



Preliminary Report of the Electoral Observation Mission in Bolivia

October 23, 2019

At the behest of Bolivia's Plurinational Electoral Authority (*Órgano Electoral Plurinacional* - OEP), the General Secretariat of the Organization of American States (OAS) deployed an electoral observation mission to that country on October 7. Headed by the former Minister of Foreign Affairs of Costa Rica, Manuel A. González Sanz, the Mission comprised 92 experts and observers of 24 different nationalities, deployed in the country's nine departments and in three of the countries in which expatriates could cast their votes abroad: Argentina, Brazil, and the United States.

The OAS/EOM conducted an in-depth analysis of key aspects of the electoral process, including matters relating to electoral organization and technology, campaign financing, electoral justice, women's political participation, the participation of indigenous and Afro-descendent peoples, the media and voting abroad. To garner information regarding the electoral process, the Mission met, inter alia, with authorities and technical staff of the OEP, government officials, political parties, candidates, academics, representatives of civil society, and the diplomatic community.

The meetings provided the Mission with insights into technical aspects related to the background and preparations for the elections and enabled it to cull the impressions of a series of actors regarding the political context surrounding the process.

Pre-electoral phase

During those meetings, a number of complaints and opinions were received regarding the participation in the election of the presidential ticket put forward by the MAS-IPSP party. Those interviewed argued that allowing the candidacy of the President disregarded the limits on re-election provided for in the Constitution¹ and the will of the people expressed in the referendum held on February 21, 2016,² in which a majority of the electorate had denied the President a chance to stand again for another presidential term.

For their part, the representatives of the ruling party interviewed by the Mission indicated that the above-mentioned constitutional constraints had been overruled in a judgment handed down by the Second Plurinational Constitutional Tribunal³ and that, therefore, there was no legal impediment to the President's participation in the election.

¹ Article 168 of the Political Constitution of the State provides the President and Vice President may only be re-elected once, consecutively.

² On November 5, 2015, the Legislative Assembly convened a Constitutional Approval Referendum for the Bolivian people to support or reject an amendment of the aforementioned Article 168 that sought to allow the President and Vice President to stand for office once again. The vote was held on February 21, 2016, and resulted in the amendment being rejected by 51.3% of the electorate.

³ In November 2017, through judgment 0084/2017, the Plurinational Constitutional Tribunal sitting en banc set aside the constitutional limitation on the re-election of the President and Vice President, Governor, Mayor and Councilor.

We note that the Government of Colombia recently announced that it would consult the Inter-American Court of Human Rights and ask it to rule whether indefinite re-election is or is not a human right.

At the same time, and as in the 2014 and 2015 elections, the OAS/EOM repeatedly received complaints from a number of political parties about the publicity given to the current government's achievements during the election campaign period. The electoral law bans government propaganda during the last 30 days of the campaign. Nevertheless, according to the testimony received by the OAS/EOM, the government used the media to disseminate information about the inauguration of works and programs, calling it "administrative management information". That triggered considerable annoyance as an inequitable campaign practice.

The Mission also took note of mistrust in the electoral authority. According to those interviewed, recent changes in the composition of the Supreme Electoral Tribunal (TSE), along with some decisions by the full Court, have weakened electoral institutions. Worth recalling, in that regard, is the fact that in the year prior to the election, the President, Vice President, and a judge on the TSE resigned and that only two of the three were replaced. A number of technical staff in the Tribunal, some in senior positions and with ample experience, also left it.

Election Day

On Election Day, OAS observers visited 991 polling stations in 352 centers. The EOM worked from the time the polling stations opened through the transmission of results. It was pleased to note high citizen turnout throughout the day on Sunday.

The EOM also noted that a lack of clarity regarding the rules of procedure for accreditation and the functions and limits to voting table officials' participation triggered confusion at the voting centers. Regarding the handling of electoral material, the Mission's observers reported that implementation of the chain of custody was uneven and that not all the locations used to store electoral materials were properly secured.

Post-electoral phase

At 7:50 p.m., at a press conference, the TSE disseminated initial data from the Preliminary Electoral Results Transmission system, or TREP. According to the data transmitted, when 83.85% of the tally sheets had been checked, the MAS-IPSP ticket was in first place with 45.71% of the votes, versus 37.84% for Comunidad Ciudadana. The difference between first and second place was therefore 7.87%. The TREP was functioning correctly and met its main objective, namely to report the election result as promptly as possible.

The preliminary data presented by the TSE coincided with the findings of the statistical exercise conducted by the Mission and with the quick-count tallies reported: that by the Viaciencia company and that by the "Tu voto Cuenta" partnership.

In their judgment, the magistrates argued that the provisions challenged had been discriminatory and restricted the right to election in a manner not contemplated by the American Convention on Human Rights.

That night the preliminary results were not updated, even though the system had the capacity required to continue processing the tally sheets. At 10:30 p.m., after more than two hours with no further progress reported, the OAS publicly urged the Tribunal to explain why the process had been interrupted and requested that the computerized processing continue uninterrupted.

Subsequently, the President of the TSE announced that she had suspended transmission of preliminary results in order to avoid confusion, because the final count had already started. Another explanation was that the initial goal of the TREP had been met, which was 80% of the tally sheets counted, and therefore the TREP process could be deemed completed. On Monday, the Mission met with some members of the TSE, who then came up with another explanation, alleging technical issues. In the almost 24 hours during which the system was suspended, the TSE was unable to give citizens an accurate explanation.

The interruption of the TREP raised tensions on the streets. Mass marches began to the departmental tribunals. OEP personnel, international observers, and the security forces were attacked.

After 23 hours, at 6:30 p.m. on Monday 21, the TREP resumed. With 94.7% of the tally sheets checked, the new preliminary data assigned 46.42% of the votes to the MAS-IPSP and 37.06% to Comunidad Ciudadana, a gap of 9.36%.

When the system was updated to include votes from abroad, candidate Morales had 46.87%, compared to candidate Mesa's 36.73%: i.e. the difference had widened to 10.14%. After the change in the trend, street violence escalated. There were very serious incidents in the vicinity of the departmental tribunals of La Paz, Cochabamba, Chuquisaca, Potosí, Oruro, and Beni, which forced a suspension of the final counts in those departments.

In Potosí, Pando, and Tarija, the Departmental Electoral Tribunal (TED) infrastructure was burnt down, as were the installations pertaining to the Civic Register in Potosí and Chuquisaca. Under those circumstances, the Mission had to call in many of its observers for their own safety, which meant that the EOM could not be present when counting resumed.

In that context, and bearing in mind the information gathered at its meetings with the government, the opposition, and the electoral authorities, the Mission opted to issue a communique, underscoring:

- That the election campaign had been conducted on very unequal terms;
- That, despite that, citizens had gone peacefully and in large numbers to the voting centers to express their political will;
- That the changes in the TREP trend were hard to explain and did not match the other measurements available.

The Mission likewise urged the electoral authority to stand up for the will of the citizens and issued an appeal for peace, so as to avoid any form of violence.

The next day, with escalating tensions on the streets, the Mission issued another communique resolutely condemning acts of violence and calling upon citizens to wait calmly for the announcement of the official results.

As of the moment this report was completed, the official vote count had not been finalized. Processing of the tally sheets was suspended in Chuquisaca and Potosí.

Conclusions

All elections need to be governed by the principles of certainty, legality, transparency, equity, independence, and impartiality. The Mission ascertained that several of those principles were violated for a variety of reasons throughout this electoral process.

A key factor for accurate and credible polls is trust in the electoral authority. It is equally essential that programs run, for both preliminary and final results, according to a clearly pre-established schedule, with the transparency needed to generate credibility.

In addition, there must be a chance to appeal any electoral outcome. The EOM has serious doubts regarding the existence in this process of guarantees for appealing the acts and results issued by the electoral authority.

At the same time, it is especially alarming that on Tuesday, October 22, the Vice President of the Supreme Electoral Tribunal, Antonio José Iván Costas Sitic, resigned, giving as the grounds for his resignation: "the erroneous decision by the TSE to suspend publication of the results of the Preliminary Electoral Results Transmission system (TREP)," which "triggered the discrediting of the entire electoral process, causing unnecessary social upheaval."

Judge Costas' resignation further debilitates Bolivia's electoral institutions. It heightens already existing mistrust. It could also impair the Tribunal's functions, now that it has to operate with two vacancies among its members, pending their replacement.

The polarized atmosphere, mistrust in the arbiter of the electoral process, and its lack of transparency, as well as the unfairness committed during the campaign and the narrowness of the polling outcomes have all created serious political and social tensions.

The results of an election need to be credible and acceptable for the population as a whole, not just a segment of it. As we write, with 96.78% of the votes counted, the final tally shows a difference of 9.48% between the two tickets with the highest number of votes, which, if it stays that way, will require a second round. If, once the counting has concluded, the margin of difference is higher than 10%, statistically it is reasonable to assume that that percentage difference will be tiny. Given the context and the five problematic issues revealed in this electoral process, the best option would still be to convene a second round.

In response to a request by Foreign Minister Diego Pary, the Secretary General has agreed to conduct an electoral integrity analysis including, among other aspects, verification of vote counts, statistical matters, verification of the process and the chain of custody. In order to ensure that said analysis is both serious and rigorous, its conclusions must be regarded as binding upon the parties to the process.

Finally, we urge that the final vote count be completed swiftly.