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Bolivia

Country:

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Year:

2018

Freedom Status:

Partly Free

Political Rights:

3

Civil Liberties:

3

Aggregate Score:

67

Freedom Rating:

3.0

Overview:

Bolivia is a democracy where credible elections are held regularly. However, respect for freedom of expression and the rights of indigenous peoples and women remain issues, as does corruption, particularly within the judicial system. A 2017 ruling by the Constitutional Tribunal cleared the way President Evo Morales, head of the ruling Movement for Socialism (MAS) to run for a fourth term in 2019. The decision effectively overturned the results of a 2016 referendum in which a majority of voters had indicated a desire to retain presidential term limits.

Trend Arrow:

Bolivia received a downward trend arrow due to a constitutional court ruling that abolished term limits and paved the way for President Evo Morales to run for a fourth term in 2019.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 28 / 40 (-1)

A. ELECTORAL PROCESS: 10 / 12 (-1)

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

Bolivia's president is both chief of state and head of government, and is directly elected to a five year term. In the 2014 general elections, Evo Morales of the Movement for Socialism (MAS) was reelected president with 61 percent of the vote. An Organization of American States (OAS) electoral observation mission stated that the election reflected the will of the people.

In 2015 subnational elections, the MAS won control of more departments and municipalities across the country than any other party. However, the opposition won key mayoralties and governorships, including those of La Paz and Santa Cruz. An OAS electoral observation mission reported overwhelming citizen participation in the elections, but expressed concern about the last-minute disqualification and substitution of candidates, which occurred after the ballots had been printed.

A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4

The Plurinational Legislative Assembly consists of a 130-member Chamber of Deputies and a 36-member Senate. Legislative terms are five years. All senators and 53 deputies are elected by proportional representation; 70 deputies are elected in individual districts. Seven seats in the Chamber of Deputies are reserved for indigenous representatives. In the 2014 legislative elections, Morales's MAS maintained a two-thirds majority in the legislature, the share necessary to pass constitutional reforms.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 2 / 4 (-1)

For some years, Bolivian politics have been characterized in part by efforts by Morales and the MAS to abolish presidential term limits. In 2015, the Plurinational Legislative Assembly voted to amend the constitution in order to allow presidents to run for three consecutive terms instead of two, but voters rejected the change in a 2016 referendum. However, in 2017, MAS lawmakers filed a suit asking the Constitutional Tribunal to declare that certain legal provisions and articles in the constitution that ban reelection were unconstitutional and "inapplicable." (While Constitutional Tribunal justices are elected by voters, judicial candidates are selected by the MAS-dominated legislature, and the Tribunal tends to favor the MAS.) In November, the court assented, effectively overturning the results of the previous year's referendum and clearing the way for Morales to run for a fourth term in 2019.

Separately, a 2014 election monitoring mission by the Organization of American States (OAS) expressed some concern about the Supreme Electoral Tribunal (TSE)'s mechanisms for maintaining accurate voter rolls.

Score Change: The score declined from 3 to 2 because the Constitutional Tribunal struck down presidential term limit provisions, effectively reversing the outcome of a 2016 referendum in which a majority of voters had indicated a desire to maintain presidential term limits.

B. POLITICAL PLURALISM AND PARTICIPATION: 11 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

Citizens have the right to organize political parties. Since Morales's election to the presidency in 2005, the formerly dominant parties have all but collapsed, giving way to a series of new political groupings and short-lived opposition coalitions. The MAS draws support from a diverse range of social movements, unions, and civil society actors. Opposition politicians have claimed that the Morales administration persecutes them through the judiciary.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 2 / 4

There are no formal institutional barriers impeding opposition parties from participating in elections. However, the overwhelming dominance of the MAS makes it difficult for opposition parties to gain power through elections.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4

People are generally free to make their own political decisions without undue influence from the military, foreign powers, or other influential groups. However, opposition members claimed that November 2017 rallies held in favor of Morales's reelection were filled with public employees coerced by their employers to attend.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

The constitution recognizes 36 indigenous nationalities, declares Bolivia a plurinational state, and formalizes local political and judicial control within indigenous territories. Adult citizens enjoy universal and equal suffrage. Although they are well represented in government, the interests of indigenous groups are often overlooked by politicians. Women are well-represented in politics, but cases of violence and harassment against them continue.

Judicial elections originally scheduled for October 2017 were postponed for several weeks due to concerns that not enough women and indigenous candidates were registered in some regions of the country.

C. FUNCTIONING OF GOVERNMENT: 7 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

Elected officials are free to set and implement government policy without undue interference from nonstate actors. However, opposition members charge that the MAS majority in the legislature, in conjunction with the country's powerful presidency, allows for strong executive influence on legislative processes.

C2. Are safeguards against official corruption strong and effective? 2 / 4

Corruption affects a range of government entities and economic sectors, including law-enforcement bodies and extractive industries, and anticorruption laws are unevenly enforced. However, there were some notable investigations and other developments in 2017. In June, Guillermo Acha, the former president of the state company Yacimientos Petroliferos Fiscales Bolivianos (YPFB), was placed on house arrest during an ongoing investigation of irregularities in the purchase of drilling equipment by YPFB officials. In September, a Ministry of Defense official brought to light five cases involving fraud and other corruption within the armed forces they said amounted to roughly \$40 million. And the Caja Nacional de Salud (CNS), the national health fund, was investigating dozens of cases of suspected corruption within the institution over 2017.

C3. Does the government operate with openness and transparency? 2 / 4

Bolivia has no law guaranteeing access to public information. Elected officials by law must make asset declarations, but these are unavailable to the public.

A law enacted in September 2017 mandates that state and public-private entities establish "transparency units" to investigate suspected corruption and oversee transactions of public services and goods.

CIVIL LIBERTIES: 39 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 14 / 16

D1. Are there free and independent media? 2 / 4

While the constitution guarantees freedom of expression, in practice, journalists and frequently encounter harassment in connection with critical or investigative reporting. Such harassment at times comes from government officials, who have characterized journalists as liars and participants in an international conspiracy against Morales.

Journalists also face interference with their work. In January, the online newspaper *Sol de Pando* and the website of the newspaper *Página Siete* experienced cyberattacks that took them offline temporarily. In September, journalist Agustín Aldo Maman was arrested while covering a violent demonstration by people angry over poor road connections between their town and La Paz. He was detained for several days and charged with property destruction.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

Freedom of religion is guaranteed by the constitution and generally upheld in practice. The 2009 constitution ended the Roman Catholic Church's official status, and created a secular state.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4

Academic freedom is legally guaranteed and upheld in practice.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4

Private discussion is robust and free from surveillance or other interference by authorities.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 9 / 12

E1. Is there freedom of assembly? 3 / 4

Bolivian law protects the right to peaceful assembly. However, protests sometimes become violent. In February, more than 140 coca producers from Yungas, who were protesting a proposed bill that would have limited legal areas for coca production, were placed in custody after a violent clash with police in La Paz. In September, police forces reportedly used tear gas against residents of Achacachi who were protesting against the local mayor, who was accused of corruption. Earlier in the year, demonstrators had set fire to his home and car.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 3 / 4

Many nongovernmental organizations (NGOs) operate, but they are subject to some legal restrictions. In 2016, the Constitutional Court dismissed a petition arguing that two statutes in the country's NGO law gave the government license to improperly dissolve such groups.

E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4

Labor and peasant unions are an active force in society and wield significant political influence. The country's official labor code is inconsistent with Bolivian law; for example, it prohibits public sector unions, yet many public workers are able to legally unionize. A National Labor Court hears cases of antiunion discrimination, but tends to hand down verdicts slowly, and penalties for antiunion discrimination are not consistently applied.

F. RULE OF LAW: 6 / 16

F1. Is there an independent judiciary? 1 / 4

Bolivia stands as the sole country that appoints justices via popular elections. Judges on the Supreme Court, the Constitutional Tribunal, and other entities are nominated through a two-thirds vote in the legislature, which allows the MAS to dominate the candidate

selection process and has produced a judiciary that favors the party. In addition to its politicization, the judiciary remains overburdened and beset by corruption.

Days after the Constitutional Tribunal ruled that Morales could run for another term in 2019, elections were held to fill positions for 26 judges on four high courts. A majority of participating voters heeded the opposition's calls to spoil their ballots.

Prior to the polls, opposition figures argued that MAS legislators had coordinated their votes on judicial candidates improperly, and that the candidates were selected through opaque processes. There were also complaints brought to electoral authorities that some candidates had violated the prohibition on campaigning.

F2. Does due process prevail in civil and criminal matters? 1 / 4

Many people have difficulty accessing the justice system due to a lack of the relevant offices in the areas where they live, and also because services, where provided, are often insufficient. Police are poorly paid and receive inadequate training, and corruption within the police force remains a problem. Police officers who attempted to expose corruption often face repercussions.

Bolivia was governed by a military regime for most of the period between 1964 and 1982, and in August 2017, the government installed a Truth Commission tasked with investigating human rights violations that occurred during that time. It is tasked with producing a report in two years, and can report violations to judicial authorities.

While the constitution and jurisdictional law recognize indigenous customary law on conflict resolution, reform efforts have not fully resolved questions regarding its jurisdiction and proper application.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Several pardon programs enacted in recent years, as well as fast-track trial procedures, have eased severe prison overcrowding, though some critics contend that fast-track trials push innocent people to plead guilty in exchange for reduced sentences and less time spent in court. Assaults in prisons continue to pose a significant problem.

Impunity for crimes has prompted some to engage in vigilante justice against alleged criminals, including lynchings.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

The 2010 antiracism law contains measures to combat discrimination and impose criminal penalties for discriminatory acts. However, racism and associated discrimination is rife in the country, especially against indigenous groups.

Bolivia has laws in place that prohibit discrimination against LGBT (lesbian, gay, bisexual, and transgender) people. However, these laws are rarely enforced, and LGBT people experience widespread societal discrimination. Many transgender people have resorted to

sex work in dangerous conditions due to employment discrimination and groundless rejection of their credentials.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 10 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

While the law protects freedom of movement, protesters often disrupt internal travel by blocking highways and city streets. There are no formal limits on people's ability to change their place of residence, employment, or education, but choices can be limited by socioeconomic difficulties.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

Women enjoy the same formal rights to property ownership as men but discrimination is common, leading to disparities in property ownership and access to resources. The situation has improved somewhat in recent years.

Two controversial Supreme Decrees in 2015 threaten the right to prior consultation in cases of natural resource extraction, which is established in international legal provisions recognized by Bolivian law. Opposition leaders and human rights organizations have criticized the decrees, saying authorities failed to adequately consult with indigenous groups before issuing them.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4

The constitution reserves marriage as a bond between a man and a woman, and makes no provision for same-sex civil unions. In June 2017, the Supreme Electoral Tribunal determined that transgender persons who have legally changed their gender on their identification documents may get married.

Domestic violence, which mainly affects women, is a serious problem, and laws criminalizing violence against women are not well enforced. Many women lack access to birth control and reproductive health care.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

Child labor and forced labor are ongoing problems. A law approved in 2014 allows children aged 12 to 14 to enter work contracts as long as they do not work for longer than six hours a day. Children as young as 10 are permitted to work in independent jobs such as shoe shining as long as they are under parental supervision.

Bolivia is a source country for the trafficking of men, women, and children for forced labor and prostitution. The government has been slow to address the problem, though in recent

years it has allocated greater resources toward investigations and public awareness campaigns.

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