



# BOLIVIA INFORMATION FORUM

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## Referendum results and the new constitution

The Morales government in Bolivia has now been in office for three years. It took office in January 2006, promising to 'refund' the country. It sought to do this by:

- Reversing some of the neo-liberal changes to the economy introduced during the 1980s and 1990s which had failed to result in improvements in living standards. In particular this involved entering into new relationships with the main foreign companies and increasing their tax contributions, particularly from gas revenues.
- Introducing new policies to enhance the social welfare of the majority of Bolivians who are below the poverty line, focusing in particular on children and the elderly.
- Enhancing the political rights of the majority who are of indigenous descent who have long been the victims of exclusion and discrimination.

Following its electoral mandate to overhaul the country's political institutions to these ends, the Morales government has presided over a rewriting of the constitution. This document was agreed in its final form by a two-thirds majority in Congress in October 2008, and it was put to a referendum of the people on January 25. The 'yes' option won more than 61% of valid votes cast.

### Contested process of reform

The process of rewriting the constitution proved to be longer and far more contested than most had thought when the Constituent Assembly was elected in July 2006:

- The ruling MAS (Movimiento al Socialismo) had a majority of seats in the Assembly, but not the two-thirds majority required to approve its vision for change. The opposition managed to hold up progress in the Assembly, forcing it to extend its original twelve-month time limit.
- The opposition parties refused to ratify the final document when it came to a vote in December 2007. Instead they withdrew from the Assembly, and then challenged the legality of the draft text approved by the majority of Assembly members.
- Departmental prefects and civic committees from the opposition-dominated eastern departments announced their own scheme for autonomy from the central government. These amounted to quasi-secession. The government challenged the legality of the so-called 'statutes of autonomy' announced at the beginning of 2008.
- Following violent acts of civil disobedience in the eastern departments in September 2008 and subsequent international mediation, changes were finally included in the draft text to meet opposition demands. In return, the opposition majority in the Senate agreed the necessary legislation to hold the January referendum.

### Referendum results

While overall the referendum was approved by substantially more than the 50% plus one required to validate it, it failed to gain the support of a majority of voters in the four eastern departments of the country (Santa Cruz, Beni, Tarija and Pando). At the same time a supplementary

vote was held in which 80% of voters agreed to make 5,000 hectares the maximum legal amount of land that an individual may own. Participation in the referendum was high (over 90%) and international observers from the Organisation of American States (OAS), the European Union (EU) and the Union of South American Nations (UNASUR) confirmed that it was conducted freely and fairly.

The regional distribution of the 'yes' vote (in descending order) was as follows:

Potosí	80.07%
La Paz	78.12%
Oruro	73.68%
Cochabamba	64.91%
Chuquisaca	51.54%
Tarija	43.34%
Pando	40.96%
Santa Cruz	34.75%
Beni	32.67%

**Nationwide 61.43%**

[final official figures from the National Electoral Court]

### Key points

The new constitution has 411 articles, many of which do not represent major changes from the previous 1967 constitution. The most important changes refer to:

- Indigenous rights. Indigenous peoples, long excluded from effective decision-making, have won substantially enhanced political rights.
- Autonomies. A system of departmental autonomies will be introduced to cater for the demands expressed by the eastern departments. These will be complemented by municipal and indigenous autonomies.
- Justice. New provisions are included to provide for traditional forms of justice in those areas that are governed by indigenous peoples. Judges are to be elected.
- State control. The new constitution assumes a greater degree of state control over the use and exploitation of natural resources.
- Private property. The constitution gives guarantees for the sanctity of private property, alongside communal and state property.
- Presidential re-election. The new constitution

removes the legal bar to immediate re-election. However, to assuage opposition fears, Morales has said that – if re-elected this year – he will not stand for a further term in 2014.

- Plurinational Assembly. The Senate is to be expanded in terms of its membership with each department electing four senators, as opposed to three up to now. The original draft contemplated abolishing the Senate. In the lower house, representatives will be elected both as representatives of local constituencies, but also at departmental level.
- Land reform. The parallel referendum established a 5,000 hectare maximum for landholding, as opposed to 10,000 hectares. To meet opposition fears, the government agreed that this limit will not be made retroactive and that those with current legal title to estates of over 5,000 hectares will be allowed to keep their land.
- Church and state. There will be a formal separation of Church and state.

### Towards elections

Fresh elections under the new constitution are due to be held next December. These will be for president, vice-president, members of the Chamber of Deputies and senators. Elections for prefects and mayors will be held in April 2010. The referendum therefore paves the way to campaigning for the presidency.

- For the MAS, the candidate will be Evo Morales, although it is less clear whether Vice-president Alvaro García Linera will stand again.
- For the opposition, there is no obvious single candidate. Some have sought to put their names forward, including former president Carlos Mesa (2003-05) and former vice-president Víctor Hugo Cárdenas (1993-97).

Opposition prefects, notably those of Santa Cruz and Beni, have indicated that they want the government to negotiate further on the new constitution, but the government has said that the agreed text has to be respected as it stands. The government now intends to push ahead with detailed legislation to implement the constitution. Further political conflict is therefore likely, not least in defining what departmental autonomies are taken to mean.