



European Union
Election Expert Mission

BOLIVIA 2019

Final Report



General Elections

20 October 2019

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1. SUMMARY

- The general elections in Bolivia were held on 20 October 2019 to elect the president and vice-president, as well as the Legislative Assembly of 130 deputies and 36 senators. The Supreme Electoral Tribunal (TSE) declared the incumbent president Evo Morales the winner. There were widespread irregularities, confirmed by an Organisation of American States (OAS) audit released on 10 November, which recommended fresh elections with a new TSE. Evo Morales resigned on the same day and was replaced on 12 November by opposition President of the Senate Jeanine Áñez, with the support of the Constitutional Court. The new government will need to set the date and timelines for the new elections and lead political negotiations about the appointment of new TSE members.
- The event that defined the 2019 general elections was the controversy over Morales' candidacy. Morales and his party, *Movimiento al Socialismo* (MAS), ignored the results of the 2016 referendum to abolish the constitutional presidential term limits. A controversial Constitutional Court decision followed in 2017, declaring the term limits unconstitutional, which allowed Morales to compete for a fourth consecutive term in office. This generated a fierce debate and was extensively criticized. There was a widely held belief that Morales was very reluctant to relinquish power.
- The elections were marked by a widespread fear of fraud before they took place and numerous allegations of fraud after they took place. There was very low public confidence in the impartiality of the TSE, perceived as subject to government control. The TSE did little to redress the lack of confidence in their impartiality. They did not take action against the blatant misuse of state resources, they blocked the publication of an opinion poll that gave poor results to Morales, and they were slow to explain unusual increases in the voter register, including the out-of-country register in countries with high numbers of MAS voters. In the year leading up to the elections, three TSE members resigned and there were widespread resignations and dismissals of senior staff, leading to a perception of the TSE's increasing politicisation and loss of technical capacity.
- The 2018 Political Organisations Law introduced internal democracy within parties. Presidential primaries were held for the first time in January 2019. However, these primaries were held on an unexpectedly short timeframe and all nine presidential tickets stood unopposed. Opposition candidates speculated that the real motive for holding the primaries was to give legitimacy to Morales' controversial candidacy. The opposition was unable to unite behind one single candidate and consisted of eight competitors, with Carlos Mesa of *Comunidad Ciudadana* the leading opposition candidate, followed by Chi Hyun Chung of *Partido Demócrata Cristiano* and Oscar Ortiz of *Bolivia Dice No*. The system for electing senators and deputies provides a disincentive to alliances in the presidential race.
- The campaign was generally peaceful and low key. The massive fires in the Chiquitanía region in the eastern lowlands and the government's slow response changed the campaign dynamic. This, together with other political conflicts, contributed to the holding of mass mobilisations in cities across the country. These huge citizens' assemblies (*cabildos*) gathered in opposition to Morales' candidacy, demanding transparent elections and agreeing to work together to prevent electoral fraud. They also agreed not to accept a Morales' victory. The government reacted to the various protests by saying that the *cabildos* sought to destabilise the democratic process. Although tensions rose, there were no serious incidents except for clashes in Potosí during a Morales' campaign event on 12 October, which resulted in seven people being injured.
- The most striking feature of the campaign was the lack of a level playing field. There was a stark discrepancy between the limited resources of the opposition parties and the vast resources of the

state mobilised by MAS, in particular state media, public resources and public works. Many sectors of society commented on the TSE's silence in relation to alleged campaign violations. It was striking that despite numerous complaints of campaign violations, there was only one significant case where a sanction was applied and that was five months after the violation took place. It involved Morales breaching campaign rules by offering public works in exchange for votes.

- Election day was generally peaceful with high voter turnout, despite isolated incidents. Polling station staff generally demonstrated a good knowledge of voting procedures. However, a high number of results forms showed irregularities which may have been due to weaknesses in the staff training or to deliberate manipulation. There were over 250 international observers, including a large OAS mission. No domestic observers were present but various civil society initiatives monitored the count process, which was open to the public.
- The TSE announced partial preliminary results (TREP) for the presidential election on election night with 83.8 per cent of votes counted. The gap between Morales and Mesa was 7.87 per cent. If the results had continued to follow this pattern there would have been a second round. But in an alarming decision the TSE gave an order to stop processing the preliminary results right after this announcement. On 21 October the TREP suddenly re-started and within minutes Morales' lead was over 10 per cent, meaning no second round would be needed.
- The TSE's decision to interrupt the TREP generated great concern among interlocutors, who feared that the government intervened to stop the process, in order to manipulate the results. Other suspicious incidents came to light, such as hundreds of boxes of electoral materials being found in a house in Potosí. The EU election expert mission (EEM) believes that the TSE's decisions, combined with their failure to provide explanations for them, irrevocably damaged trust in the results process.
- The TSE declared final results on 25 October showing 47.08 per cent for Evo Morales and 36.51 per cent for Carlos Mesa. Morales was declared the winner in the first round with a difference of 10.57 per cent. If the front-runner obtains between 40 and 50 per cent, a second round is only needed if the gap between the two is ten per cent or less. The final results for the Legislative Assembly showed that the incumbent MAS no longer had a two-thirds majority, but had won an absolute majority in both chambers.
- Many people expressed concerns about the integrity and accuracy of the final results. The EEM found a range of errors and irregularities including unusually high numbers of invalid votes, blank votes and one hundred per cent turn out in a number of polling stations. There were also numerous mistakes and various results forms that should have been annulled. Although these problems originated at polling stations, it was the responsibility of the Departmental Electoral Tribunals (TEDs) and the TSE to examine them and decide which results were valid and which were not, but none were annulled. The tabulation process was chaotic and seemed to show the TSE's desire to declare the presidential results quickly, regardless of errors and irregularities. Protests exploded and violence broke out across the country due to the suspicions that there had been fraud in favour of MAS.
- Following numerous allegations of fraud, the OAS carried out an audit of the results by invitation of the government. The Bolivian foreign minister confirmed that the audit findings would be binding. Various EU and OAS member states supported and accompanied the audit process. The OAS audit team of 30 people arrived in-country on 30 October. On 10 November the OAS Secretary General announced the preliminary conclusions of the audit, saying that the election results should be annulled and fresh elections held. The EU High Representative issued a statement on the same day reiterating that a new and timely election with a new electoral authority would be necessary to restore trust and credibility in the Bolivian democratic system. Four TSE

members and 34 TED members were arrested and at the time of this report were subject to criminal investigations related to the results process.

- On the same day Evo Morales resigned as president, following a wave of resignations within the government and a suggestion from the head of the armed forces that he resigns. Morales had already recognised earlier that day that fresh elections needed to be held with a new TSE. Morales complained that he had been the victim of a coup but the Secretary General of the OAS said that Morales had tried to carry out a self-coup. On 12 November Morales arrived in Mexico and was granted political asylum. At the time of this report, twenty-five deaths and over seven hundred injuries were reported by the Inter-American Commission on Human Rights as a result of the protests in various cities. Journalists began to be targeted and were unable to continue full coverage of events. The United Nations High Commissioner for Human Rights Bachelet sent a human rights monitoring mission to Bolivia on 11 November.
- Given the shortcomings evidenced in these elections, the EEM has identified several priority recommendations that it advises should be implemented before the 2020 elections, which are feasible in the short time available. The priority recommendations include: to prohibit all use of public resources for campaigning, to improve the system of electoral justice, to improve the TSE's transparency and communications, to take action against fake news and disinformation, to establish clearer criteria for the review of results forms and to allow recounts, to improve the preliminary results process and to promote the participation of domestic observers.

2. INTRODUCTION

Following the receipt of an invitation from the Supreme Electoral Tribunal (TSE) to assess the general elections of 20 October, the European Union (EU) deployed an election expert mission (EEM) from 22 September to 12 November, consisting of two election experts based in La Paz. The EEM's mandate was to provide an analysis of the elections with a view to further aligning all elements of the electoral process with international commitments, as well as recommendations for possible improvements to the electoral process. The EU deployed an election observation mission (EOM) to Bolivia in 2006 and 2009, an election follow-up mission in 2013 and an election expert mission in 2014. In line with its mandate, the EEM did not undertake comprehensive observation on election day. The EEM's analysis was based on the team's own observations as well as reports from other observer missions, civil society organisations, the election administration, political parties and the media. On election day the team was deployed in the Department of La Paz and visited a small number of polling stations. The information in this report goes up to 20 November 2019.

3. POLITICAL CONTEXT

The event that defined the 2019 general elections was the controversy over Morales' candidacy. Despite the Constitution's presidential term limits and the results of a referendum held on 21 February 2016 that rejected his bid for a fourth consecutive term, the government decided to ignore the referendum result. Various deputies from Morales' party *Movimiento al Socialismo* (MAS) took the re-election issue to the Constitutional Court which ruled in 2017 that the constitutional term limits were unconstitutional.¹ This controversial court decision generated a fierce debate in Bolivia and has been widely criticised. Previously in 2013 the Constitutional Court had ruled controversially that Morales' first period as president (2006-2009) did not count towards the two term limit in the new Constitution, although a transitional provision in the Constitution states clearly that the mandates

¹ Ruling of the Plurinational Constitutional Tribunal, TCP-0084/2017, 14 December 2017, available at this [link](#).

prior to the new Constitution should be taken into account.² The Venice Commission in its 2018 report on presidential term limits expressed “its critical approach towards constitutional provisions allowing for more than one re-election of the head of state in presidential or semi-presidential systems” and states “[t]erm limits aim to protect a democracy from becoming a *de facto* dictatorship”. The Venice Commission also noted that “[p]residential term limits are entrenched in the Constitution; a constitutional amendment is therefore required to modify them.”³

An opinion poll at the end of September showed that 64 per cent of the population thought Morales’ candidacy was illegal.⁴ Human rights activists challenged this decision at the Inter-American Commission on Human Rights, and a decision is pending.⁵ President Morales said that the opposition parties legitimised his candidacy by taking part in the elections. The opposition told the EEM that their reason for taking part in the elections was that a boycott would have left the incumbent MAS in total control of the government and legislature.

These elections were marked by a context of low public confidence in most state institutions, including the TSE and the judiciary. According to an opinion poll before the elections 68 per cent of Bolivians feared fraud.⁶ Many interlocutors commented on their lack of trust in the TSE and there was a widespread perception that Morales was unwilling to relinquish power.

A total of nine parties/alliances competed in these elections. Five of them did not cross the three per cent threshold and therefore lost their legal personality. The governing party MAS, led by President Morales, has dominated the political arena in Bolivia since 2005.⁷ The adoption of a new Constitution in 2009, a long-held demand in Bolivia especially by indigenous peoples and other social movements, was an important route to political and economic transformation. Despite the positive economic and social results achieved during this period, many interlocutors believed that MAS had concentrated powers in its hands while substantially weakening Bolivian institutions. Although Morales led in the opinion polls, he had less support than in previous elections.

The opposition did not unite behind a single candidate to challenge Morales and consisted of eight different competitors. Carlos Mesa was the main opposition candidate with *Comunidad Ciudadana* (CC),⁸ former president of Bolivia and well-known journalist and intellectual. Ideologically CC did not define themselves as left or right wing but rather as political pluralists. Senator Oscar Ortiz was presidential candidate for *Bolivia Dice No* (BDN), a Santa Cruz-based conservative party which in economic terms represents the right wing and the political and business elite of Santa Cruz, the most prosperous region in the country.⁹ BDN sought to defend the 21 February referendum result. Chi Hyun Chung, presidential candidate for *Partido Demócrata Cristiano* (PDC), is an evangelical pastor with conservative views on the restoration of the traditional family, against abortion rights, LGBTI rights and gender equality.

The five parties that did not cross the three per cent threshold are as follows: *Unidad Cívica Solidaridad* (UCS) whose presidential candidate was Víctor Hugo Cárdenas, former vice-president; the long-standing *Movimiento Nacionalista Revolucionario* (MNR) with Virginio Lema; *Frente para*

² Ruling of the Plurinational Constitutional Tribunal, TCP-003/2013, 25 April 2013, available at this [link](#).

³ Paragraphs 63, 93 and 127 of the Report on Term Limits for presidents Part I, Venice Commission, March 2018, available in this [link](#).

⁴ [Página 7](#), 29 September 2019.

⁵ The challenge was brought in 2018 by the *Asamblea Permanente de Derechos Humanos de Bolivia* and two ex-Ombudsmen, Rolando Villena and Waldo Albarracín.

⁶ [Página 7](#), 29 September 2019.

⁷ Morales won the two subsequent elections of 2009 and 2014 with over 60 per cent of the vote and the MAS has held a two-thirds majority in the Legislative Assembly since 2009.

⁸ CC is a coalition between *Frente Revolucionario de Izquierda* and *Soberanía y Libertad* (Sol.Bo).

⁹ BDN emerged from the alliance between *Unidad Nacional* (UN) and *Movimiento Demócrata Social*, which later broke the coalition to support Carlos Mesa.

la Victoria (FPV) with Israel Rodríguez; *Partido de Acción Nacional Boliviano* (PAN-BOL) with Ruth Yolanda Nina; and *Movimiento del Tercer Sistema* (MTS) with Felix Patzi.

Carlos Mesa tried to position himself as the only alternative with a realistic chance of defeating Morales. He asked Oscar Ortiz, candidate for BDN, to resign and support CC and he urged people to vote tactically. Mesa received last minute support from some candidates from *Movimiento Demócrata Social*, who were in coalition with BDN but who decided to support tactical voting. Mesa also received support from PAN-BOL, and from other traditional opposition leaders: former President Jorge Quiroga, former Mayor of La Paz Juan del Granado, former Mayor of Cochabamba Manfred Reyes Villa and party leader of *Frente de Unidad Nacional* Samuel Doria Medina. Oscar Ortiz rejected Mesa's proposal of a united opposition against MAS and refused to give up his candidacy in spite of poor results in opinion polls just before the elections. The fact that the election of all senators and 60 out of 130 deputies depends on the presidential vote share is likely to have prevented unity among the opposition.

4. IMPLEMENTATION OF PREVIOUS EU EOM RECOMMENDATIONS

Most 2006 and 2009 recommendations and some but not all 2014 recommendations have been implemented

The EU has conducted a number of previous election observation activities in Bolivia, namely election observation missions to observe the Constituent Assembly Election and the referendum on regional autonomy (2006), the constitutional referendum (January 2009) and the general elections (December 2009), as well as an election expert mission in 2014. An election follow-up mission was deployed in 2013 to assess the degree of progress made by the government and electoral authorities in relation to previous EU recommendations.

The majority of the 2006 and 2009 recommendations were implemented in the new electoral legislation adopted in 2010. The EEM 2014 identified a number of shortcomings and offered 18 recommendations. Some of the 2014 mission's recommendations have been fully or partially implemented, including the re-introduction of public funding for political organisations participating in elections, an audit of the voter register, the implementation of a mechanism to inspect and make corrections in the voter register, improved public information regarding the parties' electoral platforms and publication of voter education materials in various of the official languages. Several other recommendations remain to be addressed and some of these have been identified as priority recommendations for the 2020 elections (see Recommendations, below).

5. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

New Political Organisations Law introduced a number of positive measures, but last-minute amendments favoured the ruling party

5.1 Electoral system

The general elections of 20 October in Bolivia were for president and vice-president as well as the Legislative Assembly of 130 deputies, 36 senators and nine members of supra-national parliaments including the Andean Parliament, UNASUR (Union of South American Nations) and MERCOSUR (Southern Common Market). All were elected for a five-year term beginning on 20 January 2020.

For the presidential election, if no candidate wins over 50 per cent of the vote, or over 40 per cent with a margin of victory of more than 10 per cent, a second round is held within 60 days of the first round between the two most-voted candidates. Of the 130 deputies, sixty-three seats are elected through majoritarian races in single member constituencies, and sixty are elected indirectly in one national constituency from closed party lists with seats awarded in proportion to the presidential vote. Seven seats are reserved for native indigenous peoples, elected by majority vote. Senators and

members of the supra-national parliaments are elected indirectly in proportion to the presidential vote. This system for electing senators and deputies provides a disincentive to alliances in the presidential race.

A party must win at least three per cent of the valid votes before any seats can be awarded. The allocation of seats in the proportional contests is done using the D'Hondt method of seat distribution with a compensatory adjustment made. Seats won in the majoritarian races are taken away from the proportional allocation.

5.2 Legal framework

The legal framework for the 20 October general elections was largely similar to that in place for the 2014 general elections: the 2009 Constitution, the 2010 Electoral Law and the 2010 Plurinational Electoral Body Law. A significant change was the 2018 Political Organisations Law, which addressed some, but not all, of the recommendations made by previous EU election missions. In addition, the TSE passed a voluminous body of regulations setting out further detail and procedural aspects.

The 2018 Political Organisations Law (LOP) was the result of several years of consultation and discussion amongst stakeholders and experts, supported by international co-operation.

The LOP introduced a number of positive measures:

- the reintroduction of a limited amount of public financing for political organisations, as all public financing had been eliminated in 2009. The scheme works during the 27 day media campaign period, through the TSE paying funds directly to the media for campaign spots.
- the promotion of internal democracy within political organisations, both in decision-making and candidate selection;
- sanctions for party-switching (*transfugio político*) by those who are elected, as this practice can be a way for powerful parties to “buy” deputies;
- the promotion of gender equality within political organisations, and moves to curb harassment and political violence.

However, the Legislative Assembly made some controversial changes to the draft law that was presented by the TSE, when they approved it very hastily in August 2018. The LOP that the Assembly approved brought forward the presidential primary elections planned for 2024 and made them mandatory for the 2019 elections. Commentators felt that this favoured MAS, being a well-established organisation, but left little time for other parties and organisations to agree on alliances or identify their candidates. In fact, all nine presidential and vice-presidential slates stood unopposed in the January 2019 primary elections, raising serious questions about the value of holding them (see *Registration of Candidates* below). Opposition candidates speculated that the real motives for holding them in this electoral cycle were to attempt to give legitimacy to the controversial candidacy of Evo Morales and to allow the incumbent MAS to know well in advance of the general elections who their competitors would be.

In order to register as a party an excessively high number of supporting signatures are required (1.5 per cent of the voter register) whereas international good practice recommends a maximum of one per cent.¹⁰ The three per cent threshold required to retain a party's legal personality is excessively strict. International guidelines on political party regulation provide that “once party registration is approved, requirements for retaining registration should be minimal”, although requirements for receiving public financing or participating in the election may be higher.¹¹

¹⁰ The Venice Commission Code of Good Practice in Electoral Matters. October 2002. Available at this [link](#).

¹¹ Guidelines on Political Party Regulation. OSCE/ODIHR and Venice Commission. October 2010. Available at this [link](#).

Eliminate the sanction of cancellation of a party's legal status if it does not pass the three per cent threshold.

Another issue which was a subject of controversy in this electoral process was the use of state resources in the campaign. The Electoral Law bans the use of state resources and the publication of government publicity (*propaganda*) in the media during the 30 days before the elections. However, there is a lack of clarity in the law as to what constitutes prohibited government publicity. The TSE relied on a decision of the Constitutional Court relating to the 2016 referendum to draw a distinction between government publicity (prohibited), and public information about government activity (permitted).¹² This left space for widespread media coverage of the president and other MAS candidates inaugurating numerous public works projects and programmes during the campaign period without any sanction, as long as votes were not specifically sought. This distinction renders the ban on government publicity of little value and removes the level playing field. In effect it allows public resources to be used by the incumbent during the campaign, giving them a huge advantage.

The Legislative Assembly could consider prohibiting the inauguration of public works in a specified period prior to the elections. It could also specify what is meant by government publicity (propaganda governmental). The only exceptions should be as set out in Art. 28 of the Regulation on the Electoral Campaign and Electoral Publicity, which include public information messages about health, public services and emergency situations

The TSE's regulation-making power is extensive, for example giving the power to establish violations (*faltas*) in a regulation rather than in primary legislation. The TSE has passed a voluminous body of regulations, some of which overlap and contradict each other. For example the fine for early campaigning is set at two different levels by two regulations passed on the same day.¹³ In addition, the Regulation on Opinion Polls was criticised for being excessively restrictive. The conduct and publication of opinion polls is very strictly regulated, with a demanding set of requirements, including pre-registration and scrutiny of each survey by the TSE before it can be published. It was argued by some that this restrictive provision in the Electoral Law amounted to an undue limitation on freedom of expression.

6. ELECTION ADMINISTRATION

TSE lacked credibility and did little to redress lack of confidence in its impartiality and competence

The Plurinational Electoral Body (OEP) is the institution in charge of organising and carrying out the elections in Bolivia. The OEP is one of the four powers of the state, equal in hierarchy to the executive, the legislative and the judiciary. The OEP has electoral, administrative and judicial functions. The OEP is comprised of a TSE, nine Departmental Electoral Tribunals (TEDs), electoral judges, electoral notaries and polling station staff. The TSE is also responsible for the civil and voter registry (SERECI).

There has been a growing perception of increasing politicisation and loss of technical capacity at the TSE. In 2015 all seven TSE members were replaced, with six of the seven elected by the MAS-controlled Assembly and the seventh appointed by President Morales. Nevertheless, the new TSE was considered to have a reasonable degree of independence and technical ability. The TSE carried out a series of organisational and operational changes which substantially improved the performance of the election administration. These included technological aspects related to the timely transmission

¹² TCP N° 0011/2016, available at this [link](#).

¹³ Article 8.I.c) of the Regulation for Sanctions and Fines for Electoral violations sets the fine at 50 times the minimum wage and Article 34.2. a) of the Regulation on the Electoral Campaign sets it at 10 times the minimum wage. Both were approved on 24 May 2019.

of preliminary results and improvements to the electoral register, audited positively by the Organisation of American States (OAS) in 2017.

There was a heated debate in September 2018 both within the TSE and the wider society about the TSE's approval of the regulation for the presidential primaries.¹⁴ This resulted in the resignation of the president and vice-president of the TSE in October 2018, with the president citing deadlock within the TSE. On 4 December 2018 the TSE voted 4:2 to register the candidacy of Morales and his vice-president for the primaries, which fuelled strong criticism from the opposition and others who believed that his candidacy was illegitimate. On 14 December, the European External Action Service spokesperson issued a statement to recall the importance of the independence of the judiciary, political pluralism and freedom of expression.¹⁵ This followed an announcement by Victor Borda, MAS parliamentary faction leader, that they would bring criminal proceedings against the two dissenting members in the TSE's decision to approve the candidacy of Evo Morales. After the primary elections in January 2019 a third TSE member resigned, saying that her democratic values prevented her from continuing in post.

Following the resignation of these three experienced TSE members, there were widespread resignations and dismissals of senior staff - at least 40 people before the elections - which further weakened its institutional strength. In the immediate aftermath of the elections another experienced TSE member resigned as well as numerous TED members and senior staff.

The TSE that remained after the resignations was considered by interlocutors to be closely linked to MAS and subject to political control. This had an adverse effect on the confidence of opposition parties and citizens in the impartial management of the elections. Confidence in the TSE was already low even before the primaries.¹⁶ At a training session with all international observers in October 2019, the TSE recognised that their own survey had shown low levels of trust and credibility in the institution.

Strengthen efforts to ensure TSE and TED members are selected in compliance with established criteria of qualifications and merits, as provided by Article 206 of the Constitution and Articles 4, 13 and 14 of the Law of the Plurinational Electoral Body.

6.1 TSE's decision-making

The credibility of the TSE was further jeopardised due to inconsistent decision-making or inaction, particularly in politically sensitive issues. For example, many EEM interlocutors saw inconsistency and political bias in the TSE's treatment of the opinion polls and quick count of *Tu Voto Cuenta*. On 11 September the TSE suspended indefinitely the publication of their first opinion poll that gave poor results to Evo Morales. With relation to their second opinion poll the TSE reportedly said that it would not be able to consider their request until after the deadline for publishing opinion polls had passed. The same organisation applied to publish a quick count on election night but the TSE only authorised the publication of one quick count by *Víaciencia*, thought to give results more favourable to the government. *Tu Voto Cuenta's* quick count was not authorised because their application was made one day late. However, *Tu Voto Cuenta* published their opinion poll and quick count results on social media.

Furthermore, the TSE took no effective enforcement action with regard to violations of campaign rules, particularly by the incumbent government and president (see *Electoral Justice in relation to Campaign Violations*, below).

The TSE's worst decision, which undermined the whole electoral process, was to stop the preliminary results system (TREP) on election night (see *Preliminary Results System*, below). This is one of the

¹⁴ Three members of the TSE voted against this regulation.

¹⁵ The EU statement of 14 December 2018 is available at this [link](#).

¹⁶ An opinion poll published in [Los Tiempos](#) in October 2018 showed that over half of those interviewed had low confidence in the TSE.

subjects of a criminal complaint brought against the TSE members by the Law Society (*Colegio de Abogados*) of Santa Cruz. They alleged that the TSE members are guilty of alteration and concealment of electoral results in violation of the electoral law, which carries a penalty of two to five years imprisonment.¹⁷

The TSE and TEDs also showed very serious failings in the tabulation process (see *Final Results*, below). The TSE failed to issue a regulation or instruction on the procedure for dealing with problems in results forms, of which there were many. As a result the revision of problematic results forms was a chaotic and ad hoc process and many polling station results that should have been annulled were not. Nor did the TSE or TEDs investigate irregularities and possible fraud in results forms. It appeared that the TSE rushed to complete the final results process in great haste and without proper procedures. The whole results process lacked credibility. After the elections TSE members were arrested and at the time of this report are subject to criminal investigations related to the results process (see *Post-Election Context*, below).

6.2 TSE's transparency and communications

The TSE showed a lack of the transparency that is vital to ensure public confidence in the integrity of the electoral process. The TSE was extremely poor at communicating with electoral stakeholders, including political organisations and civil society. For example, there was controversy about unusual increases in the voter register in some areas and about the administration of out-of-country registration. The TSE was slow to explain these issues (see *Voter Registration*, below).

Shortly before the elections, the TSE made some efforts to explain key issues to the public, such as the secrecy of the vote and the ban on photographing a voted ballot paper. They made it clear in various media appearances that the vote is secret, and that parties who ask their supporters to take photographs of their ballots would be penalised. The TSE recommended that people should not take their mobile phones to the voting centre, except for the count which is public. The EEM believes that, although late, this was a good initiative to try and ensure a free and secret vote.

The TSE also explained how the TREP would work, including that it would continue beyond the first announcement at 80 per cent of results and the difference between TREP results and final results. Although this was a good initiative, the TSE's subsequent decisions about the TREP completely undermined it. In fact, the TSE's failure to explain why the TREP process was suddenly stopped on election night was the worst example of poor communications and it generated huge suspicions. Throughout the two week long results process there was non-existent communication from the TSE about the cause of delays and what had happened to electoral materials in the fires at TEDs, resulting in continuing suspicion.

Develop a coherent communication strategy to improve the TSE's capacity to comprehensively share its decisions with the public. For example, through periodic meetings with media, briefings to political parties, publication of TSE and TEDs' resolutions, publication of results of media monitoring, etc.

6.3 Operational aspects of the elections

According to the TSE, most of the deadlines in the electoral calendar were met. However, the finalisation of candidate lists and the requirements of gender parity were behind schedule and the parity requirements were not properly met (see *Registration of Candidates*, below).

There were no serious concerns about the logistical aspects of the elections, which were largely carried out by the TEDs. Although interlocutors questioned the impartiality of some TEDs, there seemed to be greater confidence in their technical ability than that of the TSE.

¹⁷ The criminal complaint, available at this [link](#), was presented to the public prosecutor's office on 4 November 2019. It also accuses the TSE members of manipulation of data and other electoral crimes related to the voter register.

The TEDs carried out the selection of 207,230 people to be polling station staff members in the 34,555 polling stations. Polling station staff are made up of three members and three reserves, selected randomly from those voters registered locally, which is considered to be one of the safeguards for the impartial administration of the voting.¹⁸ Being a member of polling station staff is an unpaid civic obligation. In spite of that, the number of excuses presented and accepted was not particularly high.¹⁹

Attendance at a polling staff training session is not obligatory and figures are not available as to how many attended. Although the training focused on filling in the results forms, there were significant numbers of mistakes in filling in the forms, as in previous elections. The training materials did not specify that a vote which reflects the voter's clear intention should be considered valid. This could have led to overly strict interpretations and inconsistencies. The validity of votes tends to be a source of controversy in close elections.

Polling station staff who are unable to attend a training session should be encouraged to complete an online training especially focused on filling in the results forms. The training materials should be clear that the voter's clear intention is the paramount criteria when considering the validity of the vote.

In a positive step for voter information, the TSE set up an online programme and a free phonenumber to answer citizens' questions about their entry in the voter register, whether they have been selected to be a polling station member, which voting centre they should go to, as well as which candidates were standing in their constituency. The TEDs also set up information points across each department.

The TSE did not undertake voter education efforts to clarify the confusion around the *voto comunitario*, where voters are pressured to vote in accordance with their community's preferences.²⁰ Nonetheless, interlocutors reported that the ruling party and social organisations were promoting the practice of the *voto comunitario* voting in these elections in some rural areas. The results also seem to indicate that this practice continued (see *Irregularities*, below). This violates international standards which provide for a free and secret vote.

The TSE should undertake voter education efforts to remind all voters that their vote is their own individual choice and right.

In the weeks before the elections the TSE was heavily involved in an external audit, one of the last steps to gaining the ISO electoral certificate.²¹ It appeared that the timing of this audit was deliberate to try and bring credibility to the TSE's reputation and to the electoral process.²² The process is not complete and the audit report was not made public. Although the ISO process helps improve administrative and organisational performance, it is no guarantee of a credible election process. The TSE also paid for an external audit of both the TREP and the official results system. The results of the external audit were made public on 7 November saying that the whole results process was vitiated by irregularities (see *Final Results*, below).

¹⁸ If a polling staff member does not turn up on election day, any voter who is present at the opening of the polling station can be required to take their place.

¹⁹ In the La Paz TED, of more than 53,000 members who were selected, 2,857 presented excuses and 1,680 were accepted. In the Chuquisaca TED, of more than 10,000 members, around 500 presented excuses and 478 were accepted.

²⁰ The origin of the *voto comunitario* may be partially explained by a misunderstanding of the Constitution. This provides for the election by customary practices of indigenous *campesino* internal leadership structures, but not for elections such as these which are subject to equal, universal, direct, secret, free and obligatory suffrage. The *voto comunitario* has become a practice of some trade unions and social organisations.

²¹ The International Organization for Standardization (ISO) describes itself as a non-governmental entity with global expertise in the creation and publication of international norms and quality standards.

²² Following discussions between the EU, International IDEA (who were involved in supporting the TSE in achieving the ISO certification) and the TSE, the international funding ceased because of fears that attempts would be made to use ISO certification to lend credibility to these elections. The TSE decided to finance the ISO process itself.

7. VOTER REGISTRATION

2017 audit report highlighted that the voter register was reliable but subsequent changes raised concerns

For the 2019 general elections there were a total of 7,315,364 registered voters²³, an increase of 11.2 per cent from the voter register used for the 2016 referendum. Voter registration is carried out by SERECI which is part of the Plurinational Electoral Body and is also responsible for the civil register. The election legislation provides a generally sound framework for voter registration. It was possible for a voter to find out if their entry was correct, including by checking online. Political parties may request statistics from the voter register but do not have the right to inspect the whole register because of data protection. This goes in line with the evolution of international best practice which in recent years has emphasised the importance of individual's data privacy.

In line with the 2006 EU EOM recommendation, a biometric voter register was implemented in 2009. It includes all ten fingerprints and facial recognition technology. This was an important advance in the credibility and transparency of the voter register. In 2017 the OAS carried out a comprehensive audit of the voter register. The audit report highlighted that despite a few shortcomings, the voter register was reliable and that 98.9 per cent of eligible citizens were registered voters.²⁴ However, there were some shortcomings, for example, there were almost 50,000 duplicate entries. The TSE reported that they have since reduced this figure to around 17,000. This continues to generate some concern. The audit report also recommended improvements, including some related to security and functionality of the software.

After the audit was carried out, there were a number of changes in the voter register which raised concerns in these elections. The greatest issue related to the growth of the register, both overall and in certain areas. The register grew by 11.2 per cent since the 2016 referendum but projected population growth was 1.4 per cent per year according to the National Statistics Institute (INE). Concerning the overall 11.2 per cent increase in the register, SERECI told the EEM that this was due to efforts made to increase registration of first-time voters and that the INE's population growth figure related to current birth rates rather than those of 18 years ago. Nonetheless, this figure seems significant and it would have been helpful for the TSE to have explained this publicly in order to clear up doubts about the reliability of the register.

In addition, in certain areas there were unusually large increases in the register.²⁵ For example, in Cotoca, Santa Cruz, registered voters increased by 35.8 per cent but projected population growth was only 4.49 per cent. In Huachacalla, Oruro, the register grew by 57 per cent while the INE projected a population drop of 0.4 per cent. In June 2019 a SERECI employee was arrested for having fraudulently registered a change of address for voters from Beni so that they could vote in the neighbouring department of Pando. Criminal proceedings were ongoing at the time of this report.

Related to the increases in the register was the fact that in Bolivia there is no clear definition of electoral residence. As such, voters can change their address for the purpose of voting without having to present any proof of address, such as a rent contract or utility bill. On the one hand, this facilitates voting by citizens who are away from their permanent residence on election day. But on the other hand, this could give rise to fraudulent practices, as voters could change their registration address for political purposes. Although the TSE explained that the increases were due to internal migration patterns, this generated suspicion among the opposition and civil society, who feared that this was orchestrated by MAS to improve its results in the Assembly elections.

²³ 6,974,363 in-country registered voters and 341,001 out-of-country registered voters.

²⁴ The audit showed an accuracy of 96.2 per cent for the deceased, 99.44 per cent for the disqualified and that 94.4 per cent of citizens visited by the OAS mission were registered.

²⁵ Of the 50 municipalities with the greatest increase in the register, 19 are in Santa Cruz, eight in Pando and six in Cochabamba.

The requests for change of electoral address should include probative documents of effective residence, such as utility bills, rent contracts or property ownership documents.

Many people reported that their dead relatives had a polling station assigned to them in the TREP system. This raised concerns that votes had been cast in the name of dead people. However, it is impossible to know whether a vote was cast in a person's name without checking polling station voter lists, which are not publicly available. SERECI's explanation was that the dead people remain in the central voter register but are categorised as dead and disqualified. By mistake they were included in the TREP system that enables voters to check the results of their polling station. SERECI told the EEM that the number of dead people is not entirely accurate because relatives of the deceased do not always register the death or provide full and accurate information that matches the entry in the voter register.

During the post-electoral conflicts five out of nine departmental SERECI offices were burnt (Santa Cruz, Potosí, Sucre, Pando and Beni partially). At the time of this report, the damage to the supporting documentation was being evaluated.

7.1 Out-of-country registration

It is estimated that some two million Bolivians live abroad. The 2010 Election Law provides for out-of-country voting for the presidential elections in those countries where there is Bolivian diplomatic presence. For the 2019 election, there was out-of-country voting in 33 countries, including Argentina, Chile, Peru, Brazil, USA and Spain. There were 341,001 out-of-country voters registered, an increase of 24 per cent from the 2016 voter register.

The opposition and civil society were concerned about the unusually high increase of voters in some countries that traditionally vote for MAS. Interlocutors believe that greater efforts were made to register overseas voters in some countries more than others and the criteria used was not the number of resident Bolivians.²⁶ The overseas register amounted to 4.6 per cent of the total register which was enough to be decisive given how close the results were.²⁷ Various interlocutors questioned the impartiality of the consular personnel involved in overseas registration.

8. REGISTRATION OF CANDIDATES

Inadequate procedures for withdrawals and substitutions caused problems

8.1 Presidential and Vice-Presidential primary elections

Presidential primaries were held for the first time in January 2019 following amendments of the 2018 Political Organisations Law (LOP). They had been planned for the next election cycle in 2024.

The LOP was approved on 1 September 2018 and required closed primaries, meaning that only party members can vote. All parties' primaries had to be held simultaneously, because they were organised and paid for by the TSE. The law provides that the results are binding, and does not provide for resignations or substitutions (except in the case of serious illness or death). Commentators believe that holding primaries in this election and making the results binding and irrevocable was an attempt to legitimise the candidacy of Evo Morales. The only people who could bring a challenge against a candidate were registered party members, meaning other parties and members of the public could not bring a challenge against any other candidate.

²⁶ In 2019 and in previous elections, voters residing in Argentina and Brazil showed the strongest support for Morales while the opposition was strongest in Spain, Chile and the USA. In 2016 the register in Argentina had 116,568 voters and in these elections it had 161,057 voters. On the other hand, in Spain the register only increased from 70,148 to 72,606 voters in the same time period.

²⁷ Argentina represents 1.66 per cent of the total voter register, while the Department of Pando is less than one per cent.

The primaries took place on 27 January 2019 and nine parties took part. They were held on an unexpectedly short timeframe. For example, there were only 25 days for parties to form alliances once the primaries were announced. This expedited timetable led several opposition parties to complain that they had insufficient time to consider who their candidates would be or to form alliances. Nor did they have time to update their lists of party members, which become the voter register for each party's primary. Many irregularities were discovered with the lists of party members. For example, people found their names on a list of a party they had never supported. This is probably due to parties having included people as supporters without their consent.

All opposition parties called on their supporters not to participate because of their objection to Morales' candidacy. All nine slates stood unopposed and there was a very low turnout. Although primary elections can be a useful way to increase participation and credibility of political parties, many people complained that it was a waste of public money to hold the primaries in these circumstances. Two TSE members sought in vain for them to be cancelled, given the lack of any competition.

8.2 Presidential and Vice-Presidential candidate resignation issues

A gap in the legal framework became apparent when various presidential or vice-presidential candidates tried to resign. The LOP does not allow this as the results of the primaries are binding, but nor does the LOP provide for reserves (*suplentes*) to be elected in the primaries. Working from the contradictory provisions of the LOP and the Electoral Law, the TSE decided to allow two candidates to be substituted because they had not yet presented all the required documents, but did not allow resignation or substitution of a candidate who had already presented all her documents. Although the TSE tried to find a pragmatic solution to the gap in the LOP by allowing these substitutions, it was inconsistent to prevent the other candidate from resigning only because she had presented her paperwork correctly. Furthermore, if any candidate who wished to resign were elected, they could immediately resign.

The law needs to establish a mechanism for what happens if a candidate elected in primaries wishes to resign.

8.3 Legislative Assembly candidates

Candidates for deputies and senators had to be nominated by 19 July 2019. Each political organisation could present up to 350 candidates to fill all roles (including reserves). Candidates had to present a number of documents proving their eligibility. A surprisingly large number of candidates across all parties – 1003 – did not meet the requirements, 30 per cent of the total. The numbers were particularly high among smaller parties, who may not have had the experience or resources to ensure that their candidates were properly prepared with the burdensome paperwork required.²⁸ The TSE allowed until 16 October for candidates to either present the correct documents or be substituted even without *force majeure*, by which time ballot papers were already printed. The TSE published the final lists of candidates on its website the day before the elections, which was very late from the voters' point of view.

The legal deadlines for candidate withdrawals and substitutions (without force majeure) need to be brought forward and harmonised with the deadline for printing ballot papers.

The Bolivian Constitution and Electoral Law contain one of the most progressive gender parity requirements in Latin America and world-wide. Each list of candidates for the Legislative Assembly must contain 50 per cent women and 50 per cent men in alternating positions (see *Participation of*

²⁸ Eleven documents are required, including a criminal record certificate, a military service certificate (for men), a tax certificate, a declaration made before a notary that the candidate speaks two of the official languages of Bolivia, and a certificate as to domestic violence convictions. The TSE Directive specifying these documents was only issued on 8 July, shortly before the candidate registration deadline.

Women, below). The parity requirements are complex. The application of the parity requirements was not straightforward in this process, resulting in eight out of nine lists not fully meeting them. MAS was the only party that met the requirements fully. CC and BDN were close behind at 97 per cent and 94 per cent compliance, respectively, whilst PDC only achieved 65 per cent compliance.²⁹ Although this lack of compliance only had a negligible impact on the number of women elected, it set a very poor precedent for future elections, including the sub-national elections due in spring 2020. One TSE member told the EEM that the parity requirements need only apply to the initial lists, and not to subsequent versions of the lists once substitutions have been made. The EEM believes this interpretation makes a mockery of the parity requirements and would significantly undermine them.³⁰

The EEM's assessment, shared by various stakeholders, is that these difficulties were due to the TSE failing to take strong urgent measures to enforce the parity requirements in good time over the three-month period until the elections. They could have explained the requirements to the parties and publicly warned them about the need to comply. Commentators also believe that certain TSE members lacked a commitment to gender parity, as evidenced by an attempt to amend and weaken the legal requirements in July 2019.³¹ Commentators also blamed a lack of knowledge or lack of commitment by some political parties.

It would assist all stakeholders if the TSE issued a detailed regulation setting out the gender parity requirements for each race in each department, and if the TSE made efforts to explain these requirements to political parties.

9. CAMPAIGN ENVIRONMENT

Extensive abuse of state resources meant no level playing field

The campaign for public events started on 22 July and the campaign in the media on 20 September. All campaigning ended 72 hours before elections, at midnight on 16 October. According to the media and the political parties, freedom of movement and assembly were generally respected in this campaign, except in the Morales' stronghold of El Chapare (Cochabamba). Warnings were given that opposition parties were at risk if they went there.

In general the first two months of the campaign were peaceful, except for a few isolated incidents. Massive fires in the Chiquitanía region of Santa Cruz started in August and resulted in the loss of more than five million hectares of forest. Citizens were unhappy at the government's slow response and this weakened the government's relationship with the *Comité Pro Santa Cruz*, which represents the main local political and economic actors. The rumours of land seizures by Bolivians from the highlands (La Paz, Oruro, Potosí, and Cochabamba) resulted in the resurgence of regional divisions. On the 11 and 12 of September there were violent attacks on the MAS offices in Santa Cruz and Chulumani (La Paz), related to the government's delay in tackling the Chiquitanía fires.

The last days of the campaign were marked by demonstrations and social conflicts that raised political tensions. The demonstrations included the *cabildos* in Santa Cruz, La Paz, Cochabamba, Oruro, Tarija, and Potosí, which were attended by thousands of people, and in the case of Santa Cruz estimates range from 350,000 to 1,500,000 people.³² The *cabildos* were supported by the main opposition candidates. Although each *cabildo* included specific regional demands, for example in Santa Cruz federalism was voted for, they shared points in common. These included the demand that

²⁹ The smaller parties ranged from 44 per cent to 76 per cent compliance. This analysis was carried out by civil society group the [Coordinadora de la Mujer](#). In total there were 960 women and 956 men candidates. In general it was women's list positions rather than their number that did not fully comply. For example, as to the number of women candidates at the head of the list in each department.

³⁰ The Electoral Law is clear: the whole list will not be admitted if it does not meet parity requirements, Art 107.

³¹ The TSE President and civil society groups opposed the amendment, and it was dropped.

³² A *cabildo* is a large-scale public meeting where citizens take decisions on particular issues.

the TSE organise transparent elections; the call to vote against the Morales as his candidacy was considered unconstitutional; the decision not to accept the election of Evo Morales as President and to mount a civil disobedience campaign if he were elected; and an agreement to work together to prevent electoral fraud. The government responded to the various protests by saying that the *cabildos* sought to destabilise the democratic process. The government said they would not allow the divisive, racist and discriminatory right wing to return although the EEM saw no evidence of racist discourse.

Tensions led to clashes at campaign events, with electoral materials being torn down. For example, candidates from BDN, MTS and CC complained to the TSE that their campaign offices in Cochabamba had been vandalised and their supporters attacked. One incident of note took place in Potosí on 12 October when MAS supporters at a campaign event clashed violently with a pre-existing protest while President Morales was giving a speech. At least seven people were injured.

9.1 Campaign messages

The campaign was considered to be low-key and mostly centred on the personalities of the presidential candidates rather than on policy issues. Preferred forms of campaigning were TV and radio spots, small-scale meetings, a limited number of large-scale rallies, as well as social media. The president made many trips around the country with a lot of media coverage, especially by state media. In terms of campaign messages, Morales' campaign focused on continuity being the guarantee to security, economic stability and inclusion for workers, farmers (*campesinos*) and indigenous people in order to maintain the achievements of the last fourteen years. Some commentators noted that Morales had returned to his 2005 messages: the fight against imperialism, right wing interests and the International Monetary Fund.

Carlos Mesa's campaign focused on the illegitimacy of Morales' candidacy and the need to restore democracy and the rule of law, criticism of corruption in state institutions, unemployment, the poor state of the health system, and the fight against drug-trafficking. During the campaign state prosecutors re-activated several criminal investigations into Carlos Mesa and his close associates for alleged corruption. Some interlocutors questioned the timing of the reopening of these cases, which date from years ago.

Oscar Ortiz' message was also against Morales' re-election. His campaign was focused on Santa Cruz and the eastern region, and local business interests. Chi Hyun Chung, presidential candidate for PDC, saw his support rise swiftly in opinion polls. His campaign focussed primarily on harsh criticism of Morales and other candidates, as well as controversial moral and religious issues. These messages won support among ultra-conservative and evangelical sectors of society.

Evo Morales refused to debate with any of his rivals, so there were no presidential debates. A private TV channel broadcast the vice-presidential candidates' debate, which was considered to have been an informative addition to a mostly lack-lustre campaign.

9.2 Use of state resources

The most striking feature of the campaign was the lack of a level playing field. There was a stark discrepancy between the limited resources of the opposition parties and the vast resources of the state mobilised by MAS, in particular state media and public works. In addition, many interlocutors claimed that the government compelled public employees to attend MAS campaign events and demanded financial contributions from state employees for campaign activities. This long-standing problem has been noted in previous EU election mission reports. On a smaller scale, *Comunidad Ciudadana* was accused of involving public employees from the La Paz Mayor's office in its campaign activities.

The capacity of the opposition to campaign fairly was seriously undermined by the abolition of public funding to political parties in 2009. The Political Organisations Law of 2018 introduced a limited scheme of publicly-financed media spots. However, this was insufficient to provide a level playing

field. Many people complained about the overwhelming amount of advertising of government programmes in the months leading up to the elections. This indirectly helped the MAS campaign, whilst the opposition could only begin their media campaign 30 days before the elections.

Government ministers stepped up their public appearances at the launch of public works and aid programmes, which according to interlocutors was a disguised form of campaigning. Media outlets verified that ministers used Morales' image at these events which were also attended by MAS candidates, blurring the distinction between the MAS campaign and the delivery of government projects. Some public works projects were inaugurated at the same time and place as MAS campaign closing events. Public works projects were also inaugurated during the campaign silence period and this was specifically authorised by the TSE.

Many stakeholders mentioned that serving deputies and senators were campaigning, in breach of the constitutional provision that they must resign in order to be candidates. However, the Constitutional Court decided in July 2019 that this provision was superseded by the candidates' political rights in Article 23 of the American Convention on Human Rights, and therefore resignation was not required.³³

10. CAMPAIGN FINANCE

Ineffective regulation of and limits on campaign finance

Party and campaign financing is governed by the 2018 Political Organisations Law and two regulations.³⁴ In general, parties and candidates were largely privately funded, though the incumbent MAS availed itself of public resources extensively, taking advantage of the weak legal limits on the use of public resources. The law contains very few limits on donations and spending, meaning that those with the greatest resources have a significant advantage.

10.1 Sources of campaign finance

In Bolivia there is a mixed system of political financing. The LOP introduced some improvement with a limited public financing scheme for media access during the campaign period (see *Access to Media during the Election Campaign*, below). However, the scheme was insufficient to achieve the goal of creating equitable conditions. Furthermore, the legal framework does not cover the political activities of social organisations and trade unions although they are involved in campaign activities.

The permitted sources of private financing include a party's and candidate's own resources, income from supporters and donations. The law does not allow donations to be anonymous, from public bodies, from foreign entities, from religious groups or from people who were obliged by their employer to make donations. However, it was widely reported that public sector employees were in fact compelled to make contributions to MAS. The only limit on donations is that each individual donation cannot exceed ten per cent of the annual budget of the party or the campaign. In conclusion, the absence of any limit on total donations restricts campaign equity as it favours parties with greater resources.

Establish overall limits on donations and on campaign spending.

10.2 Limits on campaign spending

The law does not provide any limits on campaign spending, except in relation to media advertising. This means that parties may spend unlimited amounts on campaign events and gifts for their supporters. Parties' spending on media advertising has an upper limit of 35 per cent of the amount spent by the TSE on public financing for that party. If they refuse the public financing, they are not

³³ TCP decision 0032/2019, available at this [link](#).

³⁴ The 2019 Regulation on Financial Oversight of Political Organisations and the 2019 Regulation on Public Support for Political Parties and Alliances in General Elections.

subject to that limit. There are time and space limits in media coverage and spots that apply to all political parties (see *Access to Media during the Election Campaign*, below).

10.3 Oversight of party and campaign financing

Reporting requirements both in an election year and in general are very detailed and onerous. Parties must submit detailed annual budgets and reports on their finances to the TSE's Technical Oversight Unit (UTF).³⁵ In an election year campaign accounts should be included in the annual report. In addition, financial statements have to be presented before the campaign begins and two months after the elections. Parties also have to present a detailed and documented list of their sources of finance and of their spending on campaign publicity within two months of the elections.

None of this information, however, is made available to the public in any format except for the TSE's resolutions as to whether a party has complied with the financial reporting requirements. The LOP requires parties to publicise details of their finances but they have until the end of 2021 to adapt their internal procedures in order to comply with the law. Media reported on what the parties said their campaign budgets were, with MAS providing an implausibly low figure.³⁶

For parties that fail to comply with the financial reporting requirements, sanctions include a fine (five per cent of budgeted income), suspension from party leadership, loss of elected office, as well as criminal sanctions. There is a worryingly broad power to cancel a party's legal personality if it has violated any of the financing restrictions or reporting requirements.³⁷ Commentators noted the lack of due process in the application of these sanctions.

The TSE's UTF is a very active unit that despite its limited resources carried out training across the country to explain the LOP's new financing regime to the political parties. The UTF does not have a presence in the TEDs and so is limited in its monitoring of parties' expenditure in non-election years. The UTF lacks the explicit investigatory powers which it needs to work effectively, including the power to require information from other state bodies such as the tax authority and law enforcement. Interlocutors commented that the UTF was not able to carry out effective and impartial oversight because of the politicised character of the TSE.

The TSE's Technical Oversight Unit (UTF) could have special autonomous status within the TSE, including in operational, managerial and budgetary terms. The TSE could be provided with investigative powers to ensure compliance with all financial requirements, including the power to require information from other state bodies such as the tax authority and law enforcement agencies. The UTF needs greater resources and more staff in order to ensure that parties will have the necessary understanding to meet all of LOP's requirements by 2021.

11. MEDIA

Public financing of parties' media campaigns insufficient to provide a level playing field

There is a wide range of media outlets in Bolivia. This includes national press, local press in the main cities, radio and TV channels at national and local level in both private and public ownership, and political news websites.³⁸ The Constitution guarantees the right to freedom of expression, opinion

³⁵ Parties' annual reports have to be detailed, include an itemised list of contributions (including in kind) and contributors and must be audited. All income and expenses have to go through one bank account.

³⁶ The newspaper [La Razón](#) published details of what the parties said their budgets were in July 2019: BDN, 10 million Bs; MNR, 7 million Bs; MTS, 5 million Bs; UCS, 4 million Bs; MAS, 2 million Bs. CC did not provide a figure.

³⁷ Art. 58 of the LOP sets out the grounds for cancellation of a party's legal personality.

³⁸ Only two newspapers, *El Deber* and *La Razón*, have national coverage. However, the newspapers *Página Siete* and *Los Tiempos* have substantial influence including through their websites. The largest TV channels are *ATB*, *Red Uno*, *Bolivisión*, *PAT* and *Unitel*, all privately-owned. Radio continues to be one of the most important media. There are seven radio networks, three of which are privately-owned, two are state-owned and two are community-owned. The most

and information and the right to freely broadcast ideas without censorship.³⁹ Bolivia still does not have a law on access to public information which would give the right to access public documents. Various media outlets said that often they do not receive the information they ask for from government sources.

Apparently government and public entities do not exercise a direct influence on the editorial content of mass media. However, there is no transparency in the use of public funds to purchase media advertisements, which is an important source of media revenue. Some media outlets have accused the government of discrimination against those who criticise government officials, by withholding advertising from them. The allocation of state advertising also impacted on the work of journalists to the extent that some media fired several investigative journalists due to fear of losing official advertising. Thus, journalists apply self-censorship because of fear of losing their jobs. Some media interlocutors emphasised that the state's controversial media policies also include arbitrary labour inspections, tax audits and fines which were unwarranted and forced them to spend significant time and resources to defend themselves.

The government should establish fair criteria and transparency in the use of public funds to purchase media advertisements.

In July 2019, President Morales signed a law which removed the obligation on private media to publish government announcements free of charge and to provide free campaign advertising as provided by the LOP 2018.⁴⁰ This change was criticised because the government has greater spending power which it can use to buy influence. In October 2019, the Inter-American Press Association (SIP) repeated its call on the government to “ensure that public funds spent on government publicity are distributed broadly among the media without discrimination or favouritism”.

Following the TSE's block on publication of the *Tu Voto Cuenta* opinion poll, the SIP asked the Bolivian government, parliament and the TSE to amend the electoral laws that impose censorship on the Bolivia media. The Rapporteur for freedom of expression of the Inter-American Commission on Human Rights and the Committee to Protect Journalists also condemned the block on publication.⁴¹

The TSE should amend the regulation that requires pre-authorisation before publication of an opinion poll.

In terms of journalists' safety, coverage of political and conflict situations are the most dangerous and complex. During the first two weeks of post-electoral protests there were approximately 30 cases of attacks on journalists, cameramen and photographers. These were carried out by protesters from different sides (17 cases), police (five cases) and MAS-supporting transport workers (an attack on a group of ten to twelve journalists in Cochabamba). Various journalists complained that even though the police knew they were covering the protests, they used tear gas on them and pushed and hit them. During the violence that followed Morales' resignation on 10 November journalists were under severe and direct threat and two newspapers were unable to produce their print editions. On 10 November an angry mob set fire to the house of a journalist from the university TV channel, which is identified with the opposition.

11.1 Access to media during the election campaign

The LOP 2018 re-introduced a limited scheme of publicly-financed media spots in the 30 days before the elections until 72 hours prior to elections. The parties receive an indirect subsidy administered by the TSE to enable their access to paid publicity. Sixty per cent is paid equally to all, and forty per cent

important radio networks are *Panamericana*, *Erbol* and *Fides*, all privately-owned. In recent years the state radio network *Patria Nueva* has grown as a competitor. The major media outlets mostly operate in La Paz, Cochabamba and Santa Cruz, although radio and TV networks do reach other regions of the country, especially urban areas.

³⁹ The country has signed and ratified relevant treaty obligations with no significant exemptions.

⁴⁰ The law is available at this [link](#).

⁴¹ See this [link](#) for the Rapporteur's statement and this [link](#) for the Committee to Protect Journalists' statement.

is paid according to votes received in the previous election. A maximum of fifty per cent of the allotted time or space can go to the presidential candidate and the other fifty per cent to all other candidates, of which at least half must go to women candidates. In these elections 35 million Bs (approximately 4.55 million Euro) was spent on this.⁴² Furthermore, political parties received free spots but only in the public media. Parties can also buy additional space or spots in audio-visual and print media within the limits set out in the law.⁴³ Although the introduction of public financing is a welcome change, in these elections it was insufficient to provide a level playing field.

11.2 The role of social media

A novelty in these elections was the extensive use of social networks during the campaign, because of their wide reach and low cost.⁴⁴ Social media spaces are not controlled by political parties or the government and this was seen as a positive development because it allowed citizens to be almost permanently updated on political issues through their mobile phones. However, interlocutors reiterated their concern about the large-scale spreading of online fake news as well as negative campaigning and hate speech. The most difficult fake news to combat was that circulated among closed groups of users such as *WhatsApp*, since they are only visible to the members of these groups.

A fake news monitoring project established by an independent civil society organisation *Bolivia Verifica* showed that in October the parties most affected were MAS (27 fake news and nine misleading stories about them) and CC (29 fake news and seven misleading stories about them).⁴⁵ In the days before the elections fake news stories circulated on social media, such as that the ink in the pens used to mark ballot papers disappeared after a few minutes, and as to what would constitute a valid and invalid vote. *Bolivia Verifica* exposed the inaccuracy of this message after consulting with the TSE. On election day a video circulated showing a party agent being detained in Santa Cruz with a box of 50 marked ballot papers. However, the TED in Santa Cruz said that this incident dated from 2016 and as such it was fake news.

According to some interlocutors, Carlos Mesa was particularly targeted by negative campaigns that criticised his time as President.⁴⁶ For example, a documentary that circulated on social media on 9 October called *La Ballena Rosada*, accused Mesa of corruption and made allegations about his personal life. It used a video of an interview Mesa had given in 2012 but changed some of his words in order to link him with a supposed lover. Rafael Archondo, former Bolivian Ambassador to the United Nations during the first MAS government, exposed some of the lies in this documentary. Fake news continued after the elections with two government sources and two government media outlets releasing images of the conflict in Bolivia that in fact came from other countries. There was also a fake tweet attributed to Morales where he said he would not resign even if hundreds of people were killed.

Various interlocutors have mentioned the use of so-called “digital warriors”, hired by the Ministry of Communications to counter fake news stories against the government. According to media experts they were also used to promote the government’s achievements, the president’s activities and to wage a negative campaign against opposition candidates.

⁴² The public financing was distributed as follows: for MAS 10,942,773 Bs, for BDN 4,036,681 Bs, for PDC 3,604,598 Bs and 2,337,333 Bs for each of the other six parties.

⁴³ Political parties have a maximum of ten minutes per day on TV and radio and two pages per day in the press plus one weekly supplement of a maximum of twelve pages.

⁴⁴ According to the government telecommunications agency ATT, 85 per cent of the population has access to the internet, the great majority through their mobile phones. According to the government agency for electronic communications AGETIC, 94 per cent of the population with internet access are Facebook users, 91 per cent use WhatsApp, 40 per cent use Youtube and 17 per cent Twitter.

⁴⁵ The website of *Bolivia Verifica* is available at <https://boliviaverifica.bo/>

⁴⁶ Carlos Mesa was President from 2003 until 2005 when he resigned due to a lack of support in Parliament, in the midst of an acute political and economic crisis and numerous social conflicts.

Initiatives such as those carried out by *Bolivia Verifica* are valuable but appear to be insufficient to counter this problem. Media and freedom of speech associations warn of the need for educational measures and warn against over-regulation of social networks as this could infringe freedom of expression and be very difficult to enforce, given that computer servers are often outside the jurisdiction.

In other countries in the region, electoral authorities have signed a memorandum of understanding with social media platforms such as Facebook, for example, in Mexico and Colombia.⁴⁷ Under such arrangements, Facebook identifies and removes fake accounts and checks for fake news using fact-checkers. Facebook also identifies and removes fake likes, which can be used to artificially inflate a page's popularity and boost its credibility. With such an agreement Facebook can publish information about online political advertising. It can also activate various civic products, including broadcasting presidential debates via Facebook Live, setting up an Issues Tab in candidates' pages so people can learn more about the politicians' programmes, and other voter education initiatives.

Measures should be considered to address the significant presence of disinformation affecting the online campaign on social platforms. These could include:

- digital literacy and awareness programmes targeting voters and could be organised by the TSE in coordination with the media;***
- establishing cooperation agreements between the TSE and social platforms such as Facebook, as has been done in other countries in the region, in order to foster the integrity of the elections against disinformation;***
- encouraging political parties to avoid the use of hate speech, extreme negative rhetoric and disinformation campaigns by adopting voluntary measures such as codes of conduct and interparty dialogue aimed at protecting the electoral process from online threats.***

12. PARTICIPATION OF WOMEN

Gender parity law, although not fully complied with, resulted in 50 per cent women elected to Legislative Assembly

Bolivia has ratified the Convention on the Elimination of Discrimination Against Women (CEDAW), the Convention on the Political Rights of Women and the Inter-American Convention on the granting of Political Rights to Women. The Bolivian Constitution and Electoral Law contain one of the most progressive gender parity requirements in Latin America and world-wide. Each list of candidates for the Legislative Assembly must contain 50 per cent women and 50 per cent men in alternating positions, which resulted in 50 per cent women elected (63 women out of 130 deputies and 20 women out of 36 senators). This was very slightly down from the outgoing Assembly, but still puts Bolivia at third place in the world ranking.⁴⁸ The parity law was not fully complied with in these elections (see *Registration of Candidates*, above). In positions without quotas, women are less well-represented in political life. For example, there are no women governors; women make up only eight per cent of mayors; and four out of twenty cabinet ministers in the outgoing government.

Women in the legislative assembly and in local politics have reported high levels of harassment and violence.⁴⁹ There is a Law Against Political Violence and Harassment but women's organisations

⁴⁷ For details of the memorandum in Mexico see this [link](#).

⁴⁸ The worldwide figures on women's participation in parliaments can be found at this [link](#).

⁴⁹ A study by the *Coordinadora de la Mujer*, *IDEA Internacional* and the *Universidad Mayor de San Andrés* in April 2019 found that 75 per cent of Legislative Assembly women members had been subject to political harassment or violence, see this [link](#).

report that its implementation is poor.⁵⁰ One of the reasons for the harassment is that parity requirements specify that reserve candidates (*suplentes*) for senators, deputies and local councillors must be of the opposite sex from the main candidate. Elected women, particularly at local level, report that their male *suplente* pressures them to resign so that he can take their seat.⁵¹ This practice arose from what has become known as the “shared mandate” (*gestión compartida*), which was upheld by the Constitutional Court but represents a distortion of the rules on reserve candidates.⁵² Organisations working with women in politics note that party structures tend to be male-dominated, but it is positive that the new Political Organisations Law requires parity to be introduced within party structures.

The Electoral Law needs to be changed to specify that reserve candidates must be of the same sex as the main candidate.

In relation to women’s participation as voters, there is no gender breakdown of voter turnout made available at the time of this report. SERECI told the EEM that this exercise would be carried out after the elections. Women’s organisations told the EEM that this figure has not been made available in prior elections. If that figure were known and it emerged that women were under-represented as voters, steps could be taken to address this.

13. PARTICIPATION OF NATIONAL MINORITIES

Indigenous people were represented in general seats as well as the seven special seats, and voter education was produced in the main indigenous languages.

Bolivia has ratified the 1966 Convention on the Elimination of All Forms of Racial Discrimination as well as the 1989 ILO Indigenous and Tribal Peoples Convention 169. The latter provides for the free participation of indigenous peoples in the elected institutions of their countries. Bolivia has been an active promoter of the United Nations Declaration on the Rights of Indigenous People adopted by the General Assembly on 13 September 2007, and was the first country to ratify it.

The Bolivian Constitution recognises the plurinational and intercultural nature of the state. It also contains comprehensive guarantees for indigenous people, including the right to self-government, protection of indigenous justice systems, the right to collective land titling, and the creation of indigenous autonomies. The Constitution recognises 36 indigenous languages, as well as Spanish, as official languages.

According to the most recent census in 2012, 42 per cent of Bolivians over 15 considered themselves to belong to one of the 36 indigenous nations or to be Afro-Bolivian. Some suspect that if the census had been carried out more thoroughly, the figure would have been higher. The Quechua and Aymara are the largest indigenous groups, the other groups are classified as minority groups (Chiquitanos, Guaraníes and others).⁵³

The changes in the legal framework over the past decade have substantially improved the status of indigenous peoples in Bolivia, who have suffered a long history of racism and marginalisation. However, smaller indigenous groups and those from the eastern lowlands have been disappointed that the constitutional provisions as to collective land titling have not materialised in practice, but rather extractive industries are threatening their traditional territories.

⁵⁰ ACOBOL, the Association of Women Councillors, announced that there were a higher number than in previous years, 117 cases, of political violence reported in 2018, but there were bottle-necks in the implementation of the Law Against Political Violence and Harassment, see this [link](#).

⁵¹ See [declaration](#) by the *Coordinadora de la Mujer* about this practice, made in June 2018.

⁵² The shared mandate is a practice whereby the reserve candidate demands that the main candidate steps down from their elected post part-way through the mandate so that the reserve can take over. This practice does not appear in the law or the Constitution.

⁵³ Electoral Law Art 57.II

In terms of political participation, numerous indigenous deputies have been elected and indigenous ministers appointed. There are also seven seats (special constituencies) reserved for minority indigenous groups in the Chamber of Deputies. They are elected one for each of seven departments (all except Chuquisaca and Potosí), where voters are able to elect either a uninominal or a special indigenous candidate. In practice, the great majority of voters opted to vote for the uninominal candidates rather than the special candidates (votes for the indigenous deputies were as low as 26% in one of the special constituencies). All seven indigenous deputies represent MAS both in the outgoing and the newly-elected Assembly. Some commentators noted that in the outgoing Assembly they were low profile and had achieved little for the many and disparate minority indigenous groups that they represent.

It was also positive that the TSE produced voter education materials and broadcast spots in the principal indigenous languages. Some practical difficulties remain, for example, under-registration in indigenous-populated areas was reported to the EEM. On the positive side, the TSE made efforts to locate polling stations in remote rural areas so that these communities could vote more easily than in the past, when days of travel were required.⁵⁴ The *voto comunitario* where all members of a community are obliged to vote for one particular candidate is said to be an indigenous tradition. However, experts in indigenous affairs told the EEM that this phenomenon is not a purely indigenous tradition, but rather a trade union tradition that is common in organised indigenous communities. Community sanctions were reported to be applied to those who do not comply, which can include the loss of one's land or the payment of a fine.

14. PARTICIPATION OF VULNERABLE GROUPS

The procedures for voting by those with disabilities need improvement; homophobic comments during the campaign were not addressed by the TSE

14.1 Participation of people with disabilities

Bolivia is a State Party to the Convention on the Rights of Persons with Disabilities (CRPD) and the Constitution provides for affirmative action measures to ensure the effective integration of people with disabilities into political life. The TSE took some proactive steps to ensure that voters with disabilities could exercise their political rights on equal terms with other voters, including accessibility of voting centres. However, the procedures for voting by those with mobility difficulties need improvement.⁵⁵

Voting takes place in schools, often with many stairs. If a voter cannot climb the stairs, the president and one member of the polling station staff should bring the ballot box, the voter register, and the ballot paper downstairs to the voter. This did not seem to work well in practice, as polling station staff were often busy and kept the disabled voter waiting. It also raises security risks, as some sensitive materials remain upstairs with only one member of polling station staff while other materials are downstairs. The 2014 Regulation on Assisted Voting allows voters with a disability to make a note on the voter register of their need. However, this is limited to those holding an official disability card.

The TSE and the civil registry (SERECI) could allow a voter to self-certify in advance of elections that they need an accessible polling station. This would also help the elderly and disabled people without an official disability card. Accessible polling stations could then be arranged on the ground floor of each centre.

For voters who need assistance in marking their ballot paper, such as those with visual impairment, the procedure is that they can be assisted by a person of their own choice. But the law specifies that

⁵⁴ There were almost 800 polling stations with 50 or fewer voters in these elections.

⁵⁵ The Electoral Law provides for assisted voting in Article 160 and in a 2014 Regulation on Assisted Voting.

they must be accompanied in the voting booth by the president of the polling station staff, which compromises their right to secrecy and is not in line with international standards.⁵⁶

14.2 Participation of LGBTI groups

The outgoing government introduced various progressive laws and initiatives to promote equality and inclusion for LGBTI groups.⁵⁷ These achievements have been somewhat undermined by a social and institutional culture of discrimination towards LGBTI groups. There are hate crimes carried out against LGBTI people, for example 60 trans women have been murdered in the past 12 years.⁵⁸ This restricts the full enjoyment by the LGBTI population of their political rights as voters and candidates. There was one openly gay Cabinet Minister in the outgoing government but no other openly gay national politicians.

The LGBTI population was concerned that during the campaign there were high-profile homophobic comments made by PDC presidential candidate Chi Hyun Chung. He said that the fires in the Chiquitanía were a punishment for the sins of the LGBTI community, and that they need psychiatric treatment. The *Colectivo TLGB* of Bolivia reported these statements to the TSE as homophobic and transphobic hate speech. However, the TSE took no action, claiming this was not within their competence. The EEM believes this was an abdication of responsibility, as the Electoral Law prohibits campaign messages that promote discrimination and intolerance.

The TSE should act firmly to enforce the laws prohibiting campaign messages that promote discrimination and intolerance.

The progressive Gender Identity Law of 2016 allowed a person to change their sex, name and photograph at the civil registry (SERECI) and to have their new gender identity reflected in their birth certificate, ID card, and all official and private documents. However, it was substantially undercut by a 2017 Constitutional Court judgment that declared it unconstitutional for a transgender person to exercise their political, civil and other rights in their new gender.⁵⁹ This changed and weakened the law and was another example of the Constitutional Court taking a very broad view of its powers and taking controversial political decisions. The judgment also made a non-binding comment that it would violate women's rights to parity if transgender women stood as women candidates, but the TSE allowed transgender women to stand as women.

SERECI told the EEM that at least 250 people had used the new law to change their gender identity in their official documents. However, the EEM was made aware that in some cases the photograph in the voter's certificate, which each voter collects at the polling station and which is needed for official business, was not updated in line with the civil register and ID card. This meant it had a photo of a different gender from their ID card, making any official business difficult, as well as breaching the confidentiality of their change of gender identity.

The voter register needs to be updated in line with the civil registry to reflect all the details of a person's change of gender identity.

15. CIVIL SOCIETY AND INTERNATIONAL OBSERVATION

International observers were present but domestic observers were completely absent due to the restrictive regulation on observers

⁵⁶ "States Parties shall (...) protect the right of persons with disabilities to vote by secret ballot.....guarantee the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice", Article 29(ii) and (iii) of CRPD.

⁵⁷ Article 14 (II) of the Constitution prohibits discrimination on grounds of sexual orientation or gender identity. The 2010 Law Against Racism and All Forms of Discrimination establishes mechanisms to sanction all forms of discrimination. There is a national day for those of diverse sexual orientation as well as a national day against homophobia and transphobia. The Gender Identity Law 807 was introduced in 2016.

⁵⁸ See *Colectivo TLGB Bolivia* at this [link](#).

⁵⁹ TCP judgment 0076/2017, available at this [link](#)

The TSE registered a total of 254 international observers. The OAS deployed an election observation mission headed by Manuel González Saénz, former Costa Rican foreign minister, with 92 observers. The TSE registered 104 diplomats from different countries, 24 observers from UNIORE (Union of Inter-American Electoral Bodies), four from the MERCOSUR parliament, two from the EU, three European Parliamentarians, nine from the British Foreign Office and 16 from other organisations.

No domestic observers were registered, in contrast to the general elections of 2009 when over 4,000 domestic observers were registered. The absence of domestic observers may be because they were discouraged by the legal requirements, for example, they have to present to the TSE a description of their financing sources, and detailed plans as to their activities on election day. They are not allowed to carry out quick counts. The absence of domestic observers made the presence of party agents more important, but in many rural areas there were few or no opposition party agents present.

The Regulation on Observation needs to be amended to reduce the registration and other requirements for national observers in order to facilitate their participation.

However, various civil society initiatives were set up to monitor the count, as it is open to the public and any citizen can photograph the results form and send it via an app. These initiatives included *Tu Voto Cuenta* organised by *Universidad Mayor de San Andrés* (UMSA) and *Fundación Jubileo, Yo reporto Bolivia* set up by *La Ruta de la Democracia* and *Manda tu acta* set up by a group of activists. The TSE stated that it did not object to this taking place. After the elections, numerous civil society groups made studies of the alleged irregularities and fraud. Some of these were serious and well-founded.

16. ELECTORAL DISPUTES

TSE's near silence regarding alleged campaign violations and weak electoral justice system meant right to an effective remedy was breached

16.1 Candidate challenges

The deadline for candidate challenges was 5 October, and the TSE received 99. The TSE rejected all of them, generally on the grounds that insufficient proof was presented, or that there was no violation of the candidate requirements. The great majority of the challenges related to internal disputes within parties, particularly the small party PAN-BOL, but also large parties such as MAS.⁶⁰

Two parties challenged Morales' candidacy, arguing that it breached the referendum result and the Constitution. These challenges were rejected because the issue did not relate to the candidate requirements set out in the law. The *Colectivo TLGB* of Bolivia challenged Chi Hyun Chung's candidacy, arguing that his statements were discriminatory and homophobic. This challenge was rejected on the grounds that it did not breach the candidate requirements, although some commentators thought his speech breached the campaign regulation and criminal law.

16.2 Electoral justice in relation to campaign violations

Many commentators noted the near silence of the TSE regarding alleged campaign violations. This seemed to be due to the TSE's passive approach to its enforcement responsibilities and its lack of transparency concerning its actions. The prohibitions in the law include the use of state resources for campaign purposes, and the broadcasting of government publicity during the media campaign period.

The Electoral Law envisages that campaign violations (*faltas*) are dealt with at first instance by an electoral judge. These decisions can be appealed to the TED and ultimately to the TSE. Sanctions for individuals include fines, and if a fine is unpaid, community service or detention. Sanctions for parties

⁶⁰ There were 77 challenges brought against the vice-presidential candidate for PAN-BOL, Leopoldo Chui Tórrez. He was elected in the primaries, but subsequently fell out with the party. He had presented all the correct papers and he refused to resign, so the party could not substitute him.

include fines, and in more serious cases the loss of legal personality and suspension of the mandate for those holding elected office. The misuse of state resources is classified as a serious violation.

In previous elections, the TEDs and the TSE dealt with campaign violations themselves, while the role of electoral judges was to deal only with minor local violations. The new approach the TSE took to the enforcement of campaign rules for these elections - sending cases to electoral judges rather than deciding cases themselves – was a source of delay and confusion. Over 600 judges were selected at random from the pool of ordinary judges. But they do not have specialist electoral knowledge and they are at the bottom of the hierarchy. It seems plausible to assume that a local judge has less ability to take on powerful political figures or controversial cases at national level than the TSE does, being the fourth power of the state. In some cases the judges did not comply with the time limits set out in the Electoral Law. As a result, there was not the right to an effective remedy as mandated by international standards.

The jurisdiction of electoral judges could be limited to minor cases such as alcohol violations. More serious cases such as the abuse of state resources should be decided by the TEDs with an appeal to the TSE. The TSE's decisions should be subject to judicial review either by a high ranking ordinary court or by a specialist chamber of the Supreme Court. In any case the possibility of bringing a constitutional challenge (recurso de amparo) should continue to exist. The TSE should enforce the time limits set out in the Electoral Law for deciding upon complaints and appeals.

This change led to a protracted battle over the correct jurisdiction to consider Evo Morales' alleged violation of campaign rules. He was accused of campaigning before the campaign period began and of promising public works in exchange for votes. This took place at an event in Morochata (Cochabamba) in June 2019, and Morales subsequently claimed he had been joking. A complaint was made to the TSE, which the TSE sent to the local electoral judge. Morales' representative made a legal challenge to the judge's jurisdiction, the judge refused to take jurisdiction and returned the case to the TSE. It was sent back to the judge, who eventually decided in July 2019 to take jurisdiction. The law sets out a short timeframe of 12 days for judges to deal with such cases, but the case was not decided until early November, almost three weeks after the elections. The judge found both violations proven against Morales and imposed a fine of 10,610 Bs (approximately €1,400). No fine was imposed on the MAS party, which would have been an amount 10 times greater.⁶¹

There is very limited public information available as to how electoral justice is working. On 11 October the TSE published on its website details of three complaints it had sent to electoral judges out of more than twenty. One of the cases concerned the alleged violation of the opinion poll rules by UMSA and *Fundación Jubileo*, for publishing the *Tu Voto Cuenta* opinion poll without having clarified where their financing came from. It is striking that this issue, which was pending a formal TSE decision for over a month, was eventually passed to an electoral judge for a decision. By the time final results were declared, the case was still pending. The EEM believes the TSE did this either in order to avoid taking a controversial decision or in order to prevent publication. The two other complaints that the TSE published information about were cases against two state media outlets in relation to government publicity.

When the EEM asked the TSE for details about any other cases it had dealt with, no systematic information was available nor was information about complaints cases available on the TSE's website. This contrasted with previous elections when the TSE published its resolutions on its website. Furthermore, it was almost impossible to find out information about cases sent to electoral judges or ordinary criminal judges or prosecutors. They did not publish details of cases online, nor did the TSE, although the TSE and TEDs received notifications from judges involved in electoral cases. Nor did the TSE maintain a database of electoral jurisprudence.

⁶¹ There is a specific provision in Art. 8.I.c) of the Regulation on Sanctions and Fines for Electoral Violations that imposes a fine of 50 times the minimum wage for this violation. However the judge applied the more general provision in article 34.II.b) of the Regulation on the Electoral campaign that imposes a fine of five times the minimum wage.

It is striking that despite numerous complaints of campaign violations, there was only one significant case when a sanction was applied (Morales' violation of campaign rules in Morochata, described above).

16.3 Monitoring of media compliance

The TSE is responsible for monitoring electoral publicity in the national media and also has the responsibility, on its own initiative, for suspending the publication or broadcast of any publicity that violates the law. The TEDs have the same responsibility in relation to local media. The TSE, using the services of a private company, monitored compliance with the rules on the maximum time or space for paid party spots and free access spots in the media. In the 2019 Campaign Regulation the TSE set up an Analysis Commission to consider the results of the media monitoring and determine whether campaign rules were breached.

However, it is not clear what the Analysis Commission did or what resulted from its work. According to the TSE, they were too modestly staffed to accomplish this task, but this may be because their methodology was inefficient, given that their responsibility was only to monitor national media. In terms of the TEDs' local media monitoring, in many instances they had neither the human or basic technical resources to carry this out. Some TEDs were not able to hire a private company to assist them.

The TSE and the TEDs should carry out their legal duty to monitor not only the time and space limits of electoral publicity (paid and free) in the mass media, but also the content. The TSE should be provided with enough financial and human resources so they are able to comply with their duty.

As the TSE did not provide information about its media monitoring, the only available information came from small studies on specific issues carried out by the media, for example regarding how many government ministers were launching public works projects. A proper media monitoring project by the TSE would have been able to provide empirical data on imbalances in the campaign.

16.4 Complaints and appeals on election day and during the results process

Complaints during the voting process can be made to polling station staff, who will decide the issue by a majority vote. Challenges to election results may only be brought by party agents,⁶² and must be made at the polling station and brought within 48 hours to the TED - who will deal with the challenge. Appeals against TED decisions are dealt with by the TSE, with no further appeal possible. Party agents are a key part of the challenge process, and they are able to register at each in-country polling station on election day. For the first time in these elections the TSE required party agents to register in advance for out-of-country polling stations (by 11 October), which some opposition parties criticised as an attempt to restrict their participation.

The restrictive provisions meant that very few formal challenges were brought. This was problematic because many irregularities only emerged after election day. Furthermore, the law does not allow re-counts, so if there is a problem with the results the only option is to annul the results and repeat the election. However, if an out-of-country result is annulled the voting cannot be repeated.

17. POLLING, COUNTING AND TABULATION OF RESULTS

Election day was generally peaceful, but a significant number of results forms were filled in badly

⁶² Citizens who are registered at a polling station may make observations on the polling station results but may not bring formal challenges. The TED decides whether an observation establishes grounds to annul the results.

17.1 Voting

Voting is mandatory in Bolivia but optional out-of-country and according to the final results total turnout worldwide was 88.31 per cent. This represents a slight increase as compared to 87.9 per cent turnout in 2014. The turnout for overseas voters was 61.57 per cent.

According to interlocutors and media reports, voting was mostly conducted in a peaceful and organised manner. However, a serious incident took place in the morning at a BDN campaign office in Santa Cruz. In a police raid 106 party activists were arrested, tear gas was used and computers were seized. The police explained their reason for the arrests was that they suspected people were holding a meeting and drinking alcohol. The latter is prohibited in the electoral law. BDN denied they were drinking alcohol and said that this office was used as a results data centre as well as a support base for party agents. They were all released within 48 hours without charge and this appears to have been an abuse of police powers.

The TSE and its nine TEDs were well-prepared for polling day, with timely distribution of election materials to the 34,538 polling stations in-country and overseas. In most polling centres, there was sufficient polling station staff to ensure timely opening. In a few polling stations staff did not turn up, causing a delay in opening while voters were deployed as staff (as provided by the law). The relatively small number of voters, a maximum of 240 per polling station, facilitated the voting process. Some polling stations were positioned in school corridors, while the classrooms were used as polling booths. This resulted in heavy overcrowding and a lack of security for sensitive election materials. A better layout observed in other polling stations was to locate the whole polling station inside a classroom.

There were various last minutes changes of location of polling centres in La Paz, El Alto and Santa Cruz which caused consternation as some voters had to walk several kilometres to find their polling stations.⁶³ In Pando department, there were allegations of organised transport of around 150 voters from Beni, in areas that had already been the subject of alleged politically-motivated changes of address during the registration period.

According to observers in out-of-country voting centres, the voting took place without major incident, although there were some alleged irregularities. For example, in Argentina MAS party agents were appointed as polling staff when staff failed to turn up.

17.2 Counting

Polling stations closed at 4pm, except for those that had opened late or those where there were still people in the queue. Those people were allowed to vote, in line with international good practice. The EEM observed counting at a polling station in La Paz. The count was open to party agents and any citizen, which is a positive transparency measure. There were complaints from Barcelona that a polling station closed early, preventing many citizens from voting. There were also allegations of the count being closed to the public in Barcelona and a few stations in country.

Counting at polling stations proceeded smoothly in most of the country. The count was facilitated by a short counting process, with only one ballot paper for the presidential candidate, the uninominal deputy candidates and, where applicable, special indigenous deputy candidates. There was only one electoral results form to fill in. Election officials were on hand to provide assistance and clarifications to polling station staff members. However, there were a significant number of mistakes and irregularities in filling in the forms.

Some of the mistakes appear to be due to a lack of clarity in polling station staff training. For example, the training materials did not mention the primacy of the voter's clear intention when deciding whether a vote is valid. Other errors were harder to explain and could indicate biased decision-making or fraud. Whether innocent mistakes or deliberate strategies, inappropriate decisions to invalidate

⁶³ The TED in Santa Cruz informed the EEM that in the case of Santa Cruz this was due to voter confusion because several schools had the same name.

votes could have affected the final results. Another category of mistakes was due to a misguided instruction in the training materials to classify unused ballots as invalid votes (*anulados*). However this did not affect the final results but did affect the turnout figure.

18. RESULTS AND POST-ELECTION ENVIRONMENT

The results process was heavily flawed, resulting in widespread public distrust and an OAS audit report that concluded the results could not be trusted; following this President Morales resigned, members of the TSE were arrested, and fresh elections will be held

18.1 Preliminary results system (TREP)

The TSE established the TREP for the presidential results.⁶⁴ This was intended to be a confidence building measure because it would provide swift results on election night. TREP results are preliminary results and do not have any bearing on the distribution of seats.⁶⁵ Scanned copies of all registered results forms are published on the TREP website which is a positive transparency measure.

The TSE's initial plan was to stop publishing TREP results at 8pm on election day with about 80 per cent of results. The reason they gave was that official results would start to be published at that time and they wished to avoid confusion between the two sets of results. The EEM and others expressed concerns about this because if the results were close, 80 per cent is insufficient to give an accurate picture and could be misleading. The TSE appeared to take this on board when on 9 and 10 October they explained to the media and political parties that the results would be given in two tranches. The first at 8pm with around 80 per cent of results, and the second at midnight with around 90 per cent of the results. The following day the TREP would keep going until it reached almost 100 per cent. Although it was a positive move to explain this plan to the media and political parties, opposition parties complained that they did not have access to the TREP IT system, which generated some suspicion towards it.

At 7:40 pm on election night the TSE announced partial preliminary results with 83.8 per cent of votes registered in the TREP system. It is worth emphasising that this first release of TREP results occurred without results having been made public progressively from the very beginning. This is unusual and the EEM's view is that it would have generated more confidence if people could have followed the progress of the results from the start. These results showed the incumbent Evo Morales of the MAS leading with 45.71 per cent. In second place was Carlos Mesa of CC with 37.84 per cent, a difference of 7.87 per cent. If the results had continued to follow this pattern there would have been a second round. The two quick counts, carried out by *Víaciencia* and *Tu Voto Cuenta*, confirmed this tendency.⁶⁶ The OAS's internal statistical exercise also confirmed this.

Carlos Mesa was the first to declare, saying that there would be a second round. Shortly afterwards at 9:30 pm Evo Morales declared that he had won because the votes remaining to be counted were from rural areas and would be for him. The third place opposition candidate Chi Hyun Chung of PDC said he would negotiate with Mesa and fourth place candidate Oscar Ortiz of BDN said he would back Mesa in the second round.

⁶⁴ Each results form was scanned at the polling station by a specially trained TREP official and sent to the data centre in La Paz. There the results were entered into the servers and if they matched and did not have any problems, they would be uploaded as preliminary results. If they did not match those results were classified as not verified. The TREP website is www.trep.oep.org.bo

⁶⁵ The TREP has been used since 2016 and the TSE contracted a private company to provide the software system.

⁶⁶ *Víaciencia's* quick count gave 43.8 per cent to Morales and 39.3 to Mesa, a difference of 4.5 per cent. *Tu Voto Cuenta* gave 44 per cent to Morales and 38.7 to Mesa, a difference of 5.3 per cent.

Decision to stop the TREP

In an alarming decision the TSE ordered the TREP to stop processing results shortly after this results announcement on election night. No explanation was given for this at the time. It generated great concern amongst interlocutors and the opposition. They feared that the government was not happy with the preliminary results and had intervened to stop the process, with a view to some manipulation of results. Protests began growing exponentially following the decision to halt the TREP results. Added to this various suspicious incidents came to light, such as hundreds of boxes of electoral materials being found in a private house in Potosí, and various results forms and ballot papers being found in people's possession. The TSE gave no explanation about these incidents.

On 21 October candidate Carlos Mesa called for peaceful protests by all opposition parties and civil society. The OAS, the EU delegation and various states expressed their concerns and urged that the publication of TREP results should continue and that the TSE should explain why it had stopped publication. The TSE gave contradictory reasons for the decision to suspend the TREP results: the TSE president initially said this was in order to avoid confusion between the TREP results and the official results; another reason given was that it had always been the plan to stop the TREP at 80 per cent. Subsequently, a different reason was given: that there were technical problems.

Ensure that the preliminary results process is made public from the beginning of the process and that it continues being made public throughout. The process should continue until the results are as close to one hundred per cent as possible.

Decision to re-start the TREP

At 7pm on Monday 21 October the TREP suddenly re-started, showing 95 per cent of results forms processed, with a lead for Evo Morales of almost 10 per cent. Morales' lead was over 10 per cent 20 minutes later, meaning that if confirmed by final results, there would be no second round.

The re-starting of the TREP without having shown the progress of results between 83 per cent on Sunday night and 95 per cent on Monday night, combined with Morales' victory, generated enormous suspicion and protests (see *Post-Election Context* below). There was already a huge lack of confidence in the TSE before the TREP debacle. The EEM believes that the TSE's decisions combined with their failure to provide explanations for their decisions or for the change of results, irrevocably damaged trust in the results process. The OAS issued a statement expressing deep concern at the drastic change in the TREP results from those announced on Sunday, which they said was hard to explain.

The TREP concluded with 95.63 per cent of results forms verified and published. There were 3.28 per cent of results forms sent to the TREP but not verified or published and 1.09 per cent of results forms that never reached the TREP. The last TREP result showed 46.85 per cent for Morales and 36.74 per cent for Mesa, a difference of 10.11 per cent.

There was a further blow to the credibility of the TREP process when vice-president of the TSE Antonio Costas resigned on 22 October. He gave the reason for his resignation as the unwise decision to stop the TREP results on election night, which he said had discredited the whole electoral process and caused unnecessary social conflict.

18.2 Final results

As soon as the polling station count is completed, each results form is taken to the TED for departmental tabulation. The only change that the TED may make to a polling station results form is the correction of arithmetical errors, and the same applies to the TSE when considering TED results forms. The TED or the TSE also have the responsibility to decide if the results form is valid or should

be annulled if grounds of annulment are made out.⁶⁷ When a polling station result is annulled the vote has to be repeated two weeks later (3 November), regardless of whether it would affect the final result. It should be noted that the Election Law in Bolivia makes no provision for a partial or total recount of the vote. As the TED checks over each results form, it is posted on a large screen and then uploaded to the national results website. It is a positive transparency measure that all results forms are available online and the results database can be downloaded too. The TEDs have seven days to complete departmental counts and once all are completed the TSE announces final national results.

It would increase trust in the results process if it were possible to recount ballots.

Most departmental counts were substantially complete by Tuesday 22 October. But the tabulation process was temporarily stalled because the departmental counts in Chuquisaca and Potosí were suspended due to fires at their offices. The TSE gave no explanation as to what was happening with the tabulation process in these departments. On the evening of 23 October the Potosí TED issued a press release announcing that the departmental count would continue the following morning in another municipality (Llallagua). Opposition candidates complained that this violated the electoral law and that they were not permitted to observe the count although MAS party agents were present. The election law requires 72 hours advance notice of the count location and it must be public.⁶⁸ According to the president of the Potosí TED more than 200 results forms were burnt in the fire and so they used TREP photographs instead. This is not permitted by the election law, which requires two original copies of the results forms in cases where the original form is missing. The Potosí count was completed on Thursday 24 October.

The departmental count in Chuquisaca also took place in another municipality (Zudáñez) on 24 October. Prior to this on 22 October one of the Chuquisaca TED members resigned affirming her commitment to democracy and on 23 October two key TED staff resigned, stating publicly their strongly worded concerns about the way the departmental count was being carried out.

There were further resignations from the TSE and the TEDs after the elections, most notably the President of the TED Santa Cruz, considered to be one of the best TEDs in the country. The Directors of the Civil and Electoral Registry in Santa Cruz and Pando also resigned, as did several other senior officials at national and local level. Some of those who resigned wrote strongly worded resignation letters mentioning a conflict between their ethical values and those of the TSE and disagreement with decisions taken by the TEDs or TSE.

18.2.1 Irregularities and TEDs/TSE response to irregularities

Many people expressed concerns about the integrity and accuracy of the final results, and various analyses circulated on social media highlighting alleged irregularities. The EEM made a limited scope study of the official results and found a range of errors and irregularities.⁶⁹ These included polling stations with unusually high numbers of invalid votes, blank votes and one hundred per cent turnout.⁷⁰

⁶⁷ The Electoral Law sets out grounds of annulment of results forms in Art. 177. This include the absence of signatures and fingerprints of at least three polling station staff, alteration of figures which is not noted in the observations, a number of votes greater than the number of registered voters, loss of the original form unless it is replaced by two original copies and the existence of elements which contradict the information in the form.

⁶⁸ This is provided by Art. 175 of the Electoral Law.

⁶⁹ The official results database could be downloaded as an Excel spread sheet and all results forms could be viewed on the official results website <https://computo.oep.org.bo/resultados.html>. The EEM focussed on the presidential race but as there is only one results form for both presidential and deputy races, some of the problems described here would have affected the deputy results too.

⁷⁰ Of the total of 34,555 polling stations worldwide, the EEM found 1,285 with ten per cent or more invalid votes. The national average of invalid votes was 3.55 per cent. In general good electoral practice would result in less than five per cent invalid votes. International IDEA's voter [turnout database](#) shows a global average of four per cent invalid votes. There were 2,526 polling stations with five per cent or more blank votes, while the national average was 1.45 per cent. Although some of the invalid and blank votes appeared to be explicable as the mistaken categorisation of unused ballots,

The EEM found 105 polling stations with 100 per cent of votes for Morales, which in some cases could be an indication of the *voto comunitario*,⁷¹ but in other cases the results were anomalous compared to adjacent stations in the same centre. It is notable that the department of Potosí is overrepresented in all of the above anomalies. The EEM found numerous mistakes in results forms, such as filling in the presidential votes in the section of the form for deputy votes and vice-versa. The EEM also found various results forms that should have been annulled: stations with votes added to MAS during tabulation, stations in La Paz where polling staff requested annulment due to fraud but the TED did not annul them, results forms with no results filled in or with no signatures of polling station staff, illegible results forms, and photographs of results forms instead of originals. None were annulled.

Although these problems originated at polling stations, it was the responsibility of the TEDs and the TSE to examine them in the tabulation process and decide which results were valid, but they failed to do so. The TSE failed to issue a regulation or instruction on the procedure for dealing with problems in results forms, and as a result this was a chaotic and ad hoc process. Numerous arithmetical errors were not corrected, whilst other corrections were made during tabulation by IT staff on a piecemeal basis without close supervision by the electoral bodies. Any change made to results forms is supposed to be reflected in the observations on the form, but in many cases no observation was added, or an observation was added with no name or date. Apart from the Beni TED which annulled four polling station results, a decision which was subsequently overruled by the TSE, there was a total failure by TEDs and the TSE to annul results which should have been annulled. In previous elections there have usually been annulments with the vote repeated two weeks later.

The TSE needs to issue an instruction on the procedure for dealing with problems in results forms at the TED and TSE level. This need to specify who may make changes and that changes must be reflected in the observation on the form and that any form showing grounds for annulment should be annulled.

18.2.2 Announcement of Final Results

On Friday 25 October the TSE released final results for the presidential race showing 47.08 per cent for Morales and 36.51 per cent for Mesa, with Morales declared the winner in the first round with a difference of 10.57 per cent. In third place was PDC candidate Chi Hyun Chung with 8.78 per cent and in fourth place was BDN candidate Oscar Ortiz with 4.24 per cent. All five other candidates did not cross the threshold of three per cent of valid votes. The turnout was 88.31 per cent.

The TSE were able to reach 100 per cent of results by overruling the decision of the Departmental Electoral Tribunal in Beni to annul the results in four polling stations. These were the only results that had been annulled, although there were numerous other polling station results that should have been annulled. The TSE informed the EEM that although one of the Beni polling stations was correctly annulled by the TED, the TSE decided to overrule this decision because it only involved a small number of voters. This decision is not in line with the law and showed the TSE's desire to declare the presidential results quickly. The TSE's press statement invited international organisations to audit the results.

On 5 November the TSE released final results for the Legislative Assembly. The national results form had been signed on 1 November but the results not made public. The declaration of results was made past the legal deadline and without any advance notice to observers or party agents, in contravention of the law. This is another instance of the TSE's weak performance and poor communication strategy.

According to the TSE's declaration of results MAS no longer had a two-thirds majority but won an absolute majority in both chambers. In the 36-member Senate, MAS won 21 seats, CC 14 and BDN

other cases were inexplicable. The EEM found 45 polling stations with one hundred per cent turnout, which is highly unusual if not implausible, especially in large polling stations.

⁷¹ The "*voto comunitario*" is when voters are pressured to vote in accordance with their community's preferences.

one. In the 130-member chamber of Deputies, MAS won 67 seats, CC 50, PDC nine and BDN four. All seven indigenous seats went to MAS. There were 20 women elected to the Senate (55 per cent), an increase compared to the outgoing Senate, and 63 women to the Chamber of Deputies (48.5 per cent), a decrease compared to the outgoing chamber. The legislative elections will be repeated in 2020 (see *Consequences of the Audit Report*, below)

18.3 Post-election context

Protests exploded in all departments of the country and violence broke out in some areas following the decision to stop the TREP on 20 October and the decision to restart it on 21 October. In Sucre, Potosí, Beni, Pando and Santa Cruz election offices were set on fire and in Oruro the MAS office was destroyed. MAS mobilised its supporters in protests which became violent. The civil society organisation *Consejo Nacional para la Democracia* (CONADE) called for an immediate nationwide general strike, as did the *Comité Cívico pro Santa Cruz*, headed by Luis Fernando Camacho. Throughout this period Camacho grew in importance as a political actor and came to La Paz to demand that Morales should resign within 48 hours, otherwise protesters would begin a peaceful takeover of all state institutions.

The government blamed Camacho and opposition candidate Carlos Mesa for the violence. They both responded to these accusations by denying that they were organising anything illegal, or that they were inciting violence. They argued that there was massive fraud. Mesa said he was very proud of the multi-ethnic character of Bolivia and denied any racism. He called for national unity in defence of democracy. Camacho made a public appearance with an indigenous leader and also called for national unity.

The EU made a statement registering its concern about the interruption of the TREP,⁷² as did various countries and the OAS, who questioned the change in tendency. The OAS presented its preliminary statement on 23 October.⁷³ They emphasised that an election process must be credible, transparent, equitable, and impartial. Their conclusion was that because the TSE's credibility was so badly damaged, because the results were so close, and because the whole process had lost credibility, the best option would be to have a second round. The permanent council of the OAS held an extraordinary session on 23 October to discuss the situation in Bolivia. As a result the government invited several international organisations including the OAS and the EU to carry out an audit of the results. The OAS accepted this invitation (see *OAS Audit*, below).

The EU made a statement on 24 October agreeing with the OAS assessment that the best option would be to hold a second round, in order to restore trust and ensure respect for the democratic choice of the Bolivian people. The EU also called for a constructive and non-divisive approach in order to achieve national reconciliation.⁷⁴ EU member states such as Germany, Spain and the UK made statements along this latter line. Germany, UK, Brazil, Colombia, Argentina and Paraguay also called for a second round.

The social and political tensions grew across the country, with particularly high levels of tension in Santa Cruz. President Morales denounced that the opposition were preparing a *coup d'état* with international support. He accused the OAS election observation mission of encouraging the coup. He called on social organisations, trade unions, miners, indigenous people and *campesinos* to mobilise in defence of democracy and against what he called the racist right-wing attempt to overthrow his victory. There were mass mobilisations of social organisations that supported MAS and violent clashes in various parts of the country.

In the main cities opposition supporters launched indefinite strikes in support of their vote, while *campesino* movements and MAS supporters began to cut off the supply routes to these cities at the

⁷² The EU statement of 22 October is available at this [link](#).

⁷³ The OAS statement of 23 October is available at this [link](#).

⁷⁴ The EU statement of 24 October is available at this [link](#).

president's urging. The opposition began to make demands for the annulment of the whole election rather than for a second round and for a new TSE to be appointed. The conflict intensified and opposition protesters closed some border crossings and over 42 state offices. There were over seven hundred injuries reported in the post-electoral protests in various cities and regrettably twenty-five people were reported killed, according to figures published by the Inter-American Commission on Human Rights. The United Nations High Commissioner for Human Rights Michelle Bachelet sent a human rights monitoring mission to Bolivia on 11 November.

18.3.1 OAS audit and reactions to the audit

The OAS and the Bolivian government agreed that the OAS would deploy an audit team. The Bolivian foreign minister confirmed that the audit findings would be binding. Various EU member states and the OAS made declarations in support of the audit. The Bolivian government invited countries and international organisations to accompany the audit process. Spain, Mexico and Paraguay provided direct support to the OAS mission while the EEM monitored the OAS activities. The overall goal of the audit was to assess the transparency and legitimacy of the electoral process from election day until the end of the official tabulation, as the electoral process prior to election day was covered by the OAS EOM. The OAS audit team of 30 people was in country between 30 October and 10 November. It included specialists in IT, document forensics, graphologists, statisticians, election lawyers and election administration experts. Teams of two were intended to be deployed to each of the nine departments of the country to examine what happened after the closure of polling stations, including with the chain of custody of election materials. Due to security problems they were not able to deploy to Santa Cruz, Chuquisaca, Potosí and Oruro, so they worked remotely on these departments. The team invited opposition parties, civil society groups and members of the public to present information to it. They received over 250 reports alleging fraud.

18.3.2 Audit findings and recommendations

On 10 November the OAS Secretary General announced the preliminary conclusions of the audit.⁷⁵ He concluded that the election results should be annulled and fresh elections held as soon as appropriate conditions are in place, including a new TSE. The team found irregularities in all four areas that they examined: the IT system for the TREP and the final results; the chain of custody of electoral materials; the lawfulness and integrity of the results forms; and a statistically improbable tendency in the final five per cent of results.

The audit conclusions were as follows:

- The analysis of the IT system concluded that it lacked adequate security controls and that the data had been modified such that it was not possible to guarantee the integrity of the data or trust the results.
- With respect to the chain of custody of the electoral materials there were inadequate controls in place and poor coordination with the security forces. Given that there is no recounting of votes, the security of the results forms is vital.
- With regard to the lawfulness of the integrity of the results forms, the OAS examined 333 doubtful results forms. They found that 23 per cent showed irregularities such as the MAS delegate have filled in all results forms in the voting centre, 100 per cent turnout which is practically impossible and forged signatures. They also found from another sample of 894 results forms that 38 per cent of the results forms from Argentina showed a number of votes greater than the number of registered voters.

⁷⁵ The preliminary report of the OAS audit is available at the following [link](#).

- The statistical analysis of the final results showed that the final five per cent of results had a statistically improbable tendency in the widening of the gap between Mesa and Morales to reach more than ten per cent.

The irregularities were such that the audit team concluded that they could not trust the election results and a new electoral process should be held. The audit team published their final report on 4 December 2019.⁷⁶ The EU High Representative issued a statement on 10 November, reiterating that a new and timely election with a new electoral authority is necessary to restore trust and credibility in the Bolivian democratic system.⁷⁷

18.3.3 Consequences of the audit report

After the release of the audit report, Morales stated that fresh elections needed to be held with a new TSE and involving new political actors. Both MAS supporters and opposition supporters took to the streets, there were violent clashes and various politicians' houses were set on fire. These circumstances prompted a wave of resignations within the government and other institutions.⁷⁸ The head of the armed forces publicly suggested that Morales resign in order to pacify the country. Later in the afternoon of 10 November Evo Morales resigned as president and Alvaro García Linera as vice-president. They said that they were resigning in order that the violence caused by Mesa and Camacho would stop. Morales said that he did not agree with the OAS audit report which he accused of being motivated by imperialism. García Linera said that a coup had been carried out. On the evening of 11 November Morales and García Linera flew to Mexico where they were offered political asylum. Since then, Morales carried out an intense international campaign denouncing racism and a coup, rejecting the OAS report findings as politically motivated. On 10 November the public prosecutor announced that arrest warrants had been issued for the TSE and TED members. By the following day, the TSE president María Eugenia Choque, former vice-president Antonio Costas, two other members of the TSE and 33 TED members had been detained.

At the time of this report, there was some disagreement as to the constitutional next steps. The Constitution (Art.169) provides that in case the president and vice-president resign, the president is to be replaced by the president of the Senate. Both the president and the first vice-president of the Senate also resigned. On 12 November second vice-president of the Senate, Jeanine Áñez from opposition party *Unidad Demócrata* (UD), was sworn in as president, supported by a resolution of the Constitutional Court. The Court relied on earlier jurisprudence to conclude that no law or congressional resolution was required for presidential succession, but rather it takes place *ipso facto* in order to ensure immediacy and continuity. However, MAS argue that both chambers of the Legislative Assembly need to accept the resignation of the president and vice-president before they can take effect (Art.161), and so they believe that Morales remains president.

There was uncertainty over the date for the new elections. The Constitution provides that in certain cases of presidential resignation (which may by analogy apply to this case), new elections should be held within a maximum of 90 days (Art.169). In any event there will need to be political negotiations as to how the elections take place, the appointment of the new TSE members and who may stand as candidates. Amendments will also need to be made to the electoral laws to establish the relevant time periods for the elections and to determine whether there will be new primary elections.

Violent incidents and unrest continue throughout the country, currently appearing to be primarily carried out by MAS supporters. The police were unable to contain the unrest and on the evening of 11 November the armed forces deployed on the streets to restore order.

⁷⁶ The final report of the OAS audit is available at the following [link](#).

⁷⁷ The EU High Representative's statement is available at the following [link](#).

⁷⁸ The resignations on 10 November included the president of the Senate, the vice-president of the Senate, the president of the chamber of deputies, the communications minister, the deputy foreign minister, the planning minister, the culture minister, the hydrocarbons minister, the attorney general, the governors of Cochabamba and Beni, and others.

19. RECOMMENDATIONS

The EU EEM 2019 offered 25 recommendations to improve future electoral processes. These recommendations include ten recommendations made by previous missions but not yet implemented. The EEM updated these recommendations in line with current circumstances. Sixteen recommendations require amendments to primary legislation, the responsibility of the Legislative Assembly. A few require the TSE to amend its regulations, and most of the remaining recommendations could be addressed by the TSE making operational changes without the need for any legal amendments. The EEM has identified several of these as priority recommendations that it advises should be implemented before the 2020 elections, which are feasible in the short time available.

Key issues covered by the priority recommendations include: to prohibit all use of public resources for campaigning, to improve the system of electoral justice, to improve the TSE's transparency and communications, to take action against fake news and disinformation, to establish clearer criteria for the review of results forms and to allow recounts, to improve the preliminary results process and to promote the participation of domestic observers. Some of these amendments are particularly relevant in the case of close election results, as they would enhance the integrity of the elections.

N.	CONTEXT (Including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL/REGIONAL PRINCIPLE/COMMITMENT/NATIONAL LEGISLATION (Including text quoted)
LEGAL FRAMEWORK AND ELECTORAL SYSTEM					
1	<i>"The three per cent threshold required to retain a party's legal personality is excessively strict. International good practices provide that "once party registration is approved, requirements for retaining registration should be minimal".</i> (p.8.)	Eliminate the sanction of cancellation of a party's legal status if it does not pass the three per cent threshold.	Change in primary legislation required.	Legislative Assembly	Freedom of Association ICCPR Art.22 (1) and (2): <i>"Everyone shall have the right to freedom of association with others [...] [...]. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society"</i> .

N.	CONTEXT (Including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIB LE INSTITUTIO N	RELEVANT INTERNATIONAL/REGIONAL PRINCIPLE/COMMITMENT/NATIONAL LEGISLATION (Including text quoted)
2	<p><i>“The TSE relied on a decision of the Constitutional Court relating to the 2016 referendum to draw a distinction between government publicity (prohibited), and public information about government activity (permitted). This left space for widespread media coverage of the president and other MAS candidates inaugurating numerous public works projects and programmes during the campaign period without any sanction, as long as votes were not specifically sought”.</i></p> <p>(p.9.)</p>	<p>The Legislative Assembly could consider prohibiting the inauguration of public works in a specified period prior to the elections. It could also specify what is meant by government publicity (propaganda governmental). The only exceptions should be as set out in Art. 28 of the Regulation on the Electoral Campaign and Electoral Publicity, which include public information messages about health, public services and emergency situations</p>	Change in primary legislation required.	Legislative Assembly	<p>Prevention of corruption / fairness of the electoral campaign</p> <p>ICCPR, article 25: <i>“Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections [...] guaranteeing the free expression of the will of the electors.”</i></p> <p>UN HRC Special Rapporteur on the rights to freedom of peaceful assembly and of association, (2012), Georgia, p. 90: <i>“(d) increase efforts to ensure that all political parties, including opposition parties, have genuine, equitable and adequate access to state resources for election campaigning. It is especially crucial that the line between the ruling party and the state be clearly defined in order to create a level playing field.”</i></p>
ELECTION ADMINISTRATION					
3	<p><i>“The TSE that remained after the resignations was considered by interlocutors to be closely linked to MAS and subject to political control. This had an adverse effect on the confidence of opposition parties and citizens in the impartial management of the elections”.</i></p> <p>(p.10.)</p>	Strengthen efforts to ensure TSE and TED members are selected in compliance with established criteria of qualifications and merits, as provided by Article 206 of the Constitution and Articles 4, 13 and 14 of the Law of the Plurinational Electoral Body.	No change in legislation required	Legislative Assembly	<p>Genuine elections that reflect the free expression of the will of voters</p> <p>UNCAC Art. 7(1): <i>“Each State Party shall [...] adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected officials: (a) that are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude”.</i></p> <p>CCPR GC 25 para 23(c): <i>“To ensure access on general terms of equality [to public service positions], the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable”.</i></p> <p>CCPR GC 25 para 20: <i>“An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant”.</i></p>

N.	CONTEXT (Including reference to the relevant page of the FR)	RECOMMENDATION	SUGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIB LE INSTITUTIO N	RELEVANT INTERNATIONAL/REGIONAL PRINCIPLE/COMMITMENT/NATIONAL LEGISLATION (Including text quoted)
4	<p><i>“The TSE showed a lack of the transparency that is vital to ensure public confidence in the integrity of the electoral process. The TSE was extremely poor at communicating with electoral stakeholders, including political organisations and civil society”.</i> (p.11.)</p>	<p>Develop a coherent communication strategy to improve the TSE’s capacity to comprehensively share its decisions with the public. For example, through periodic meetings with media, briefings to political parties, publication of TSE and TEDs’ resolutions, publication of results of media monitoring, etc.</p>	<p>No change in legislation required.</p>	<p>TSE</p>	<p>Transparency and access to information</p> <p>ICCPR article 19 (2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”.</p> <p>UNCAC Art. 10: “Taking into account the need to combat corruption, each State Party shall [...] take such measures as may be necessary to enhance transparency in its public administration.”</p> <p>CCPR GC 34 para 18: Art 19(2) ICCPR embraces a right of access to information held by public bodies [...] taken together with Art 25, the right of access to information includes a right whereby the media has access to information on public affairs and the right of the general public to receive media output...”.</p> <p>CCPR GC 34 para 19: “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.</p>
5	<p><i>“Attendance at a polling staff training session is not obligatory and figures are not available as to how many attended. Although the training focused on filling in the results forms, there were significant numbers of mistakes in filling in the forms, as in previous elections. The training materials did not specify that a vote which reflects the voter’s clear intention should be considered valid. This could have led to overly strict interpretations and inconsistencies”.</i> (p.12.)</p>	<p>Polling station staff who are unable to attend a training session should be encouraged to complete an online training especially focused on filling in the results forms.</p> <p>The training materials should be clear that the voter’s clear intention is the paramount criteria when considering the validity of the vote.</p>	<p>No change in legislation required.</p>	<p>TSE</p>	<p>Genuine elections that reflect the free expression of the will of voters</p> <p>ICCPR, article 25: “Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections [...] guaranteeing the free expression of the will of the electors.”</p> <p>Good practice: CoE Venice Commission Code of Good Practice in Electoral Matters, I.3.2.2.4.49: “It is best to avoid treating too many ballot papers as invalid or spoiled. In case of doubt, an attempt should be made to ascertain the voter’s intention. ”</p>

N.	CONTEXT (Including reference to the relevant page of the FR)	RECOMMENDATION	SUGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIB LE INSTITUTIO N	RELEVANT INTERNATIONAL/REGIONAL PRINCIPLE/COMMITMENT/NATIONAL LEGISLATION (Including text quoted)
6	<p><i>“The TSE did not undertake voter education efforts to clarify the confusion around the voto comunitario, where voters are pressured to vote in accordance with their community’s preferences”.</i></p> <p>(p.12.)</p>	<p>The TSE should undertake voter education efforts to remind all voters that their vote is their own individual choice and right.</p>	No change in legislation required.	TSE	<p>Right and opportunity to vote / Transparency and access to information</p> <p>ICCPR Art. 19(2): <i>“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”.</i></p> <p>CCPR GC 25 para 11: <i>“Voter education [...] is necessary to ensure the effective exercise [...]by an informed community”.</i></p> <p>CCPR GC25 para 19 and 20: <i>“Persons entitled to vote must be free to vote for any candidate for election [...] without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will”[...] voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process”.</i></p> <p>ACHR Art. 13 (1): <i>“Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds”.</i></p>
VOTER REGISTRATION					
7	<p><i>“Voters can change their address for the purpose of voting without having to present any proof of address, such as a rent contract or utility bill. On the one hand, this facilitates voting by citizens who are away from their permanent residence on election day. But on the other hand, this could give rise to fraudulent practices, as voters could change their registration address for political purposes”.</i></p> <p>(p.14.)</p>	<p>The requests for change of electoral address should include probative documents of effective residence, such as utility bills, rent contracts or property ownership documents.</p>	Change in primary or secondary legislation required.	Legislative Assembly TSE	<p>Genuine elections that reflect the will of voters / Right and opportunity to vote</p> <p>ICCPR, article 25: <i>“Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections [...] guaranteeing the free expression of the will of the electors.”</i></p> <p>CCPR GC 25 para 11: <i>“States must take effective measures to ensure that all persons entitled to vote are able to exercise that right.</i></p> <p>UNCAC, Art. 5(1): <i>“Each State Party shall[...]develop and implement or maintain effective[...]policies that promote the participation of society and reflect the principles of the</i></p>

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					<i>rule of law, proper management of public affairs [...], integrity, transparency and accountability.”</i>
CANDIDATE REGISTRATION					
8	<p><i>“A gap in the legal framework became apparent when various presidential or vice-presidential candidates tried to resign. The LOP (Political Organisations Law) does not allow this as the results of the primaries are binding. Although the TSE tried to find a pragmatic solution to the gap in the LOP by allowing these substitutions, it was inconsistent to prevent the other candidate from resigning only because she had presented her paperwork correctly. Furthermore, if any candidate who wished to resign were elected, they could immediately resign”.</i></p> <p>(p.15.)</p>	The law needs to establish a mechanism for what happens if a candidate elected in primaries wishes to resign.	Change in primary legislation required.	Legislative Assembly	<p>Rule of Law</p> <p>ICCPR, article 25: <i>“Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections ... guaranteeing the free expression of the will of the electors.”</i></p> <p>ICCPR Art. 26: <i>“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law”.</i></p> <p>CCPR GC 25 para 16: <i>“Conditions relating to nomination dates [...] should be reasonable and not discriminatory”.</i></p> <p>ICCPR, Art. 2(2): <i>“Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”</i></p>
9	<p><i>“The TSE allowed until 16 October for candidates to either present the correct documents or be substituted even without force majeure, by which time ballot papers were already printed.”</i></p> <p>(p.15.)</p>	The legal deadlines for candidate withdrawals and substitutions (without force majeure) need to be brought forward and harmonised with the deadline for printing ballot papers.	Change in primary legislation required.	Legislative Assembly	<p>Right and opportunity to participate in public affairs</p> <p>ICCPR, article 25 <i>“Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections ... guaranteeing the free expression of the will of the electors.”</i></p> <p>UNCAC Art. 8(2): <i>“[...] each State Party shall endeavour to apply [...] codes or standards of conduct for the correct, honourable and proper performance of public functions”.</i></p> <p>CCPR GC 25 para 16: <i>“Conditions relating to nomination dates [...] should be reasonable and not discriminatory”.</i></p>

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10	<p><i>“The parity requirements are complex. The application of the parity requirements was not straightforward in this process, resulting in eight out of nine lists not fully meeting them”.</i></p> <p>(p.16.)</p>	<p>It would assist all stakeholders if the TSE issued a detailed regulation setting out the gender parity requirements for each race in each department, and if the TSE made efforts to explain these requirements to political parties.</p>	Change in secondary legislation required.	TSE	<p>Women’s participation in public affairs / State must take necessary steps to give effect to rights</p> <p>CEDAW Art. 7: “State Parties shall take <i>all appropriate measures to eliminate discrimination against women</i> in the political and public life of the country [...]”.</p> <p>ICCPR Art.2(1): “[...] <i>Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status</i>”.</p>
CAMPAIGN FINANCE					
11	<p><i>“The only limit on donations is that each individual donation cannot exceed ten per cent of the annual budget of the party or the campaign. In conclusion, the absence of any limit on total donations restricts campaign equity as it favours parties with greater resources. The law does not provide any limits on campaign spending, except in relation to media advertising”.</i></p> <p>(p.18.)</p>	Establish overall limits on donations and on campaign spending.	Change in primary legislation required.	Legislative Assembly	<p>Freedom from discrimination / Fairness in the electoral campaign</p> <p>UNCAC Art.7(3): “<i>Each State Party shall also consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties</i>”.</p> <p>ICCPR Art. 26: “<i>All persons are equal before the law and are entitled without any discrimination to the equal protection of the law</i>”.</p> <p>CCPR GC 25 para 19: “[...] <i>Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party</i>”.</p>

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12	<p><i>“The TSE’s UTF is a very active unit that despite its limited resources carried out training across the country to explain the Political Organisations Law (LOP)’s new financing regime to the political parties. The UTF does not have a presence in the TEDs and so is limited in its monitoring of parties’ expenditure in non-election years. Interlocutors commented that the UTF was not able to carry out effective and impartial oversight because of the politicised character of the TSE.”</i></p> <p>(p.19.)</p>	<p>The TSE’s Technical Oversight Unit (UTF) could have special autonomous status within the TSE, including in operational, managerial and budgetary terms.</p> <p>The TSE could be provided with investigative powers to ensure compliance with all financial requirements, including the power to require information from other state bodies such as the tax authority and law enforcement agencies.</p> <p>The UTF needs greater resources and more staff in order to ensure that parties will have the necessary understanding to meet all of LOP’s requirements by 2021.</p>	Change in primary legislation required.	<p>Legislative Assembly</p> <p>TSE</p> <p>Government [for the budget]</p>	<p>Fairness in the electoral campaign / State must take necessary steps to give effect to rights</p> <p>UNCAC Art.5(1): <i>“Each State Party shall, [...], develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability”.</i></p> <p>UNCAC Art.5(2): <i>“Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption”.</i></p>
MEDIA					
13	<p><i>“Some media outlets have accused the government of discrimination against those who criticise government officials, by withholding advertising from them. The allocation of state advertising also impacted on the work of journalists to the extent that some media fired several investigative journalists due to fear of losing official advertising”.</i></p> <p>(p.20.)</p>	<p>The government should establish fair criteria and transparency in the use of public funds to purchase media advertisements.</p>	No change in legislation required.	Government	<p>Freedom of expression and opinion / freedom from discrimination</p> <p>UNCAC article 10: <i>“Taking into account the need to combat corruption, each State Party shall [...] take such measures as may be necessary to enhance transparency in its public administration.”</i></p> <p>CCPR GC 34 para 19: <i>“To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.</i></p>

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14	<i>“Following the TSE’s block on publication of the Tu Voto Cuenta opinion poll, the Sociedad Interamericana de Prensa (SIP) asked the Bolivian government, parliament and the TSE to amend the electoral laws that impose censorship on the Bolivian media. The Rapporteur for freedom of expression of the Inter-American Commission of Human Rights and the Committee to Protect Journalists also condemned the block on publication”.</i> (p.21.)	The TSE should amend the regulation that requires pre-authorisation before publication of an opinion poll.	Change in secondary legislation required.	TSE	Freedom of opinion and expression ICCPR article 19 (2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.” ACHR Art. 13 (1): “Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds”.
15	<i>“However, interlocutors reiterated their concern about the large-scale spreading of online fake news as well as negative campaigning and hate speech.. “In other countries in the region, electoral authorities have signed a memorandum of understanding with social media platforms such as Facebook for example in Mexico and Colombia. Under such arrangements, Facebook identifies and removes fake accounts and checks for fake news using fact-checkers.”</i> (p.21.)	Measures should be considered to address the significant presence of disinformation affecting the online campaign on social platforms. These could include: - digital literacy and awareness programmes targeting voters and could be organised by the TSE in coordination with the media; - establishing cooperation agreements between the TSE and social platforms such as Facebook, as has been done in other countries in the region, in order to foster the integrity of the elections against disinformation; - encouraging political parties to avoid the use of hate speech, extreme negative rhetoric and disinformation campaigns by adopting voluntary measures such as codes of conduct and interparty dialogue	No change in legislation required.	TSE	Genuine elections that reflect the will of voters ICCPR article 19 (2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”. ACHR Art. 13 (1): “Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds”. CCPR GC25 p 19: “Voters should be able to form opinions independently, free of [...] manipulative interference of any kind”

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		aimed at protecting the electoral process from online threats.			
<i>PARTICIPATION OF WOMEN</i>					
16	<i>“Women in the legislative assembly and in local politics have reported high levels of harassment and violence. One of the reasons for the harassment is that gender parity requirements specify that reserve candidates (suplentes) for senators, deputies and local councillors must be of the opposite sex from the main candidate. Elected women, particularly at local level, report that their male suplente pressures them to resign so that he can take their seat.”</i> (p.23.)	The Electoral Law needs to be changed to specify that reserve candidates must be of the same sex as the main candidate.	Change in primary legislation required.	Legislative Assembly	Women’s participation in public affairs / State must take necessary steps to give effect to rights CEDAW Art. 7: “State Parties shall take <i>all appropriate measures to eliminate discrimination against women</i> in the political and public life of the country [...]”. ICCPR art.3: “ <i>The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant</i> ”. ICCPR Art.2(1): “[...] <i>Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status</i> ”.
<i>PARTICIPATION OF VULNERABLE GROUPS</i>					
17	<i>“Voting takes place in schools, often with many stairs. If a voter cannot climb the stairs, the president and one member of the polling station staff should bring the ballot box, the voter register, and the ballot paper downstairs to the voter. This did not seem to work well in practice, as polling station staff were often busy and kept the disabled voter waiting. It also raises security risks, as some sensitive materials remain upstairs with only one</i>	The TSE and the civil registry (SERECI) could allow a voter to self-certify in advance of elections that they need an accessible polling station. This would also help the elderly and disabled people without an official disability card. Accessible polling stations could then be arranged on the ground floor of each centre.	Change in secondary legislation required.	TSE	Freedom from discrimination and State must take necessary steps to give effect to rights CRPD Art. 29(a)(i): “ <i>States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others [...] (a) [...] by (i) ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use</i> ”.

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	<p><i>member of polling station staff while other materials are downstairs”.</i></p> <p><i>“The 2014 Regulation on Assisted Voting allows voters with a disability to make a note on the voter register of their need. However, this is limited to those holding an official disability card”.</i></p> <p>(p.24.)</p>				<p>ICCPR Art.2(1): “[...] Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.</p> <p>CCPR GC 25 para 12: “positive measures should be taken to overcome specific difficulties [...] which prevent persons entitled to vote from exercising their rights effectively.</p>
18	<p><i>“The LGBTI population was concerned that during the campaign there were high-profile homophobic comments made by PDC presidential candidate Chi Hyun Chung. He said that the fires in the Chiquitania were a punishment for the sins of the LGBTI community, and that they need psychiatric treatment. The Colectivo TLGB of Bolivia reported these statements to the TSE as homophobic and transphobic hate speech. However, the TSE took no action, claiming this was not within their competence”.</i> (p.25.)</p>	<p>The TSE should act firmly to enforce the laws prohibiting campaign messages that promote discrimination and intolerance.</p>	<p>No change in legislation required.</p>	<p>TSE</p>	<p>Freedom from discrimination</p> <p>ICCPR Art. 26: “[...] the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.</p> <p>ICCPR Art.9(1): “Everyone has the right to liberty and security of person”.</p> <p>CCPR GC 34 para 21: “[Regarding Art 19(3)] the exercise of the right to freedom of expression carries with it special duties and responsibilities. For this reason two limitative areas of restrictions on the right are permitted, which may relate either to respect of the rights or reputations of others [...]”.</p>

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19	<p><i>“SERECI told the EEM that at least 250 people had used the new law to change their gender identity in their official documents. However, the EEM was made aware that in some cases the photograph in the voter’s certificate, which each voter collects at the polling station and which is needed for official business, was not updated in line with the civil register and ID card. This meant it had a photo of a different gender from their ID card, making any official business difficult as well as breaching the confidentiality of their change of gender identity”.</i></p> <p>(p.26.)</p>	The voter register needs to be updated in line with the civil registry to reflect all the details of a person’s change of gender identity.	No change in legislation required.	TSE	<p>State must take necessary steps to give effect to rights and Freedom from discrimination</p> <p>ICCPR Art.2(1): “[...] <i>Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status</i>”</p> <p>ICCPR Art. 26: “<i>All persons are equal before the law and are entitled without any discrimination to the equal protection of the law</i>”.</p>
CIVIL SOCIETY AND INTERNATIONAL OBSERVATION					
20	<p><i>“No domestic observers were registered, in contrast to the general elections of 2009 when over 4,000 domestic observers were registered. The absence of domestic observers may be because they were discouraged by the legal requirements, for example, they have to present to the TSE a description of their financing sources, and detailed plans as to their activities on election day. They are not allowed to carry out quick counts.”</i></p> <p>(p.26.)</p>	The Regulation on Observation needs to be amended to reduce the registration and other requirements for national observers in order to facilitate their participation.	Change in secondary legislation required	Legislative Assembly	<p>Transparency and access to information</p> <p>UNCAC Art. 7.4: “<i>Each State Party shall [...] endeavour to adopt, maintain and strengthen systems that promote transparency.</i>”</p> <p>UNCAC article 10: “<i>Each State Party shall ... take such measures as may be necessary to enhance transparency in its public administration.</i>”</p> <p>CCPR GC 34 para 19: “<i>To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information</i>”.</p> <p>CCPR GC 25 para 20: “<i>There should be independent scrutiny of the voting and counting process</i>”.</p>

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ELECTORAL DISPUTES					
21	<p><i>“The new approach the TSE took to the enforcement of campaign rules for these elections - sending cases to electoral judges rather than deciding cases themselves – was a source of delay and confusion. But they do not have specialist electoral knowledge and they are at the bottom of the hierarchy. It seems plausible to assume that a local judge has less ability to take on powerful political figures or controversial cases at national level than the TSE does, being the fourth power of the state”.</i></p> <p>(p.27.)</p>	<p>The jurisdiction of electoral judges could be limited to minor cases such as alcohol violations. More serious cases such as the abuse of state resources should be decided by the TEDs with an appeal to the TSE. The TSE’s decisions should be subject to judicial review either by a high ranking ordinary court or by a specialist chamber of the Supreme Court. In any case the possibility of bringing a constitutional challenge (<i>recurso de amparo</i>) should continue to exist. The TSE should enforce the time limits set out in the Electoral Law for deciding upon complaints and appeals.</p>	Change in primary legislation required.	Legislative Assembly	<p>Right to an effective remedy</p> <p>ICCPR Art.2(3): “Each State Party to the present Covenant undertakes: (a) <i>To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy [...].</i>”</p> <p>CCPR GC 31 para 15: “<i>States Parties must ensure that individuals also have accessible and effective remedies</i>”.</p>
22	<p><i>“It is not clear what the Analysis Commission did or what resulted from its work. According to the TSE, they were too modestly staffed to accomplish this task, but this may be because their methodology was inefficient, given that their responsibility was only to monitor national media. In terms of the TEDs’ local media monitoring, in many instances they had neither the human or basic technical resources to carry this out. Some TEDs were not able to hire a private company to assist them”.</i></p> <p>(p.28.)</p>	<p>The TSE and the TEDs should carry out their legal duty to monitor not only the time and space limits of electoral publicity (paid and free) in the mass media, but also the content. The TSE should be provided with enough financial and human resources so they are able to comply with their duty.</p>	No change in legislation required.	TSE	<p>Rule of Law and State must take necessary steps to give effect to rights</p> <p>ICCPR Art.2(3): “Each State Party to the present Covenant undertakes: (a) <i>To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, [...].</i>”</p> <p>ICCPR Art.19(2): “<i>Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds</i>”.</p> <p>Electoral Law Art 123 sets out the OEP’s duty to monitor the time, space and content of electoral publicity in the media</p>

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<i>RESULTS AND POST-ELECTION ENVIRONMENT</i>					
23	<p><i>“It is worth emphasising that this first release of TREP results occurred without results having been made public progressively from the very beginning. This is unusual and the EEM’s view is that it would have generated more confidence if people could have followed the progress of the results from the start. [...] In an alarming decision the TSE ordered the TREP to stop processing results shortly after this results announcement on election night. No explanation was given for this at the time. It generated great concern amongst interlocutors and the opposition. They feared that the government was not happy with the preliminary results and had intervened to stop the process, with a view to some manipulation of results”.</i></p> <p>(p.31.)</p>	<p>Ensure that the preliminary results process is made public from the beginning of the process and that it continues being made public throughout. The process should continue until the results are as close to one hundred per cent as possible.</p>	No change in legislation required.	TSE	<p>Transparency and access to information</p> <p>ICCPR article 19 (2): <i>“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”.</i></p> <p>ACHR Art. 13 (1): <i>“Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds”.</i></p> <p>CCPR, GC 34, p. 18: Article 19 [of the ICCPR], paragraph 2 embraces a right of access to information held by public bodies. Such information includes records held by a public body [...] <i>“To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.”</i></p>
24	<p><i>“It should be noted that the Election Law in Bolivia makes no provision for a partial or total recount of the vote.”</i></p> <p>(p.32.)</p>	<p>It would increase trust in the results process if it were possible to recount ballots.</p>	Change in primary legislation required.	Legislative Assembly	<p>Genuine elections that reflect the free expression of the will of voters</p> <p>ICCPR, article 25: <i>“Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections [...] guaranteeing the free expression of the will of the electors.”</i></p> <p>CCPR GC 25 p 20 <i>“There should be independent scrutiny of the voting and counting process [...]so that electors have confidence in the security of the ballot and the counting of the votes.”</i></p>

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25	<p><i>“The EEM also found various results forms that should have been annulled: stations with votes added to MAS during tabulation, three stations in La Paz where polling staff requested annulment due to fraud but the TED did not annul them, results forms with no results filled in or with no signatures of polling station staff, illegible results forms, and photographs of results forms instead of originals. [...] It was the responsibility of the TEDs and the TSE to examine them in the tabulation process and decide which results were valid, but they failed to do so. [...] The TSE failed to issue a regulation or instruction on the procedure for dealing with problems in results forms, and as a result this was a chaotic and ad hoc process.”</i></p> <p>(p.33.)</p>	<p>The TSE needs to issue an instruction on the procedure for dealing with problems in results forms at the TED and TSE level. This need to specify who may make changes and that changes must be reflected in the observation on the form and that any form showing grounds for annulment should be annulled.</p>	Change in secondary legislation required.	TSE	<p>Genuine elections that reflect the free expression of the will of voters</p> <p>ICCPR, article 25: <i>“Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections [...] guaranteeing the free expression of the will of the electors.”</i></p> <p>CCPR GC 25 p 20 <i>“There should be independent scrutiny of the voting and counting process [...]so that electors have confidence in the security of the ballot and the counting of the votes.”</i></p>

