOM RECOMMENDATIONS | ESSENTIAL | DESIRABLE | ADDRESSED TO | POSSIBLE IMPROVEMENTS SUGGESTED | EC SUPPORT/ PROJECTS | TIMELINE |
|---|--|-----------|--------------------------------|--|----------------------|--|
| <p>POLITICAL PARTIES AGRUPACIONES CIUDADANAS, OTHER POLITICAL ACTORS CONTD</p> | <p>Guarantees for freedom of expression, assembly and movement.</p> | | <p>Legislative Branch, CNE</p> | <p>According to International standards, the full enjoyment of rights protected by article 25 of the ICCPR requires freedom to debate public affairs, hold peaceful demonstrations, and meetings, criticize and oppose, public political material, campaign for election and advertises political ideas.</p> <p>The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of the right to peaceful assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedom of others.</p> <p>According to best international practice, the campaign is regulated by law and or administrative regulations that ensure equal opportunity for all candidates and political parties to campaign freely without unreasonable restriction.</p> | | <p>In time for the next elections.</p> |
| <p>COMPLAINTS AND APPEALS</p> | <p>An effective complaint procedure which allows delegates and other actors to lodge a complaint at the polling station level.</p> | | <p>CNE, Legislative Branch</p> | <p>According to international standards, all persons should have the right to an effective remedy. Therefore, delegates, observers and voters alike should have the right to file a Complaint at any time during the polling/counting process and have the right to an effective remedy.</p> <p>In the case of a referendum, every delegate should have the right to receive a copy of the polling record (article 185), as is foreseen in best international practice.</p> | | <p>In time for the next elections.</p> |

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|---|--|-----------|------------------------------------|---|----------------------|--|
| <p>COMPLAINTS AND APPEALS CONTD:</p> | <p>The introduction of an exception to the principle of “Preclusion” (In the case of suspected fraud, ballot stuffing or manipulation of the results form, a ballot box should be quarantined at the CDE level in order to ascertain the recommended action and if deemed applicable the ballot box should be opened and results adjusted accordingly (by the CDE) or a new election called if an irreconcilable difference is discovered)</p> | | <p>CNE, Legislative Branch</p> | <p>According to international standards, there should be independent scrutiny of the results process and access to judicial review or other equivalent process so that electors have the confidence that the results reflect the votes cast and the counting of the votes. Best international practices dictate that there are procedures that allow for election results to be challenged in an effective and timely manner and that courts make rulings on challenges before the final results are certified.</p> | | <p>In time for next elections.</p> |
| <p>USE OF PUBLIC RESOURCES</p> | <p>Use of public resources by authorities for campaign purposes should be strictly and clearly prohibited, controlled and sanctioned.</p> | | <p>Legislative Branch, CNE</p> | | | <p>In time for the next elections.</p> |

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|--------------------------------------|-----------|---|------------------------------|---|----------------------|---|
| USE OF PUBLIC RESOURCES CONTD | | Develop and publicise a Code of Conduct clarifying and specifying the role of public officials and employees and their obligations to their staff with regards to the campaign and the electoral process. | Congress and civil servants. | This code of conduct will include reference to the law with regards to the use of public resources and publicly campaigning during office hours. It will also cover the crime of extortion, which negates the possibility to automatically discount part of government employee's salary in support of an electoral campaign. | | In time for the next elections. |
| OTHERS | | Polling stations and voter registration facilities are accessible to persons with disabilities. | CNE | The provision of ground floor polling stations, where possible, and facilitate transportation for disabled voters, the infirm, elderly and pregnant women. | | In time for the next elections. |
| | | A new logical numeration of polling stations to facilitate voters in locating their polling station. | CNE | | | With the development of the new voter register. |
| | | The layout of the polling stations should ensure secrecy of the vote and easy and free access. | CNE | Some of the observed polling stations were cramped and did not allow for easy and free flow of voters. Voters should also be provided with voter screens in order to ensure the secrecy of the ballot. | | In time for the next elections. |